



Oklahoma Real Estate **Commission Comment**

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Senate Bill 657 Amends Uniform Electronic Transaction Act

This article will attempt to explain Oklahoma’s law that was passed in 2001 regarding electronic transactions. The Commission believes that if you know the history of why the law was passed it will be easier to comprehend the most recent amendment to the law.

In 1999, the National Conference of Commissioners on Uniform State Laws adopted the Uniform Electronic Transaction Act (UETA) in an attempt to make state laws regarding electronic transactions more consistent. To date, the UETA has been adopted by 47 states and the District of Columbia.

Federal law was passed in 2000 to promote interstate and foreign commerce, stating that a signature, contract, or other record relating to a transaction may not be denied legal effect or enforceability solely because it is in electronic form.

Oklahoma passed its version of UETA in 2001 (Title 12A, O.S., Sections 15-101 – 15-121); however, Oklahoma’s law added requirements that were not included in the UETA as follows:

a. Oklahoma law required that all “real estate transactions” must use a digital signature issued by a “registered certification authority”. The use of a registered certification

authority was to be regulated by the Oklahoma Secretary of State, who was to adopt rules to register certification authorities.

b. It is important to note that an electronic signature is not the same as a digital signature:

1) A digital signature is defined as a signature consisting of a transformation of an electronic message using an asymmetric crypto system that authenticates and verifies the signer through extremely secure measures and ensures that no alteration has occurred since the transformation.

2) An electronic signature means an electronic sound, symbol, or process attached to a record and executed or adopted by a person with the intent to sign the record.

c. Had the rules been promulgated, the “registered certification authorities” would have been allowed to issue “digital signatures” to consumers (for a fee); however, no rules were ever promulgated by the Secretary of State.

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Update on Home Staging Article printed in 4th Quarter, 2010 Publication - Dated January 28, 2011

The original article on this subject has caused quite a stir, leaving the Commission Staff quite impressed with the number of questions it has prompted, because it validates to us that real estate licensees do read the “Commission Comment”.

The reason the article was initially drafted was because of the numerous complaints the Commission has opened on individuals who perform licensed activities without a license and refer to themselves as a “home stager”, or that they “provide home staging services”. The area of confusion for some is due to the fact that a real estate broker’s license is not required to redecorate a property or place upscale furnishings in a property (as commonly seen

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Record Retention and Destruction

A recent complaint case brought to light the importance of retaining all documents relating to a real estate transaction. The case hinged on an email that one party said was sent but neither party could produce proof of the document. The case ended with the licensee being disciplined.

What is meant by a “transaction”? Since the Commission has not defined the word we look to Webster’s Dictionary, wherein it is defined as something transacted; an exchange or transfer of goods, services or funds. This means that all real estate documents, forms, disclosures, emails, etc. that are created or received by the licensee in connection with a real estate transaction are considered relevant and required to be retained in the broker’s file. Commission Rule 605:10-13-1 (l) states:

A broker shall maintain all records and files for a minimum of five (5) years after consummation or termination of a transaction. In the case of trust account records the five years shall commence with the date of disbursement of funds. Records as referenced in this paragraph shall be destroyed in a secure manner.

When the time comes to destroy the records, the broker must ensure that no one will be able to gain access to the documents being destroyed. These should be shredded or taken to a reputable vendor qualified and bonded to destroy confidential documents.

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**BY ORDER OF THE COMMISSION
DISCIPLINARY ACTIONS AS OF
APRIL 2011**

DECEMBER 2010

**C-2009-013 – MARK V REALTY
& INVESTMENTS INCORPORATED,
DAVID DEAN WEBB (BM) AND
KIRSTEN ELIZABETH WEBB (SA) –
EDMOND**

Violation by Respondents Mark V Realty & Investments Incorporated and David D. Webb:
Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(6), in that they failed to ensure that she referenced her broker in a classified newspaper advertisement, and failed to ensure that Respondent Kirsten Webb registered her name change with the Commission in 2005.

Violations by Respondent Kirsten Elizabeth Webb:

- Title 59 O.S. §858-312, Subsections 9 and 15, in that she entered a plea of Guilty on February 29, 2004, to the misdemeanor charge of Engaging in Reckless Conduct While Possessing a Firearm (Case Number CM-203-4447 – District Court of Oklahoma County, Oklahoma);

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Chairman's Corner

Associates, how do you feel about your Sponsoring Broker
A-- Love 'em or hate 'em?



John Mosley

Obviously there are times when associates love or hate their sponsoring broker. Not surprisingly though, at times, the broker has similar feelings about their associates.

Nevertheless, the broker should never forget that their associates are their primary source of customers -- thus requiring the broker to be helpful, friendly, courteous and kind. These feelings are much easier to express when the associates are doing their job.

Being a sponsoring broker is not an easy task and carries with it huge responsibilities and liabilities. A broker can reduce some of their liability by having written office policies, regular office meetings, provide training, education resources and a good working environment. This includes the broker being available to oversee the day to day activities and to answer associate's questions as they arise. Basically, the broker must set the example of what they expect out of their associates.

There appears to be a point of confusion in that associates believe that any service agreement (listing, property management, buyer broker, etc.) they obtain belong to associates and that they are free to move the agreement(s) to another firm if they choose to disassociate themselves from the broker. This is not the case—an associate can only perform licensed activities in the name of a sponsoring broker and under the broker's supervision. When an associate enters into a service agreement with a consumer, the associate can do so only in the name of their sponsoring broker. Service agreements are binding agreements between the sponsoring broker and the principal (seller, buyer, owner, tenant).

To ensure that there is no confusion down the line, the broker's compensation agreement with the associate should spell out what will happen to current listing and management agreements in the event the associate desires to transfer to another firm.

My comments are not intended to lecture anyone but to remind us that we are all "in this thing together".

I want to thank my fellow Commissioners for allowing me to serve as chairman for the past year. More importantly, I want to thank the staff for their efforts and cooperation -- it has been a good year.

John Mosley, Chairman

2nd Phase of Online License Renewal System

License Renewal – The online license renewal system is in its final testing phase. Those of you who have an upcoming renewal will soon be receiving a license renewal "postcard" informing you that you are now eligible to renew online. Once you have received the postcard, you should follow the directions as noted therein – a new feature of the 2nd phase is that you will be able to renew your license online even if your continuing education (CE) is not complete.

A word of caution: if you renew online and you do not complete your CE hours prior to your license expiration date, the

Commission will have no choice but to place your license inactive which will require you to send in additional forms and fees to activate your license, not to mention the possibility of performing licensed activities without an active license.

If you choose not to renew online the postcard will direct you to a location on the Commission's website where you will be able to print off a renewal form so you can mail it to the Commission along with your fee. If you do not have internet access, you must call the Commission and a form will be mailed to you.

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2011 Legislation

HB 1598 Square Footage Disclosure effective August 26, 2011

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858-515.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In connection with any real estate transaction, the size or area, in square footage or otherwise, of the subject property shall not be required to be provided by any real estate licensee, and if provided, shall not be considered any warranty or guarantee of the size or area information, in square footage or otherwise, of the subject property.

B. 1. If a real estate licensee provides any party to a real estate transaction with third-party information concerning the size or area, in square footage or otherwise, of the subject property involved in the transaction, the licensee shall identify the source of the information

2. For the purposes of this subsection, “third-party information” means:

- a. an appraisal or any measurement information prepared by a licensed appraiser,
- b. a survey or developer’s plan prepared by a licensed surveyor,
- c. a tax assessor’s public record, or
- d. a builder’s plan used to construct or market the property.

