



# OKLAHOMA REAL ESTATE COMMISSION COMMENT

OFFICIAL PUBLICATION OF THE OKLAHOMA REAL ESTATE COMMISSION

VOLUME 42

OKLAHOMA CITY, OKLAHOMA

4th QUARTER 2007

NO. 2

## National Criminal History Check Procedures

Effective January 1, 2008

**Who is required to Obtain Prints** — National criminal history checks will become effective January 1, 2008. Individuals who will be subject to the new requirements include:

- All new license applicants
- Individuals who allow their license to expire.
- Individuals desiring to change their license type – Provisional sales to broker or sales associate to broker.

**Process May Take up to 60 Days** — Applicants need to plan for the process to take up to 60 days, or longer. A background check will be valid for only six (6) months from the date of issuance.

**Applicants Must Obtain Hard-Copy Prints and Complete Part A of the Application** — All applicants will be required to obtain hard-copy fingerprints and complete a two-part application process consisting of a Part A and B. Part A of the application delves into questions regarding issues that may hold up license approval, i.e., criminal history, bankruptcy involving investment property, unpaid delinquent student loans, unpaid delinquent child support, unpaid taxes to the State, etc.

**Part A and Fingerprint Card May be Obtained From the Commission** — The applicant may obtain Part A of the application and a Commission-issued fingerprint card from the Commission by a written request or emailing their name and address to [orec.help@orec.ok.gov](mailto:orec.help@orec.ok.gov) or the applicant may check with the school they plan attend to see if they are providing the documentation.

**Where Fingerprints Can be Obtained** — Fingerprints can be obtained from a local sheriff's office. A listing of these

offices will be posted on the Commission's website along with contact information. The cost to have fingerprints completed varies (ranging from a zero cost to \$25.00) depending on the location. Some local police departments will fingerprint for the public; however, an applicant should call first to inquire if such service is provided. Some locations have what is called a Live Scan machine. This process may be used only if they can print out a hard-copy print that can be given to the applicant. Electronic submissions will not be accepted at this time; however, we are in hopes that this process will be available in the very near future.

**Mail Completed Part A, Hard-Copy Fingerprints, and Fee of \$41.00 to the Commission** — Once the prints have been completed they are to be mailed to the Commission along with a completed Part A of the license application and a fee of approximately \$41.00. Upon receipt by the Commission, the prints will be sent to the Oklahoma State Bureau of Investigation who will forward the prints onto the FBI. Thereafter the Commission will receive separately, both a state and federal background check.

**Criminal Background Notations** — If something is noted on either of the reports, the applicant will be notified and given an opportunity to correct any mistakes. An investigation will be initiated that will result in a report being submitted for review and determination.

The Commission will have a link titled "National Background Check Process" on our website. If there are further questions regarding this process, please contact the Commission.

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The Oklahoma Real Estate  
Commission Comment

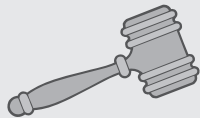
Official Publication of the  
Oklahoma Real Estate Commission  
Shepherd Mall  
2401 N.W. 23rd, Suite 18  
Oklahoma City, Okla. 73107-2431  
(405) 521-3387  
www.orec.ok.gov

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Address all communications to the  
Commission Office

"Use your zip code and ours  
when you write to us"



**BY ORDER OF THE  
COMMISSION  
DISCIPLINARY ACTIONS  
AS OF OCTOBER 2007**

**OCTOBER**

**C-2007-085 – D Smith Company Incorporated and Derrick L. Smith (BM)** – Oklahoma City: The Respondent was found in violation of four counts of Title 59 O.S. §§858-312 Subsections 8 and 9 and Rule 605:10-13-1(a)(1)(E), in that he withdrew funds belonging to others from his trust account and used the money for personal purposes.

