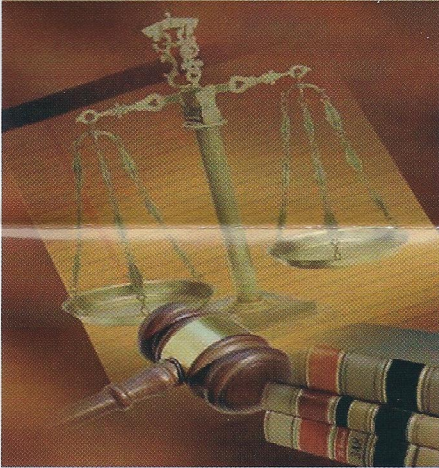


A Semi-Annual publication to all Georgia Real Estate Licensees

The Georgia Real Estate Commission Newsletter

Fall 2010 Issue

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Georgia Real Estate Commission
Suite 1000
International Tower
229 Peachtree Street NE
Atlanta, GA 30303-1605
Phone 404-656-3916



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Are You Legal or Just **L**ucky?

Consider this actual case and decide how you would have handled it.

Some agents look to Property Management as an alternative source of income to listing and selling properties. It still requires a license and all those activities must be under the broker holding the agent's license.

A recent case involved a salesperson who sold a house to an investor. The sales transaction was handling through his broker as usual. However, when the investor wanted to rent out the house the agent decided to set up his own company (Leasing Specialists, LLC) for property management activities. His broker did not do property management in the firm. This is where the agent began a domino effect of violations.

Here is the case involving Marty Barstow, a licensed salesperson:

(Although this is an actual case, the real names of the companies and individuals have been changed.)

1. After closing the sale of the house to his investor, Marty wrote a lease for a residential property stating the leasing agent as being Home Leasing Specialists, LLC, a company that is not licensed by the Georgia Real Estate Commission.
2. He used a form lease from the brokerage company holding his license (TMG Company), but TMG was not involved in the transaction. The preprinted lease form indicated that TMG Company was the listing broker. The Broker of TMG was unaware of the agent's property management activities.
3. Marty deposited the Security Deposit into an operating account of Home Leasing Specialists, LLC, but the account was not registered as a trust account with the Commission. He should have given these trust funds to his broker ASAP.
4. Upon deposit of the money, he gave himself a commission/management fee of \$500. By doing so he received a commission from someone other than his broker.

Property Management & Unlicensed Activities

Marty conducted brokerage activity under the name of an unlicensed firm and everything under that firm caused multiple violations of the license law.

Marty received a Citation, was fined \$1,000 plus \$2,000 in legal, administrative and investigative costs and expenses and is required to complete continuing education approved by GREC. If he does not comply, other sanctions can be imposed.

Licensee Laws Violated:

43-40-25(b)(3)(4)(5)(8)(23)(25)
43-40-30(a)(b), 520-1-.08(1)(b)

- 1) All brokerage activities must be under the broker holding the license
- 2) Property Management requires a license.