C. A real estate licensee has no duty to the seller or purchaser of real property to conduct an independent investigation of the size or area, in square footage or otherwise, of a subject property, or to independently verify the accuracy of any third-party information as such term is defined in paragraph 2 of subsection B of this section.

D. A real estate licensee who has complied with the requirements of this section, as applicable, shall have no further duties to the seller or purchaser of real property regarding disclosed or undisclosed property size or area information, and shall not be subject to liability to any party for any damages sustained with regard to any conflicting measurements or opinions of size or area, including exemplary or punitive damages.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858-515.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. If a real estate licensee has provided any third-party information, as defined in paragraph 2 of subsection B of Section 1 of this act, to any party to a real estate transaction concerning size or area of the subject real property, a party to the real estate transaction may recover damages from the licensee in a civil action only when a licensee knowingly violates the duty to disclose the source of the information, as required in paragraph 1 of subsection B of Section 1 of this act.

B. The sole and exclusive civil remedy at common law or otherwise for a violation of paragraph 1 of subsection B of Section 1 of this act by a real estate licensee shall be an action

for actual damages suffered by the party as a result of such violation and shall not include exemplary or punitive damages.

C. For any real estate transaction commenced after the effective date of this act, any civil action brought pursuant to this section shall be commenced within two (2) years after the date of transfer of the subject real property.

D. In any civil action brought pursuant to this section, the prevailing party shall be allowed court costs and reasonable attorney fees to be set by the court and collected as costs of the action.

E. A transfer of a possessory interest in real property subject to the provisions of this act may not be invalidated solely because of the failure of any person to comply with the provisions of this act.

F. The provisions of this act shall apply to, regulate and determine the rights, duties, obligations and remedies, at common law or otherwise, of the seller marketing his or her real property for sale through a real estate licensee, and of the purchaser of real property offered for sale through a real estate licensee, with respect to disclosure of third-party information concerning the subject real property’s size or area, in square footage or otherwise, and this act hereby supplants and abrogates all common law liability, rights, duties, obligations and remedies of all parties therefor.

HB 1594 Property Transfer Tax effective August 26, 2011

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 350 of Title 60, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. “Association” means a nonprofit mandatory membership organization comprised of owners of homes, condominiums, cooperatives, manufactured homes, or any interest in real property, created pursuant to a declaration, covenant, or other applicable law;

2. “Transfer” means the sale, gift, grant, conveyance, assignment, inheritance, or other transfer of an interest in real property located in this state;

3. “Transfer fee” means a fee or charge imposed by a transfer fee covenant, but shall not include any tax, assessment, fee or charge imposed by a governmental authority pursuant to applicable laws, ordinances, or regulations; and

4. “Transfer fee covenant” means a provision in a document, whether recorded or not and however denominated, which purports to run with the land or bind current owners, purchasers or successors in title to specified real property located in this state, and which obligates a transferee or transferor of all or part of the property or any interest thereon to pay a fee or charge to a third person or entity upon transfer of an interest in all or part of the property, or in consideration for permitting any such transfer. The term “transfer fee covenant” shall not include:

- a. any provision of a purchase contract, option, mortgage, security agreement, real property listing

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Permanent Rules to be Effective July 1, 2011

Effective July 1, 2011, the following permanent rules became effective. The underlined language is new language and hyphenated language is being deleted. The asterisks indicate that existing language exists; however, such was not amended. The License Code and Rules booklet has been updated on the website. If you have questions regarding these rules, please contact the Commission.

SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

605:10-3-3. Proceedings upon application for a license

(a) Qualified application.

(1) Approved application. If the Commission ~~shall be~~ is of the opinion that an applicant for license is qualified, the application shall be approved.

(2) Incomplete application. ~~An applicant submitting either an incomplete application or an application requiring further information and/or investigation, shall either:~~

(A) ~~Sign a form acknowledging that the application has not received final approval; however, the applicant requests permission to sit for the examination. If thereafter the application is not approved, the examination grade will be voided and fee will not be refunded.~~

(B) ~~Wait for final approval of the application by the Commission.~~

(~~3~~)(2) Denial of application. If, from the application filed, or from answers to inquiries, or from complaints or information received, or from investigation, it shall appear to the Commission the applicant is not qualified at any time before the initial license is issued, the Commission shall refuse to approve the application and shall give notice of that fact to the applicant within fifteen (15) days after its ruling, order or decision.

(b) Appeal of denial of application. Upon written request from the applicant, filed within thirty (30) days after receipt of such notice of denial, the Commission shall set the matter for hearing to be conducted within sixty (60) days after receipt of the applicant's request.

(c) Applicant hearing. The hearing shall be at ~~such~~ the time and place as ~~the Commission shall prescribe~~ prescribed by the Commission. At least ten (10) days prior to the date set for hearing the Commission shall notify ~~such~~ the applicant and other persons protesting, and shall set forth in a notice the reason or reasons why the Commission refused to accept or approve the application. ~~Such~~ The written notice of the hearing may be served by personal delivery ~~personally~~ to the applicant and protesters, or by mailing the same by registered or certified mail to the last known address of the applicant and/or protesters.

(d) Hearing procedures. The hearing procedure shall be that as outlined in 605:10-1-3 titled "Appeal of administrative decisions; procedures."

605:10-3-7. Provisional sales associate postlicense education requirement

* * *

(d) Subject content. ~~(+)~~ On and after July 1, 1993, a provisional sales associate shall be required to successfully complete prior to the first license expiration date, forty-five (45) clock hours of postlicensing education or its equivalent as determined by the Commission. Such course of study shall be referred to as the Provisional Postlicense Course of Real Estate, Part II of II and shall encompass the following areas of study:

~~(A)~~(1) Real Estate Marketplace

~~(B)~~(2) Marketing Real Estate

~~(C)~~(3) Personal Marketing

~~(D)~~(4) The Qualifying Process

~~(E)~~(5) Prospecting and Negotiating

~~(F)~~(6) Financing Real Estate, Investments and Exchanges

~~(G)~~(7) Financial Documents

~~(H)~~(8) Duty to Account

~~(I)~~(9) Title Search

~~(J)~~(10) Risk Management

~~(K)~~(11) Broker Relationships With Parties to a Transaction

~~(L)~~(12) Property Management

~~(M)~~(13) Laws and Regulations Affecting Real Estate Practice

~~(N)~~(14) Disciplinary Action.

~~(2) The Commission has prepared a syllabus with prescribed content for the postlicense education course encompassing the areas as listed in (1) of this subsection. However, this shall not prevent those who are specializing in a specific real estate area from requesting approval of such offering if it can be proven to meet the purpose, goals and objectives as listed in this Section.~~

(e) ~~Entities allowed to seek approval.~~ Equivalent course content. The Commission may approve and/or accept any offering or combination of offerings which consists of forty-five (45) clock hours or more or its equivalent as determined by the Commission provided by an entity which meets the purposes, goals and objectives of the provisional sales associate postlicense education requirement.

* * *

SUBCHAPTER 5. INSTRUCTOR AND ENTITY REQUIREMENTS AND STANDARDS

605:10-5-1. Approval of prelicense course offerings

* * *

(g) Instructor renewal requirements.