*It was ordered that the broker's license of Derrick L. Smith be revoked and reinstated as a sales associate, and the case against D Smith Company Incorporated be dismissed. It was also ordered that D Smith Company Incorporated shall not have or maintain a trust account for a period of three (3) years.*

**AUGUST**

**C-2006-085 – D Smith Company Incorporated and Derrick L. Smith (BM)** – Oklahoma City: The Respon-

*continued on page 4*

**CHAIRMAN'S  
CORNER**



*Randy Saunier*

During the past two years as an Oklahoma Real Estate Commissioner, it has been an eye opening experience, from the many violations to the numerous applicants that are brought before the Commission for consideration.

This confirms my belief that a strong education program is imperative to minimizing problems with licensees, and strengthening our realtor base in the state. I would like to see one of our universities offer a degree program. Our neighbors to the south (whom we beat in football this year) and our neighbors to the north, both have degree programs in their states. Four universities in Texas offer undergraduate degrees in real estate, and a college degree is actually required to hold your broker's license in Texas, and an associates degree is required for a sales associate's license. Wichita State in Kansas has offered a bachelor degree for many years. I recently had business dealings with an out of state broker who has a masters degree in Real Estate from MIT.

With the cooperation of the Commission and OAR, our industry should be able to support and promote a real estate degree program. With our latest increase in educational hours for licensure, we are headed in the right direction.

As we continue to improve our industry, let's take it to the next level. As our business becomes more complex, our bright young people wishing to pursue a career in Real Estate should have the opportunity to do so without going elsewhere.

In the second century of our great state, lets consider giving the next generation what they need to continue to progress in a positive way. My motto is whatever you do in life try your best to leave it better than you found it. A degree program in real estate would contribute to accomplishing this goal.

Since this will be my last comment prior to the Christmas Season, I would like to take this opportunity to wish all a very Merry Christmas and a happy, healthy, prosperous New Year.

Sincerely,

Randall S. Saunier  
Commission Chairman

**Commission Elects Officers  
for FY 2008**

At the regularly scheduled Commission meeting on July 11, 2007, the Commissioners voted into office Mr. Randy Saunier, broker member of McAlester, to be Chairman and Mr. Mike Cassidy, broker member of Oklahoma City to be Vice-Chairman. Congratulations gentlemen.

## Completion of the Residential Property Condition Disclaimer Form – What Transactions Qualify – Not Many

The Commission continues to receive calls from licensees asking the following: “If a seller has never lived in the property, can they complete a disclaimer form instead of a disclosure form?” The question cannot be answered until you ask two additional questions: 1) Does the seller know about the condition of the property; and 2) does the seller have actual knowledge of any defect? If the seller has made a repair to the property, to include a “cosmetic” repair, then the seller will be required to complete a disclosure form, even though the seller has never lived in the property.

The definition of “condition” is a state of being; something essential to the appearance of something; or a restricting or modifying factor. The definition of “cosmetic” is done or made for the sake of appearance; correcting defects; decorative; or visually appealing.

A licensee should use caution when suggesting the appropriate form for the seller to complete. If a seller wants to complete the disclaimer form, the licensee needs to ask the seller three questions: 1) have you ever occupied the property; 2) do you have knowledge about the condition of the property (remember the definition of condition); and 3) do you have actual knowledge of any defect. If the seller truthfully can say no to all three of these questions, the seller may qualify to complete a disclaimer form.

If you have additional questions, please contact the Commission.

*Always bear in mind that your own resolution to succeed is more important than any other.*

—Abraham Lincoln

## Compensation to Associates Requires Broker’s Prior Authorization

Recently the Commission has received calls from brokers asking if it was possible for an associate to be paid, compensation related to licensed activities, from a person other than the broker, such as:

- A closing company paying the associate their earned commission directly (instead of the broker paying the associate their compensation),
- A bonus, over and above the commission, that is paid to a listing/selling associate by a buyer or seller of property,
- An associate’s marketing incentive program wherein drawings are held for associates who have sold particular homes as identified in the incentive program, etc.