(1) In order to maintain approved status, an instructor must comply with the following:

(A) Attend a Commission directed Instructor Renewal Course every ~~twelve (12)~~ eighteen (18) months or successfully complete nationally recognized teacher education modules consisting of at least 3 clock hours of credit as approved by the Commission. ~~Instructors approved solely for distance education offerings must complete three (3) hours every twelve (12) months of instructor training as accepted by the Commission and sign a statement that changes to current law and rules have been reviewed and that the instructor has made applicable amendments to the course material.~~

(B) Complete one of the following:

- (i) Furnish evidence that the instructor has taught a Commission approved prelicense course, or any other real estate related course(s) the Commission determines to be equivalent, within a required thirty-six (36) month period;
- (ii) Successfully pass the applicable sales or broker examination with a score of 80% or more; or
- (iii) Furnish evidence to the Commission that the instructor has audited an in-class prelicense course, in its entirety, that must be validated by the school instructor or director.

(2) Any instructor not meeting the requirements of this subsection will be required to re-apply as an original instructor applicant.

* * *

605:10-5-1.1 Approval of postlicense course offerings

(a) Course approval. In accordance with Section 858-302 of the License Code, the Commission shall ~~provide a syllabus outline for the Basic postlicense course of real estate to each person or entity conducting a postlicense course and requesting approval thereof. determine and approve the education content of the forty-five (45) clock hour postlicense course content or its equivalent.~~ Any person or entity seeking to conduct an approved course of study shall make application and submit documents, statements and forms as may reasonably be required by the Commission. The request shall include the following:

- (1) Completed course application.
- (2) Application fee of One Hundred Twenty-five Dollars (\$125.00) for each course.
- (3) An approved course syllabus encompassing the contents enumerated in 605:10-3-7 and divided by instructional periods, with the name, author and publisher of the primary textbook, ~~or a statement stating the entity will use OREC syllabus and other items as may be required by the Commission.~~

* * *

(f) Instructor renewal requirements.

(1) In order to maintain approved status, an instructor must comply with the following:

(A) Attend a Commission directed Instructor Renewal Course, or its equivalent, every ~~twelve (12)~~ eighteen (18) months. An exception to this rule may be given by the Commission is such instructor is licensed or certified through another regulatory body.

(B) Instructors approved solely for distance education offerings must complete three (3) hours every twelve (12) months of instructor training as accepted by the Commission and sign a statement that changes to current law and rules have been reviewed and that the instructor has made applicable amendments to the course material.

(B) ~~Furnish evidence that the instructor has taught a Commission approved Postlicense course, or any other real estate related course(s) the Commission determines to be equivalent, within a required thirty-six (36) month period.~~

(2) Any instructor not meeting the requirements of this subsection will be required to re-apply and an original instructor applicant.

* * *

605:10-5-2. Approval of continuing education offerings

* * *

(i) Instructor application and approval requirements. An individual ~~determined by the Commission to possess one or more of the following qualifications~~ may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor for a three (3) year period including the month of approval. Each application for approval must be accompanied by a Ten Dollar (\$10.00) application fee, ~~and documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.~~ In order to qualify, an individual must possess proof of one of the following:

- (1) Possession of a bachelor's degree in a related field.
- (2) Possession of a valid teaching credential or certificate from Oklahoma or another jurisdiction authorizing the holder to instruct in an applicable field of instruction.
- (3) Five (5) years full-time experience out of the previous ten (10) years in a profession, trade, or technical occupation in the applicable field of instruction.
- (4) An individual determined by the Commission to possess a combination of education and/or experience, in a field related to that in which the person is to instruct, which constitute an equivalent to one or more of the qualifications in (1), (2) or (3) of this subsection.

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SENATE BILL 657 *continued from page 1*

d. After significant research, no other state was found that required consumers to obtain a digital signature from a “registered certification authority” in order for them to be able to sign a real estate contract.

e. Therefore, the Oklahoma Association of Realtors moved forward to amend Oklahoma’s UETA law to eliminate the requirement of “real estate transactions” having to use a digital signature authorized by a registered certification authority.

Senate Bill 657 contained this amendment and an emergency measure asking that the bill become effective and in full force after its passage and approval -- Governor Fallin signed SB 657 on April 13, 2011, thereby making the bill effective on that date.

IN CONCLUSION

Since the law was amended effective April 13th eliminating the requirement that “real estate transactions” must utilize a digital signature and a registered certification authority, you can now comply with the standard requirements of electronic transactions. Oklahoma’s Uniform Electronic Signature Act, Title 12A, Oklahoma Statutes, Sections 15-101 - 15-121, provides that electronic signatures may be used in an agreement if both parties agree to conduct the transaction by electronic means. Whether the parties agree to conduct the transaction by electronic means is determined from “the context and surrounding circumstances, including the parties’ conduct.” [12A Okla. Stat. §15-105.]

1. To eliminate any question about whether the parties intended to conduct the transaction electronically or agree to the use of electronic signatures, the best practice is to include language in the agreement similar to this example:

“The parties hereto agree to conduct the transaction by electronic means and hereby state that the electronic signature shall have the same force and effect as an original signature”.

2. Once the parties have agreed to the electronic transaction process, the email, fax, telegram, etc. must be able to be stored or printed by the parties to the transaction.

If you have additional questions regarding this act, we suggest you read the Uniform Electronic Transaction Act which can be found

on the Commission’s website, under News Releases (right margin of Commission’s home web page).

QUESTIONS AND ANSWERS

Q. If a consumer wants to sign a listing agreement or sales contract and transmit it electronically, what would qualify as an electronic signature?

A. The law states that an electronic signature means a sound, symbol, or process attached to or associated with a record and executed or adopted by a person with the intent to sign the record.

An example of an electronic signature could be, but not limited to:

- 1) a signature placed on a contract (or copy thereof) and transmitted by fax,
- 2) an email executing or adopting the terms and conditions of the contract, or
- 3) a telegram executing or adopting the term and conditions of the contract, etc. as long as it was the person’s intent to sign the record.

Q. Why is a digital signature different than an electronic signature?

A. A digital signature authenticates and verifies the signer through extremely secure measures and ensures that no alteration has occurred since the signer’s signature was transformed. A digital signature qualifies as an electronic signature.

An electronic signature is a means by which the signer can execute or adopt something electronically by way of sending an electronic record indicating their intention to sign the record.

Q. Must a licensee retain copies of electronic records used in an electronic transaction?

A. Yes. All documents, emails, telegrams, etc. must be retained in a transaction file for 5 years from the date of consummation of the transaction according to Commission Rule. Further, there maybe other laws pertaining to electronic transactions that may require that the electronic record be retained or stored in particular formats.

If you have additional questions, please feel free to contact the Real Estate Commission or email your comment to orechelp@orec.ok.gov.

UPDATE ON HOME STAGING *continued from page 1*

on several shows broadcast on HGTV and the like); however, a license is required to solicit for listings of places for lease, solicit for tenants, negotiate with owners and tenants, and hold oneself out as engaged in this activity all with the expectation of receiving compensation.

A sample scenario is as follows:

1. An individual approaches a licensee to provide home staging services on a property that is vacant or will soon be vacant, and the individual states they have access to upscale furniture and will redecorate the property for a fee.

2. Licensee suggests the individual contact the property owner to see if they would be interested in the service.

3. Individual contacts the property owner and states that they can assist the owner in redecorating the property by providing upscale furniture and they can provide a person to live in the home until

the property is sold, thus providing security for the property and increase property marketability.

Discussions occur between the property owner and the individual that persons who live in the property will pay reduced rent and/or a security deposit, all of which is to be paid directly to the individual for their home staging services.

4. Individual advertises in local media or on web: “Home stager looking for persons with upscale furnishings and a place to temporarily live – cheap rent, very exclusive home, call”.

The activities listed in this scenario must be performed by, or under the supervision of, a real estate broker. If licensed associates are performing these activities outside their broker’s supervision, they may be in violation of working outside of their broker’s knowledge and acting as a broker without legal authority.

If you have further questions, please contact the Oklahoma Real Estate Commission at 405-521-3387 or toll free 1-866-521-3389.

2011 LEGISLATION *continued from page 3*

agreement, or other agreement that obligates one party to the agreement to pay the other party as full or partial consideration for the agreement or for a waiver of rights under the agreement if the amount to be paid is:

- (1) a loan assumption fee or similar fee charged by a lender that holds a mortgage on the property, and
- (2) a fee or commission paid to a licensed real estate broker for brokerage services rendered in connection with the transfer of the property for which the fee or commission is paid,

b. any provision in a deed, memorandum or other document recorded for the purpose of providing record notice of an agreement prescribed in subparagraph a of paragraph 4 of subsection A of this section,

c. any rent, reimbursement, charge, fee or other amount payable by a lessee to a lessor under a lease, including any fee payable to the lessor for consenting to an assignment, sublease, encumbrance or transfer of the lease,

d. any consideration payable to the holder of an option to purchase an interest in the real property or to the holder of a right of first refusal or first offer to purchase an interest in real property and paid for waiving, releasing or not exercising the option or right on transfer of the property to another person, provided that the payment is on a one-time basis upon the next transfer, and once paid shall not bind successors in title to the property,

e. any fee, charge, assessment, dues, contribution or other amount relating to the purchase or transfer of a club membership related to the real property owner by the transferor,

f. any provision of a document requiring payment of a fee or charge to an association comprised of owners of properties described therein to be used exclusively for purposes authorized in the document, as long as no portion of the fee is required to be passed through to a third party or entity designated or identifiable by description in the document or another document referenced therein, and

g. any fee that is charged as a typical real estate closing cost, including but not limited to escrow fees, settlement fees, abstracting fees, legal fees or title insurance premiums.

B. The Legislature makes the following findings:

1. The public policy of this state favors the transferability of interest in real property free from unreasonable restraints on alienation and covenants or servitudes that do not touch and concern the property; and

2. A transfer fee covenant violates this public policy by impairing the marketability of title to the affected real property and constitutes an unreasonable restraint on alienation, regardless of the duration of the covenant or the amount of the transfer fee set forth in the covenant.

C. A transfer fee recorded, filed or entered into in this state on or after the effective date of this section does not run with

the title to real property and is not binding on or enforceable at law or in equity against any owner, subsequent owner, purchaser or mortgagee of any interest in real property as an equitable servitude, personal obligation or otherwise. Any private transfer fee obligation that is recorded, filed or entered into in this state on or after the effective date of this section is void and unenforceable.

D. Nothing in this section shall imply that a transfer fee covenant recorded prior to the effective date of this section is valid or enforceable.

SB780 Home Service Contract Act effective November 1, 2011

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6750 of Title 36, unless there is created a duplication in numbering, reads as follows: This act shall be known and may be cited as the "Oklahoma Home Service Contract Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6751 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The purpose of the Oklahoma Home Service Contract Act is to create an independent legal framework within which home service contracts are defined, may be sold and are regulated in this state. The Oklahoma Home Service Contract Act declares that home service contracts, as defined in Section 3 of this act, are not insurance and not otherwise subject to the Insurance Code. The Oklahoma Home Service Contract Act requires simple registration, financial assurance options and enforcement by the Insurance Commissioner. Proper registration under the Oklahoma Home Service Contract Act exempts applicability under the Service Warranty Insurance Act, which may regulate extended warranty, retail, automobile and agreements not defined in the Oklahoma Home Service Contract Act. Nothing in the Service Warranty Insurance Act is changed or amended by the Oklahoma Home Service Contract Act.

B. The following items are exempt from the provisions of the Oklahoma Home Service Contract Act:

1. Warranties as defined in Section 3 of this act;
2. Maintenance agreements as defined in Section 3 of this act; and
3. Service contracts sold or offered for sale to persons other than consumers, consumer product (extended warranty) service contracts on new retail goods if made at the time of sale and motor vehicle service contracts, all of which may be separately regulated elsewhere in the Oklahoma Statutes.

C. The types of agreements covered by the Oklahoma Home Service Contract Act are not insurance and do not have to comply with any other provision of the Insurance Code outside of the Oklahoma Home Service Contract Act.

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2011 LEGISLATION *continued from page 7*

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6752 of Title 36, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Home Service Contract Act:

1. “Administrator” means the person who is responsible for the administration of home service contracts or the home service contracts plan, who may promote the contract under their own private label or brand as long as the provider is clearly identified on the contract, or who is responsible for any submission required by the Oklahoma Home Service Contract Act;

2. “Commissioner” means the Insurance Commissioner;

3. “Consumer” means a natural person who buys other than for purposes of resale any tangible personal property that is distributed in commerce and that is normally used for personal, family or household purposes and not for business or research purposes;

4. “Maintenance agreement” means a contract of limited duration that provides for scheduled maintenance only and does not include repair or replacement;

5. “Person” means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate or any similar entity or combination of entities acting in concert;

6. “Provider” means the person who is the contractually named obligor to the home service contract holder under the terms of the service contract;

7. “Provider fee” means the consideration paid for a home service contract;

8. “Reimbursement insurance policy” means a policy of insurance issued to a provider to either provide reimbursement to the provider under the terms of the insured home service contracts issued or sold by the provider or, in the event of the provider’s nonperformance, to pay on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured home service contracts issued or sold by the provider;

9. “Home service contract” or “home warranty” means a contract or agreement for a separately stated consideration for a specific duration to perform the service, repair, replacement or maintenance of property or indemnification for service, repair, replacement or maintenance, for the operational or structural failure of any residential property due to a defect in materials, workmanship, inherent defect or normal wear and tear, with or without additional provisions for incidental payment or indemnity under limited circumstances. Home service contracts may provide for the service, repair, replacement, or maintenance of property for damage resulting from power surges or interruption and accidental damage from handling and may provide for leak or repair coverage to house roofing systems. Home service contracts are not insurance in this state or otherwise regulated under the Insurance Code;

10. “Service contract holder” or “contract holder” means a person who is the purchaser or holder of a home service

contract; and

11. “Warranty” means a warranty made solely by the manufacturer, importer or seller of property or services, including builders on new home construction, without consideration, that is not negotiated or separated from the sale of the product and is incidental to the sale of the product, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor or other remedial measures, such as repair or replacement of the property or repetition of services.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6753 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Home service contracts shall not be issued, sold or offered for sale in this state unless the provider has:

1. Provided a receipt for, or other written evidence of, the purchase of the home service contract to the contract holder; and

2. Provided a copy of the home service contract to the service contract holder within a reasonable period of time from the date of purchase.