In accordance with Title 59, O.S., Section 858-312, paragraph 4, references that an associate is prohibited from accepting a commission, or other valuable consideration, as a real estate associate for the performance of any acts as an associate, except from the real estate broker with whom the associate is associated. The Commission will allow an associate to be paid compensation directly so long as the broker’s files reflect the following: 1) authorization from the broker that allows the associate to receive compensation directly with the knowledge and approval of such broker; 2) total compensation earned by the associate to include all bonuses, drawing proceeds, etc.; and 3) accurate record keeping in regard to associate’s transactions vs. compensation earned.

The broker’s authorization letter must also be on file with the respective closing company or marketing incentive program giving them the directive/authorization to pay the associate direct.

If you have further questions, please contact the Commission.

## Amendments Made to Contracts and Related Addenda Based on Input From the Industry

The past 8 months the Contract Forms Committee has reviewed input from the industry and made amendments but only after a lengthy in-depth discussion on each change. It is imperative that licensees communicate to the Commission the problems they encounter while utilizing the standard forms. That’s not to say that changes were made on all feedback received; however, the Committee did discuss each written response received and made necessary changes for the betterment of the transaction process and further clarification.

The new forms should be available on the Commission’s website early January 2008. Amendments were made to the following forms:

Confirmation and Acknowledgement of Disclosures (Cover Sheet)  
Uniform Contract of Sale of Real Estate  
Seller’s Counteroffer to Contract  
Estimated Cost to Buyer  
Estimated Net to Seller  
FHA Insured Loan  
VA Guaranteed Loan  
Supplemental Addendum  
Notice of Cancellation of Contract  
Condominium or Homeowner’s Association Supplemental  
Buyer Broker Service Agreement

dents were found in violation of Title 59 O.S. §858-312, Subsections 6, 8, 9 and 16, and Rule 605:10-13-1(a)(1)(D), in that Respondents D Smith Company Incorporated and Derrick L. Smith withdrew funds from his trust account and converted said funds to his own use.

*The broker's license of Respondent Derrick L. Smith was ordered revoked for a period of three (3) years, with a suspension of the revocation; Respondents D Smith Company Incorporated and Derrick L. Smith were ordered to pay administrative fines of Five Thousand Dollars (\$5,000.00) each, for a total of Ten Thousand Dollars (\$10,000.00); Respondent Derrick L. Smith was ordered to successfully complete fifteen (15) hours of continuing education and not maintain a trust account for three (3) years, and that the trust accounts of Derrick L. Smith and D Smith Company Incorporated were subject to an immediate audit by the Commission staff.*

**C-2006-099 – Wanda L. Gantt Incorporated, Wanda L. Gantt (BM) and Margaret D. Petty (BA)** – Tulsa: The Respondents were found in violation of Title 59 O.S. Section 858-312, Subsections 6 and 9, and Rule 605:10-13-3(a) for failure to retain the security deposit until such time as they had a written release from all parties consenting to its disposition, or until a civil action was filed.

*Wanda L. Gantt Incorporated, Wanda L. Gantt and Margaret D. Petty were ordered to pay an administrative fine of Five Hundred Dollars (\$500.00) each, for a total of One Thousand Five Hundred Dollars (\$1,500.00).*

**C-2006-118 – Dominion Group LLC, Ruth Boss (BM) and Ann Campbell (SA)** – Edmond: The Respondents were found in violation of Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-17-4(6).

*Respondents Dominion Group LLC and Ruth Boss each consented to payment of an administrative fine of One Thousand Five Hundred Dollars (\$1,500.00), for a total of Three Thousand Dollars (\$3,000.00).*

**C-2003-098 – T and T Realty Incorporated, Trina Tahir (BM), Carbin Realty LLC and Carl Bernice Carbin**

(BM) – Oklahoma City: The Respondents were found in violation of Title 59 O.S. §858-312, Subsections 9 and 23 and Rule 605:10-17-4(12), in that they may have had complainants sign a Residential Property Condition Disclosure Statement which was out of date.

*Each of the Respondents was ordered to pay an administrative fine of Five Hundred Dollars (\$500.00) each, for a total of Two Thousand Dollars (\$2,000.00).*

**C-2005-055 – T and T Realty Incorporated and Trina Tahir (BM)** – Oklahoma City: The Respondents were found in violation of Title 59 O.S. §858-312, Subsections 6 and 9 and Rule 605:10-13-1(a)(1)(A)(D)(E), in that Respondent may have failed to deposit the \$9,900.00 in her trust account, failed to deposit the earnest money within three (3) banking days following acceptance of the contract, and failed to maintain such funds in said account until the transaction was consummated or terminated, and Title 59 O.S. §858-312, Subsections 3 and 9 and Rule 605:10-17-4(12), in that Respondent Tahir may have disclosed herself as a transaction broker for both the complainant and the Seller, but advocated and acted on behalf of the Seller to the potential detriment of the Buyer.

*T and T Realty and Trina Tahir were each assessed an administrative fine of Five Thousand Dollars (\$5,000.00), for a total of Ten Thousand Dollars (\$10,000.00) and each received a letter of reprimand; however case is currently on appeal and discipline has been stayed by court order.*

#### **JULY**

**C-2006-072 – McGraw Davisson Stewart Incorporated, Joseph R. McGraw (BM)** - Tulsa, McGraw Davisson Stewart Incorporated (BO), Bryan McCracken (BB), Darryl G. Baskin (BA), Jerri Sue McNair (SA), American Realty Incorporated and Massood “Matt” Bina (BM) – Broken Arrow: No evidence was received to indicate that Respondents McGraw Davisson Stewart Incorporated, Joseph R. McGraw Jr., McGraw Davisson Stewart Incorporated (BO) and Bryan McCracken violated any provision of the Oklahoma Real Estate License Law or the Rules of the Commission.

No evidence was received to indicate that Respondent Jerri Sue McNair violated any provisions of the Oklahoma Real Estate License Code or the Rules of the Commission, and her case was ordered closed on April 11, 2007.

American Realty Incorporated and Massood Bina entered into a consent agreement that was approved on April 11, 2007.

Respondent Darryl G. Baskin was found to be in violation of Title 59 O.S. §858-312, Subsections 2 and 9 and Rule 605:10-9-4(b,3), in that his advertisement failed to make adequate reference to his supervising broker, which reference is prominent, conspicuous and easily identifiable.

*Daryl Baskin was ordered to pay an administrative fine of Five Hundred Dollars (\$500.00).*

**U-2006-010 – J & D Presley LLC, John D. Presley (B) and Shalonda Evette Robertson (Unlicensed)** – Oklahoma City: Respondents J & D Presley LLC and John D. Presley were found in violation of Title 59 O.S. §858-312 (7, 14, 21), in that Respondents may have paid a commission or other valuable consideration to a person for performing licensable activities without a license.

*J & D Presley LLC and John D. Presley consented to payment of an administrative fine of Six Thousand Four Hundred Eighty-one Dollars and Fifty-one cents (\$6,481.51), and John D. Presley consented to attending and completing a Broker in Charge course.*

**C-2006-093 – Longhorn Real Estate LLC, Karen Jean Pritchard (BM) and Merrilee Dusty Pipkin (SA)** – Marlow: The Respondent Merrilee Dusty Pipkin was found in violation of Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-11-2(g), in that she failed to notify the Commission of her new residential address.

No evidence was received to indicate that Respondents Longhorn Real Estate LLC and Karen Jean Pritchard violated any provisions of the Oklahoma Real Estate License Code or the Rules of the Commission.

*Merrilee D. Pipkin was given a formal reprimand and ordered to pay an administrative fine of Two Hundred Dol-*



lars (\$200.00). The case against all other Respondents was closed.