B. Each provider of home service contracts sold in this state shall file a registration with, and on a form prescribed by, the Insurance Commissioner consisting of their name, full corporate physical street address, telephone number, contact person and a designated person in this state for service of process. Each provider shall pay to the Commissioner a fee in the amount of One Thousand Two Hundred Dollars (\$1,200.00) upon initial registration and every three (3) years thereafter. Each provider shall pay to the Commissioner an Antifraud Assessment Fee of Two Thousand Two Hundred Fifty Dollars (\$2,250.00) upon initial registration and every three (3) years thereafter. The registration need only be updated by written notification to the Commissioner if material changes occur in the registration on file. A proper registration is de facto a license to conduct business in Oklahoma and may be suspended as provided in Section 6 of this act. Fees received from home service contract providers shall not be subject to any premium tax, but shall be subject to an administrative fee equal to two percent (2%) of the gross fees received on the sale of all home service contracts issued in this state during the preceding calendar quarter. The fees shall be paid quarterly to the Commissioner and submitted along with a report on a form prescribed by the Commissioner. However, service contract providers may elect to pay an annual administrative fee of Three Thousand Dollars (\$3,000.00) in lieu of the two-percent administrative fee, if the provider maintains an insurance policy as provided in paragraph 3 of subsection C of this section.

C. In order to assure the faithful performance of a provider’s obligations to its contract holders, each provider shall be responsible for complying with the requirements of paragraph 1, 2 or 3 of this subsection:

1. a. maintain a funded reserve account for its obligations under its contracts issued and outstanding in this state. The reserves shall not be less than forty percent (40%) of gross consideration received, less claims paid, on the

sale of the service contract for all in-force contracts. The reserve account shall be subject to examination and review by the Commissioner, and

b. place in trust with the Commissioner a financial security deposit, having a value of not less than five percent (5%) of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than Twenty-five Thousand Dollars (\$25,000.00), consisting of one of the following:

- (1) a surety bond issued by an authorized surety,
- (2) securities of the type eligible for deposit by authorized insurers in this state,
- (3) cash,
- (4) a letter of credit issued by a qualified financial institution, or
- (5) another form of security prescribed by rule promulgated by the Commissioner;

2. a. maintain, or together with its parent company maintain, a net worth or stockholders' equity of Twenty-five Million Dollars (\$25,000,000.00), excluding goodwill, intangible assets, customer lists and affiliated receivables, and

b. upon request, provide the Commissioner with a copy of the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission (SEC) within the last calendar year, or if the company does not file with the SEC, a copy of the company's financial statements, which shows a net worth of the provider or its parent company of at least Twenty-five Million Dollars (\$25,000,000.00) based upon Generally Accepted Accounting Principles (GAAP) accounting standards. If the provider's parent company's Form 10-K, Form 20-F, or financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the provider relating to service contracts sold by the provider in this state; or

3. Purchase an insurance policy which demonstrates to the satisfaction of the Insurance Commissioner that one hundred percent (100%) of its claim exposure is covered by such policy. The insurance shall be obtained from an insurer that is licensed, registered, or otherwise authorized to do business in this state, that is rated B++ or better by A.M. Best Company, Inc., and that meets the requirements of subsection D of this section. For the purposes of this paragraph, the insurance policy shall contain the following provisions:

- a. in the event that the provider is unable to fulfill its obligation under contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the insurer shall pay losses and unearned premiums under such plans directly to the person making the claim under the contract,
- b. the insurer issuing the insurance policy shall assume full responsibility for the administration of claims in the

event of the inability of the provider to do so, and

c. the policy shall not be canceled or not renewed by either the insurer or the provider unless sixty (60) days' written notice thereof has been given to the Commissioner by the insurer before the date of such cancellation or nonrenewal.

D. The insurer providing the insurance policy used to satisfy the financial responsibility requirements of paragraph 3 of subsection C of this section shall meet one of the following standards:

1. The insurer shall, at the time the policy is filed with the Commissioner, and continuously thereafter:

a. maintain surplus as to policyholders and paid-in capital of at least Fifteen Million Dollars (\$15,000,000.00), and

b. annually file copies of the audited financial statements of the insurer, its National Association of Insurance Commissioners (NAIC) Annual Statement, and the actuarial certification required by and filed in the state of domicile of the insurer; or

2. The insurer shall, at the time the policy is filed with the Commissioner, and continuously thereafter:

a. maintain surplus as to policyholders and paid-in capital of less than Fifteen Million Dollars (\$15,000,000.00),

b. demonstrate to the satisfaction of the Commissioner that the company maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three to one, and

c. annually file copies of the audited financial statements of the insurer, its NAIC Annual Statement, and the actuarial certification required by and filed in the state of domicile of the insurer.

E. Except for the registration requirements in subsection B of this section, providers, administrators and other persons marketing, selling or offering to sell home service contracts are exempt from any licensing requirements of this state and shall not be subject to other registration information or security requirements. Home service contract providers as defined in Section 3 of this act and properly registered under this law are exempt from any treatment pursuant to the Service Warranty Insurance Act. Home service contract providers applying for registration under the Oklahoma Home Service Contract Act that have not been registered in the preceding twelve (12) months under the act may be subject to a thirty-day prior review before their registration is deemed complete. Said applications shall be deemed complete after thirty (30) days unless the Commissioner takes action in that period under Section 6 of this act, for cause shown, to suspend their registration.

F. The marketing, sale, offering for sale, issuance, making, proposing to make and administration of home service contracts by providers and related service contract sellers, administrators, and other persons, including but not limited to real estate licensees, shall be exempt from all other provisions of the Insurance Code.

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2011 LEGISLATION *continued from page 9*

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6754 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Service contracts marketed, sold, offered for sale, issued, made, proposed to be made, or administered in this state shall be written, printed, or typed in clear, understandable language that is easy to read, and shall disclose the requirements set forth in this section, as applicable.

B. Service contracts insured under an insurance policy pursuant to paragraph 3 of subsection C of Section 4 of this act shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are insured under a service contract reimbursement insurance policy." The service contract shall also state the name and address of the insurer.

C. Service contracts not insured under an insurance policy pursuant to paragraph 3 of subsection C of Section 4 of this act shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed by the full faith and credit of the provider."

D. Service contracts shall state the name and address of the provider, and shall identify any administrator if different from the provider, the service contract seller, and the service contract holder to the extent that the name of the service contract holder has been furnished by the service contract holder. The identities of such parties are not required to be preprinted on the service contract and may be added to the service contract at the time of sale.

E. Service contracts shall state the total purchase price and the terms under which service contract is sold. The purchase price is not required to be preprinted on the service contract and may be negotiated at the time of sale with the service contract holder.

F. Service contracts shall state the existence of any trade service fee, if applicable.

G. Service contracts shall specify the merchandise and services to be provided and any limitations, exceptions, or exclusions.

H. Service contracts shall state any restrictions governing the transferability of the service contract, if applicable.

I. Service contracts shall state the terms, restrictions or conditions governing cancellation of the service contract.

J. Service contracts shall set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and any requirement to follow the owner's manual.

K. Service contracts shall state whether or not the service contract provides for or excludes consequential damages or preexisting conditions, if applicable. Service contracts may, but are not required to, cover damage resulting from rust, corrosion or damage caused by a noncovered part or system.

L. If prior approval of repair work is required, a service contract shall state the procedure for obtaining prior approval and for making a claim, including a toll-free telephone number

for claim service and a procedure for obtaining emergency repairs performed outside of normal business hours.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6755 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. After initial registration, and upon complaint or proper cause shown, providers, administrators, insurers or other persons shall be subject to periodic examination by the Insurance Commissioner, in the same manner and subject to the same terms and conditions that apply to insurers.