**C-2006-109 – Beth Ann Langston (BP)** – Collinsville: The Respondent Langston was found in violation of Title 59 O.S. §858-312, Subsections 3 and 9 and Rule 605:10-17-4(12), in that she failed to disclose her broker relationship to the complainant prior to, or at the time the written management agreement was signed

*Beth Ann Langston was ordered to pay an administrative fine of Four Hundred Dollars (\$400.00).*

**C-2006-086 – Century 21 Gold Castle Realty North LLC, Joseph P. Brennan (BM) and Leslie Jan McCall (SA)** – Oklahoma City; Century 21 Gold Castle Realty North LLC (BO), Clem P. McWhorter (BB) and Ralph R. Burgamy (BA) – Yukon: The Respondents were found in violation of the following:

Respondents Century 21 Gold Castle Realty North LLC and Joseph P. Brennan:

- 1) Title 59 O.S. §858-312, Subsections 6, 8 and 9 and Rule 605:10-13-1(a)(1)(C), in that they failed to timely deposit the earnest money check, and

- 2) Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(6), in that they failed to properly supervise the activities of an associate, as they failed to ensure that Respondent Jan McCall did not receipt for earnest money which she did not actually receive.

Respondent Leslie Jan McCall:

- 1) Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12), in that she may have receipted for an earnest money check on June 5, 2006, but did not actually receive same until June 8, 2006.

*No evidence was received to indicate that Respondents Century 21 Gold Castle Realty North LLC (BO), Clem McWhorter and Ralph Burgamy violated any provisions of the Oklahoma Real Estate License Code or the Rules of the Commission.*

*Century 21 Gold Castle Realty North LLC, Joseph Brennan and Jan McCall, were each required to pay an administrative fine of Two Hundred Dollars (\$200.00), for a total of Six Hundred Dollars (\$600.00) and to close the case on Century 21 Gold Castle Realty North LLC (BO), Clem McWhorter and Ralph Burgamy*

**APRIL**

**C-2006-072 – McGraw Davisson Stewart Incorporated, Joseph R. McGraw, Jr. (BM)** – Tulsa; McGraw Davisson Stewart Incorporated (BO), Bryan McCracken (BB), Darryl G. Baskin (BA), Jerri Sue McNair (SA), American Realty Incorporated and Massood “Matt” Bina (BM) – Broken Arrow: Respondents American Realty Incorporated and Massood “Matt” Bina were found in violation of Title 59 O.S. §858-312, Subsection 8 and Rule 605:10-9-5(a, c), in that they may have engaged in conduct which constitutes improper dealings by failing to file a change of business address and a change of home address in the Commission office within ten (10) days of such change.

*American Realty Incorporated and Massood “Matt” Bina consented to paying administrative fines of Two Hundred Fifty Dollars (\$250.00) each, for a total of Five Hundred Dollars (\$500.00).*

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## Court Decisions That Have an Affect on Your Activities

**Behavior is what counts** – In Georgia, a state court has ruled a home seller can't try to fake out a buyer and then expect to keep the earnest money deposit.

The decision came in *Miller v. Coleman*, (A06A2120, Georgia App., Div.1, 2007).

According to court records, in 2004 Jason Miller entered into a contract to purchase a home owned by Teresa Coleman and put down a \$10,000 earnest money deposit. The date of the closing was set for September 1.

On the scheduled closing date, Coleman and her real estate agent appeared at the office of the closing attorney and were informed that Miller has been unable to secure financing, but was still working on it.

According to Miller's attorney, Coleman verbally agreed that the closing could be rescheduled once financing was arranged.

Later, the financing did come through and the parties and agents rescheduled the closing for October 14.

On that date, however, Miller, his agent, and Coleman's agent appeared at the closing attorney's office. While Miller was reviewing the closing documents, Coleman's agent called Coleman to find out where she was and learned, apparently for the first time, that Coleman would not be at the closing and felt the contract has expired.

Subsequently, both parties asserted claims to the earnest money. Coleman, citing the specific closing date in the written contract, was granted a summary judgment in trial court and was given the \$10,000.

Miller appealed.

In hearing the case, the appeals court ruled against Coleman and sent the issue back to the lower court for a new trial.

Said the high court, “Here, there was evidence in the record of an oral waiver as well as evidence from which a ‘waiver by conduct’ could be inferred.”