B. The Commissioner may take action which is necessary or appropriate to enforce the provisions of the Oklahoma Home Service Contract Act and the orders of the Commissioner and to protect service contract holders in this state.

1. If a provider has violated the Oklahoma Home Service Contract Act or the Commissioner's rules or orders, the Commissioner may issue an order directed to that provider to cease and desist from committing violations of the Oklahoma Home Service Contract Act or the Commissioner's rules or orders, may issue an order prohibiting a service contract provider from selling or offering for sale service contracts in violation of the Oklahoma Home Service Contract Act, suspend that provider's registration or may issue an order imposing a civil penalty on that provider, or any combination of the following, as applicable:

a. a person aggrieved by an order issued under this paragraph may request a hearing before the Commissioner. The hearing request shall be filed with the Commissioner within twenty (20) days of the date the Commissioner's order is effective,

b. if a hearing is requested, an order issued by the Commissioner under this section shall be suspended from the original effective date of the order until completion of the hearing and final decision of the Commissioner, and

c. at the hearing, the burden shall be on the Commissioner to show why the order issued pursuant to this paragraph is justified. The hearing requested under this section shall be held in accordance with the Administrative Procedures Act and the laws and rules of the Insurance Department.

2. The Commissioner may bring an action in any court of competent jurisdiction for an injunction or other appropriate relief to enjoin threatened or existing violations of the Oklahoma Home Service Contract Act or of the Commissioner's orders or rules. An action filed under this paragraph may also seek restitution on behalf of persons aggrieved by a violation of the Oklahoma Home Service Contract Act or orders or rules of the Commissioner.

3. A person who is found to have violated the Oklahoma Home Service Contract Act or orders or rules of the Commissioner may be assessed a civil penalty in an amount determined by the Commissioner of not more than Five Hundred Dollars (\$500.00) per violation and no more than Ten Thousand

Dollars (\$10,000.00) in the aggregate for all violations of a similar nature. For purposes of this section, violations shall be of a similar nature if the violation consists of the same or similar course of conduct, action, or practice, irrespective of the number of times the act, conduct, or practice which is determined to be a violation of the Oklahoma Home Service Contract Act occurred. This act is administrative only and nothing in this act shall be construed to create a private cause of action hereunder.

SB 657 Amendment to UETA (electronic signatures) effective April 13, 2011

(Please see related article within this edition of the Comment for further clarification.)

Title 12A O.S. 2001, Section 15-121, is amended to read as follows:

Section 15-121. Registration of certification authority.

(a) No person, other than a state agency, board, or commission, shall act as a registered certification authority in this state until such person:

- (1) Registers with the Secretary on forms approved and provided by the Secretary;
- (2) Files with the Secretary a good and sufficient surety bond, certificate of insurance, or other evidence of financial security in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00); and
- (3) Meets the requirements of any rules promulgated by the Secretary.

(b) ~~Real estate transactions and district~~ District and appellate court filings shall require the use of a registered certification authority.

(c) If a registered certification authority fails to maintain any of the qualifications listed in subsection (a) of this section, the registration of the certification authority shall be deemed lapsed.

SB 684 License exemption--limitations effective November 1, 2011

Title 59, Section 858-301. It shall be unlawful for any person to act as a real estate licensee, or to hold himself or herself out as such, unless the person shall have been licensed to do so under this the Oklahoma Real Estate License Code. However, nothing in this section shall:

9. Apply to employees of a licensed real estate broker who lease residential housing units only to eligible persons who qualify through a state or federal housing subsidized program to lease the property in an affordable housing development project. "Affordable housing development project" means a housing development of four or more units constructed for lease to specifically eligible persons as required by the particular federal or state housing program, including, but not limited to, the U.S. Department of Housing and Urban Development, the U.S. Department Agriculture Rural Development, the U.S. Department of Treasury Internal Revenue Service, or the Oklahoma Housing Finance Agency.

SB 648 Enforcement of unpaid fines to the Commission effective November 1, 2011

Title 59, Section 858-401. A. In addition to any other penalties provided by law, any person unlicensed pursuant to The Oklahoma Real Estate License Code who shall willingly and knowingly violate any provision of this Code, upon conviction, shall be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

B. In addition to any civil or criminal actions authorized by law, whenever, in the judgment of the Oklahoma Real Estate Commission, any unlicensed person has engaged in any acts or practices which constitute a violation of the Oklahoma Real Estate License Code, the Commission may:

1. After notice and hearing, and upon finding a violation of the Code, impose a fine of not more than Five Thousand Dollars (\$5,000.00) or the amount of the commission or commissions earned, whichever is greater for each violation of the Code for unlicensed activity;

2. Make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the Commission that such person has engaged in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court, without bond; or

3. Impose administrative fines pursuant to this subsection which shall be enforceable in the district courts of this state. The order of the Commission shall become final and binding on all parties unless appealed to the district court as provided in the Administrative Procedures Act. If an appeal is not made, such order may be entered on the judgment docket of the district court in a county in which the debtor has property and thereafter enforced in the same manner as an order of the district court for collection actions.

C. Notices and hearings required by this section and any appeals from orders entered pursuant to this section shall be in accordance with the Administrative Procedures Act.

D. Such funds as collected pursuant to this section shall be deposited in the Oklahoma Real Estate Education and Recovery Fund.

Security Breach Notification Act

Federal and State Laws require that if you maintain (as part of a database) a consumer's name and other personal identification numbers, i.e., SSN, driver's license, or a credit card or financial information with the personal security code that such information be encrypted or redacted so that in the event of a breach, such information cannot be obtained and used by a third party. For more information see O.S. Title 24, Sections 161-166 or visit the Commission's website at www.orec.ok.gov, News Releases (right margin).

DISCIPLINARY ACTION *continued from page 2*

- Title 59 O.S. §858-312, Subsections 1 and 9, in that she made a materially false or fraudulent statement on an application, in that she stated on her 2004 and 2007 license renewal applications that she had no criminal convictions;
- Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-9-4(b) (1) (3), in that she advertised a home for rent in a classified newspaper advertisement under her name, with no reference to her sponsoring broker, and
- Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-7-5, in that she failed to file a name change with the Commission until May 2009, although she married in 2005 and began using her married name at that time.

Respondents Mark V Realty & Investments Incorporated consented to an assessment of a formal reprimand and an administrative fine of Five Hundred Dollars (\$500.00), and Respondent Kirsten Webb consented to an assessment of a formal reprimand and an administrative fine of One Thousand Dollars (\$1,000.00).

C-2009-014 – SUSAN L. RHODES (BP) AND PAMELA K. WALTZ (SA) – MIAMI

Violations by Respondent Susan L. Rhodes:

- Title 59 O.S. §858-312, Subsection 6 and Rule 605:10-13-1(L), in that she failed to maintain a copy of the Residential Property Condition Disclosure related to a transaction, and
- Title 59 O.S. §858-312, Subsection 9 and Rule 10-17-4(6), in that she failed to ensure her associate maintained all documents related to this transaction.

Violations by Respondent Pamela K. Waltz:

- Title 59 O.S. §858-312, Subsection 6 and Rule 605:10-13-2(2), in that she failed to deliver a copy of the Residential Property Condition Disclosure to complainants prior to consummation, and
- Title 59 O.S. §858-312, Subsection 23, in that she failed to obtain and make available to the purchaser a disclosure statement required by the Residential Property Condition Disclosure Act prior to the acceptance of an offer to purchase.

Respondents Susan Rhodes and Pamela Waltz consented to an assessment of an administrative fine in the amount of Five Hundred Dollars (\$500.00) each, for a total of One Thousand Dollars (\$1,000.00).

C-2009-029 – DAVID M. LEGRAND (B) – BETHANY

Violations by respondent:

- Title 59 O.S. §858-312, Subsections 9 and 15, in that he entered a plea of Guilty to the charge of Domestic Abuse in Case Number CM-2000-1457 in the District Court of Oklahoma County, Oklahoma, and

- Title 59 O.S. §858-312, Subsections 1, 8 and 9, in that he made materially false or fraudulent statements in his application for license, in that his 2003 and 2006 renewal applications indicated that he had neither criminal convictions nor any pending charges.

Respondent David LeGrand consented to the voluntary surrender of his Oklahoma Real Estate broker license.

C-2009-036 – BILL LANCASTER (BP), BILL LANCASTER (BO) AND CYRINA M. LANG (BB) – WAGONER

Violations by Respondent Bill Lancaster (BP):

- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(6), in that he failed to properly supervise the activities of Respondent Cyrina Lang, in that he failed to ensure that Respondent Lang appropriately disclosed material defects personally known to her regarding the subject property; that he failed to ensure that Respondent Lang made available to the purchaser a copy of the Residential Property Condition Disclosure Statement prior to his offer being accepted by the seller and failed to ensure that Respondent Lang properly maintained office records.

Violations by Respondents Bill Lancaster (BO) and Cyrina Lang:

- Title 59 O.S. §858-312, Subsection 6 and Rule 605:10-13-1(i), in that they failed to make available to the purchaser a copy of the Residential Property Condition Disclosure Statement prior to the seller accepting the buyer's offer and failed to furnish to the purchaser a copy of the Addendum to the Residential Property Condition Disclosure Statement, and
- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(3), in that they failed to verify from the seller whether the property had "beams" or "piers", in order to disclose same to purchaser.

Respondents Bill Lancaster (BP) and Bill Lancaster (BO) consented to an assessment of a formal reprimand and an administrative fine in the amount of Five Hundred Dollars (\$500.00).

Respondent Cyrina Lang consented to the assessment of a formal reprimand, an administrative fine in the amount of One Thousand Dollars (\$1,000.00), and completion of a three (3) hour Continuing Education Course on the subject of Disclosure Laws.

C-2009-072 – GWENDOLYN TRACY REAGAN (SA) – PARK HILL

Violations by respondent:

- Title 59 O.S. §858-312, Subsections 1 and 9, in that she made a materially false or fraudulent statement on an application for license in that she indicated on her 2009 renewal application that she had not been convicted of a crime, and

- Title 59 O.S. §858-312, Subsections 9 and 15, in that she has repeated convictions for Driving Under the Influence (DUI) and Driving While Suspended.

Respondent Gwendolyn Reagan consented to the assessment of an administrative fine of Five Hundred Dollars (\$500.00), the placing of her sales associate license on probation, with the term to run concurrent with the term of her criminal probation (CF-2009-0006), and will report to the Commission the completion of her probation and/or any violation that should occur.

C-2009-088 – ROSINELY P. RUIZ (SA) – OKLAHOMA CITY

Violations by respondent:

- Title 59 O.S. §858-101, Title 59 O.S. §858-301, Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12), in that her license was placed on inactive status on November 30, 2009 and she continued to engage in real estate activities which require an active license, continued to act in the capacity of a real estate licensee and continued to facilitate the real estate activities of Jorge Gamboa, whose real estate license was summarily suspended by the Commission on October 14, 2009.

Respondent Ruiz consented to the six (6) month suspension of her sales associate license, with credit for time served from April 22, 2010, and will attend and complete three (3) hours of continuing education in the subject of Prohibited Acts.

C-2009-043 – LEWIS R. HEINTZELMAN (BP) – MIDWEST CITY

VIOLATIONS BY RESPONDENT:

- Title 59 O.S. §858-354(A) and Title 59 O.S. §858-312, Subsection 9, in that he failed to enter into a written brokerage agreement prior to providing services as a single party broker to the complainant.

The Commission ordered that Respondent Lewis R. Heintzelman be assessed an administrative fine of Five Hundred Dollars (\$500.00).

C-2009-004 – SOONER TRADITIONS REALTY LLC, BART HUNTER MILLER (BM) AND STEVEN DALE WARD (SA) – NORMAN

The case against Respondent Sooner Traditions Realty LLC was closed; and Bart Miller entered into a Consent Agreement regarding this case on October 13, 2010 which was reported in the previous publication.

Violations by Steven Dale Ward:

- Title 59 O.S. §858-312, Subsections 9 and 23, in that he failed to furnish to the complainant, prior to complainant's offer being accepted by the seller, a copy of the Residential Property Condition Disclosure Statement;

- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12), in that he acted in signing or having signed by someone other than the complainant, the name of the complainant (E. Nunez), to the Residential Property Condition Disclosure Statement;

- Title 59 O.S. §858-312, Subsections 8 and 9 and Rules 605:17-4(14) and 605:10-9-1(d), in that he acted in the capacity of a real estate broker while not licensed as a real estate broker, and

- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(9), in that he failed and refused to appear for follow-up interviews with the Oklahoma Real Estate Commission investigator.

The Commission ordered that the Oklahoma Real Estate sales associate license of Respondent Steven D. Ward be revoked.

C-2009-051 – WORX COMPANY LLC, JOHNNY RAY SPENCE (BM) AND MINA L. SPENCE (SA) – EDMOND

On September 10, 2010 the Hearing Examiner reported that Respondents WORX Company LLC and Johnny Ray Spence were found to be in violation of the following:

- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-13-1(L), in that they failed to maintain all records and files for a minimum of five (5) years after the termination of the transaction, in that they failed to ensure that Mina L. Spence kept all emails related to the transaction;
- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-15-1(a)(2), in that they failed to disclose in writing that HomeWorx Mortgage is owned by Johnny Ray Spence, and
- Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-17-4(6), in that they failed to properly supervise the activities of Respondent Mina L. Spence.

Violations by Mina L. Spence:

- Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-17-4(9), in that she failed to produce and maintain a copy of the email which purportedly contained invoices related to the transaction, and
- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-15-1(a)(2), in that she failed to disclose in writing that HomeWorx Mortgage is owned by Johnny Ray Spence.

The Commission ordered that Respondents WORX Company LLC and Johnny Ray Spence pay an administrative fine in the sum of One Thousand Five Hundred Dollars (\$1,500.00; \$500.00 for each violation), and that Respondent Mina L. Spence pay an administrative fine in the sum of One Thousand Dollars (\$1,000.00; \$500.00 for each violation).

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DISCIPLINARY ACTION *continued from page 13***JANUARY****C-2009-091 – MELANIE GAIL DISMUKE – OKLAHOMA CITY**

Violations by respondent:

- Title 59 O.S. §858-312, Subsections 9 and 15, in that she had been convicted of several motor vehicle violations between 2006 – 2009, and
- Title 59 O.S. §858-312, Subsections 1, 8 and 9, in that she made a materially false or fraudulent statement in her application for license in 2005, as well as on her 2006 renewal application, in which she indicated that she had no criminal convictions nor any pending charges.