The record showed that Coleman had orally agreed to reschedule the closing and in mid-September had faxed documents to the closing attorney indicating she still planned to close.

The high court dismissed Coleman's contention that although she participated in what appeared to be closing activities, she never actually waived the “time is of the essence” clause in the contract that set the original closing date.

The high court said that argument was faulty.

Reprinted from the *Agency Law Quarterly/Real Estate Intelligence Report*, Spring 2007

# EMERGENCY RULES EFFECTIVE JANUARY 1, 2008

Following are emergency rules that take effect January 1, 2008 due to the passage of SB 1006 last legislative session. SB 1006 implemented requirements of a national criminal history record check for all real estate applicants beginning January 1<sup>st</sup>. Applicants will be considered as those individuals applying for a license their first time, a provisional sales associate or sales associate applying for a broker license, and those individuals who allow their license to expire and subsequently reapply for reinstatement of such license.

Additional requirements of SB 1006 are that the Commission may now develop contracts forms and related addenda not only for residential transactions, but also for real estate commercial and lease transactions.

Underlined language is new language and hyphenated through language is being deleted. The three asterisks indicate that other existing language was not changed. If you have questions, please contact the Commission.

## 605:1-1-4. Operational procedures

\* \* \*

### (g) Contract Forms Committee.

- (1) The contract forms committee is required to draft and revise ~~residential~~ real estate purchase and/or lease contracts and any related addenda for standardization and use by real estate licensees (Title 59 O.S. 858-208 {14}).
- (2) The committee shall consist of eleven (11) members. Three (3) members shall be appointed by the Oklahoma Real Estate Commission; three (3) members shall be appointed by the Oklahoma Bar Association; and five (5) members shall be appointed by the Oklahoma Association of Realtors, Incorporated.
- (3) The initial members' terms shall begin upon development of the forms and each member shall serve through the effective date of implementation of form(s) plus one (1) year. Thereafter, the Oklahoma Real Estate Commission shall appoint one (1) member for one (1) year, one (1) member for two (2) years, and one (1) member for three (3) years; the Oklahoma Bar Association shall appoint one (1) member for one (1) year, one (1) member for two (2) years, and one (1) member for three (3) years and; the Oklahoma Association of Realtors, Incorporated shall appoint two (2) members for one (1) year, two (2) members for two (2) years, and one (1) member for three (3) years. Thereafter, terms shall be for three (3) years and each member shall serve until their term expires and their successor has been appointed. Any vacancy which may occur in the membership of the committee shall be filled by the appropriate appointing entity.
- (4) A member can be removed for just cause by the committee.
- (5) Each member of the committee shall be entitled to receive travel expenses essential to the performance of the duties of his appointment, as provided in the State Travel Reimbursement Act.

## 605:10-3-2. Application for license

\* \* \*

(d) **Determining good moral character.** In determining whether or not an applicant meets the definition of good moral character, the Commission will consider, but not be limited to, the following:

- (1) Whether the probation period given in a conviction or deferred sentence has been completed and fully satisfied to include fines, court costs, etc.
  - (2) Whether the restitution ordered by a court in a criminal conviction or civil judgement has been fully satisfied.
  - (3) Whether a bankruptcy that is real estate related has been discharged.
  - (4) Whether an applicant has been denied licensure or a license has been suspended or revoked by this or any other state or jurisdiction to practice or conduct any regulated profession, business or vocation because of any conduct or practices which would have warranted a like result under the Oklahoma "Code".
  - (5) Whether an applicant has been guilty of conduct or practices in this state or elsewhere which would have been grounds for revocation or suspension under the current Oklahoma "Code" had the applicant been licensed.
- (e) **Subsequent good conduct.** If, because of lapse of time and subsequent good conduct and reputation or other reason deemed sufficient, it shall appear to the Commission that the interest of the public will not likely be in danger by the granting of such license, the Commission may approve the applicant as relates to good moral character.

## 605:10-7-2. License terms and fees; renewals; reinstatements

\* \* \*

(c) **Expiration date.** The actual expiration date of a license shall be midnight of the last day of the month of the designated license term. A person who allows their license to expire shall be considered an applicant and subject to a national criminal history record check, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

\* \* \*

~~(m) Issuance of license from provisional sales associate to sales associate if licensed prior to August 1, 2001.~~ A provisional sales associate is required to furnish to the Commission evidence of successful completion of the postlicense education requirement as set forth in Section 858-302 of Title 59, of the Oklahoma Statutes. Upon successful completion of the postlicense education requirement, the provisional sales associate must apply by submitting the appropriate document(s) and fee of Twenty-five Dollars (\$25.00) to the Commission for issuance of a renewable sales associate license. The issuance of the license from a provisional sales associate to a sales associate only changes the license type and does not change the expiration date of the license.

(m) Licensed prior to effective date of national criminal history check and license expires however eligible for reinstatement. A licensee who allows their license to expire after January 1, 2008, shall be required to submit to a national criminal history check; however, such individual shall be allowed to proceed with reinstatement of such license pending receipt by the Commission of a completed national criminal history check. If the Commission does not receive Part A of their application and their finger print card within thirty (30) days from the date their

license was reinstated, the license will be placed inactive and a hold placed on the license until receipt by the Commission of a completed national criminal history check. Upon receipt by the Commission, the license may be reactivated so long as appropriate forms and fees, as stated elsewhere in these rules, have been received by the Commission.

\* \* \*

**(p) Active sales associate to inactive broker license – no remaining credit to be given.** On and after August 1, 2001, in the event an active sales associate within six (6) months of obtaining their original license, reinstatement or license renewal qualifies for an inactive broker license, the Commission shall not refund credit the difference in the license fees.

## Online License Renewal

Statistics show that 11% of licensees are renewing their license online. The main reason a licensee is unable to renew their license online is due to their education not being complete.

### Federal Trade Commission Consumer Alert

## Deceptive Mortgage Ads: What They Say; What They Leave Out

If you're looking for a mortgage to buy a home or refinance an existing loan, you may see or hear ads with offers of low rates or payments. Whether you see them on the Internet, on television or in the paper, or whether they come by fax or mail, some of these ads look like they're from your mortgage company or a government agency. Regardless of where you see the ads, remember that while the offers are tempting, some are terribly flawed: they don't disclose the true terms of the deal as the law requires.

The Federal Trade Commission, the nation's consumer protection agency, says that when you're shopping for a home loan, it's important to understand all the terms and conditions of a proposed loan. Start with what is in the ad itself. Read what's between the lines as well as what's in front of your eyes.

#### What The Ads Say

To help you recognize an offer that may be less than complete, the FTC wants you to know the buzz words that should trigger follow-up questions, as well as information to insist on after you've read an ad.

**A Low "Fixed" Rate:** Ads that tout a "fixed" rate may not tell you how long it will be "fixed." The rate may be fixed for an introductory period only, and that can be as short as 30 days. When you shop for a mortgage, you need to know when and how your rate, and payments, can change.

**Very Low Rates:** Are the ads talking about a "payment" rate or the interest rate? This important detail may be buried in the fine print, if it's there at all. The interest rate is the rate used to calculate the amount of interest you will owe the lender each month. The payment rate is the rate used to calculate the amount of the payment you are obligated to make each month. Some offers advertise a low payment rate without telling you that it applies only during an introductory period. What's more, if the payment rate is less than the interest rate, you won't be covering the interest due. This is called "negative amortization." It means that your loan balance is actually increasing because you're not paying all the interest that comes due, and the lender is adding the unpaid interest to the balance you owe.

**Very Low Payment Amounts:** Ads quoting a very low payment amount probably aren't telling the whole story. For example, the offer might be for an Interest Only (I/O) loan, where you pay only the amount of interest accrued each month. While the low payment

amount may be tempting, eventually, you will have to pay off the principal. Your payment may go up after an introductory period, so that you would be paying down some of the principal – or you may end up owing a "balloon" payment, a lump sum usually due at the end of a loan. You must come up with the money when a balloon payment is due. If you can't, you may need another loan, which, in turn, means new closing costs, and potentially points and fees. And if housing prices are falling, you might not be able to refinance to lower your payments.

**Mortgage rates near 30-year lows! Rates as low as 1%! You are paying too much! Who doesn't want to reduce their mortgage payments? Loan amount \$300,000 - pay only \$900 per month!:** Ads with "teaser" short term rates or payments like these don't often disclose that a rate or payment is for a very short introductory period. If you don't nail down the details in advance about your rates and payments for every month of the life of your loan, expect payment shock when the rate and payment increase dramatically.

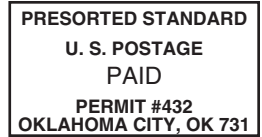
**Important Notice From Your Mortgage Company. Open Immediately - Important Financial Information Enclosed. Please do not discard - account information enclosed:** Appearances can be deceiving. Mailers that have information about your mortgage and your lender may not be from your lender at all, but rather from another company that wants your business. Companies can legally get your information from public records. Before you respond to any offer, review it carefully to make sure you know who you're dealing with.

**You are eligible to take part in an exclusive interest rate reduction program. This financial institution has been licensed to negotiate your existing adjustable mortgage to a new fixed rate mortgage. You must contact us immediately regarding this notice.** Some businesses use official-looking stamps, envelopes, forms, and references to make you think their offer is from a government agency or program. If you're concerned about a mailing you've received, contact the government agency mentioned in the letter. If it's a legitimate agency – and not one that just sounds like a government agency – you'll find the phone number in the Blue Pages of your telephone directory.

*continued on page 8*

# OKLAHOMA REAL ESTATE COMMISSION

Shepherd Mall  
2401 N.W. 23rd Street, Suite 18  
Oklahoma City, Oklahoma 73107-2431



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Go online at <http://www.orec.ok.gov/renewal> to view the status of your continuing education.

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*DECEPTIVE MORTGAGE ADS continued from page 7*

## What the Ads Don't Say

**The APR:** The Annual Percentage Rate is a critical factor in comparing mortgage offers from different lenders. It is the total cost of the credit expressed as a yearly interest rate. This rate is different than the simple interest rate on your loan note, because the APR includes all costs of the credit such as points and processing fees. Knowing the APR makes it easier to compare “apples to apples” when considering mortgage offers. Look for the APR for your loan. The amount may not be in the ad at all; it may be hidden in the fine print, or it may be available deep within a website after multiple clicks.

**Important Payment Information:** It's hard to know what you don't know, and often, some of the most important information you need isn't in the ad, is hidden in the fine print, or is available only at a website after many clicks. To make an informed judgment about any mortgage offer, you need to know – or ask:

- What will the monthly payment be for every month of the loan, and could it increase? When could it increase? What would your new payment be? Could your monthly payment increase more than once?
- Does the monthly payment include an escrow amount to pay for your property taxes and homeowners insurance? Or must you pay these costs on your own? If you have to pay on your own, ask your lender for an estimate so you can budget accordingly.

- What is the term of the loan (for example, 15 years? 30 years?)? How many payments will you have to make? Would the loan be paid off at the end or would you still owe a “balloon” payment?
- Will you have to pay prepayment penalties to refinance and pay off the loan early? If so, how much, and when would they apply? If the loan has an introductory or teaser rate, can you refinance, without penalties, before the rate resets and your payment increases?

## For More Information

To learn more about shopping for mortgages, visit [www.ftc.gov](http://www.ftc.gov) and click on Mortgages & Real Estate.

The Federal Reserve Board also has several helpful publications and a mortgage comparison calculator at [www.federalreserve.gov/consumers.htm](http://www.federalreserve.gov/consumers.htm)

The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint or to get free information on consumer issues, visit [ftc.gov](http://ftc.gov) or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad. September 2007

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