Respondent Dismuke consented to the assessment of an administrative fine of One Thousand Dollars (\$1,000.00), the placement of her sales associate license on probation to run concurrent with the terms of her criminal probation (August 2014), and reporting of any violations of her deferred sentence to the Commission within ten (10) days of the occurrence - Fine unpaid within 30 days; fine doubled and not paid; Melanie Dismuke's license was revoked effective April 18, 2011.

C-2009-041 – COLONIAL REALTY OF LAWTON LLC, KATHLEEN ANN HELTON (BM) AND REBECCA DAWN ADAIR (SA) – LAWTON

VIOLATIONS BY REBECCA ADAIR:

- Title 59 O.S. §858-312, Subsections 6, 8 and 9 and Rule 605:10-13-2(1) (2), in that she failed to turn over documents, as well as a security deposit to her broker, and
- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12), in that she failed to communicate with her broker, customers and clients throughout several transactions.
- Respondents Colonial Realty of Lawton LLC and Kathleen A. Helton did not violate any provision of the Oklahoma Real Estate License Code or the rules of the Commission.

The Commission ordered that Respondent Rebecca D. Adair be given a formal reprimand and pay administrative fines totaling Seven Hundred Dollars (\$700.00) - Fine not paid; fine doubled and not paid, license revoked effective March 29, 2011.

The case against Respondents Colonial Realty of Lawton LLC and Kathleen A. Helton was dismissed.

C-2009-053 – MCGRAW REALTORS, MCGRAW REALTORS (BO), JAY D. MENGER (BB) AND LAURA M. GRUNEWALD (SA) – TULSA

Violations by Laura M. Grunewald:

- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12), in that she failed to seek supervision from her sponsoring broker prior to inputting the sales data regarding complainant's home into the Greater Tulsa Association of Realtors MLS database.

After presentation and discussion of the case, it was established that Respondent Grunewald did not have a relationship established with the complainant at the time the sales data was input into the Multiple Listing System (MLS). It was also determined that the complainant had only established a relationship with the respondents to purchase the lot; the complainant only contracted with the builder to provide contracting services, and the builder did not carry the note on the home itself, nor had interest in the property.

The Commission ordered that Respondent Laura Grunewald pay an administrative fine of Five Hundred Dollars (\$500.00).

The case against the remaining Respondents was dismissed.

MARCH**C-2008-057: SMITH REAL ESTATE & PROPERTY LLC, GARY D. SMITH (BM), VICKIE L. BAINTER (BA), JOHN R. KEITH (BP) AND CAROLYN SUE SMITH (SA) – ENID**

Violations by Gary D. Smith and Vickie L. Bainter:

- Title 59 O.S. 858-312, Subsection 9 and Rule 605:10-13-1, in that they failed to maintain the records of the transaction with the complainant.

Respondents Gary D. Smith and Vickie L. Bainter consented to the assessment of an administrative fine of \$500.00, for a total of One Thousand Dollars (\$1,000.00).

Further, the case against Respondents Smith Real Estate & Property LLC, John R. Keith and Carolyn Sue Smith would be closed.

UC-2009-006: RENTAL OKC, CHRIS STONER (UNLICENSED), GREEN MEADOW REALTY INCORPORATED, LINDA MCELROY (BM) AND TRUDY LA NAE STONER (SA) – OKLAHOMA CITY
VIOLATIONS BY RENTAL OKC AND CHRIS STONER:

- Title 59 O.S. §858-401, in that they engaged in licensable real estate activities while not possessing an Oklahoma real estate license, and may have received and accepted a commission or other valuable consideration from those activities, in that they marketed, solicited and negotiated for lease and/or rent properties which they did not own.

Violations by Trudy La Nae Stoner:

- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12), in that she engaged in improper conduct and demonstrated incompetency by referring a consumer to unlicensed persons and entities (Chris Stoner and Rental OKC) to handle licensable real estate activities.

Respondents Rental OKC and Chris Stoner consented to an assessment of an administrative fine of Four Thousand Five Hundred Dollars (\$4,500.00), and will each obtain an Oklahoma real estate license within sixty (60) days of receipt of the Final Order.

Respondent Trudy Stoner consented to the assessment of an administrative fine of Five Hundred Dollars (\$500.00), and will attend and complete three (3) hours of disciplinary Continuing Education in the subject of "Prohibited Acts" within six (6) months of receipt of the Final Order.

C-2009-020: TRACI LYNN PATMAN (SA) – OKLAHOMA CITY

Violations by respondent:

- Title 59 O.S. §858-312, Subsections 9 and 19, in that she was convicted of one (1) Felony count of Embezzlement and three (3) Felony counts of Making False Entry in Corporate Records, and
- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(9), in that she failed to provide to the Oklahoma Real Estate Commission an updated restitution balance upon request by the Commission.

The Commission rejected the original recommendation of the Hearing Examiner and ordered that the sales associate license of Traci Lynn Patman be revoked effective 04-16-11.

APRIL

C-2009-060: RENE MAURICIO CHAVEZ (SA) – MOORE

Violations by respondent:

- Title 59 O.S. §858-312, Subsections 9 and 15, in that he entered a plea of guilty in Case Number CF-2007-1577 in the District Court of Oklahoma County, Oklahoma, to the felony charge of Sexual Battery, and
- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(12), in that he was charged with Sexual Battery while performing real estate activities.

The Commission ordered that the Oklahoma real estate sales associate license of Respondent Rene Mauricio Chavez be revoked effective 05-27-11)

C-2009-075: JOHN J. TANNER (BP) AND ELIZABETH ANN LAWLEY (SA) – TULSA

Violations by Elizabeth Ann Lawley:

- Title 59 O.S. §858-312, Subsections 2, 8 and 9 and Rule 605:10-17-4(13), in that she failed to inform the buyers, at the time of the execution of the purchase contract, that a judgment in foreclosure had been rendered against the property under Case Number CJ-2006-020 in the District Court of Okmulgee County;
- Title 59 O.S. §858-312, Subsections 8, 9 and 23, in that she failed to disclose on the Residential Property Condition Disclosure Statement, in response to question number 39, the pending foreclosure action in Okmulgee County, Oklahoma,

and is also a violation of the Residential Property Condition Disclosure Act; and

- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(9), in that she failed to produce the documents as instructed by the Oklahoma Real Estate Commission in its letter dated January 24, 2010.

The Commission Ordered that the Oklahoma Real Estate Sales Associate license of Respondent Elizabeth Ann Lawley be suspended for a period of six (6) months, and that she be ordered to pay an administrative fine of Five Hundred Dollars (\$500.00) for each violation, for a total of One Thousand Five Hundred Dollars (\$1,500.00).

The Commission also ordered that the case against Respondent John J. Tanner be dismissed.

C-2009-082: LANCE E. COCHRAN (SA) – MEDFORD

Violations by respondent:

- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-2(b), in that he failed to submit a written response in this case within fifteen (15) days of receiving notice of the complaint.

The Commission ordered that Respondent Lance Cochran be ordered to pay an administrative fine of Three Hundred Dollars (\$300.00).

C-2010-013: CASEY LEE GRIFFIN (SA) – OOLOGAH

Violations by Casey Lee Griffin:

- Title 59 O.S. §858-312, Subsections 9 and 15, in that he entered pleas of guilty in Case Numbers CM-2002-2983, CM-2008-5826, CM-2010-3615 and CM-2010-2642;
- Title 59 O.S. §858-312, Subsection 15, in that due to his demonstrated disregard for the laws of the State of Oklahoma, he is unworthy to act as a real estate licensee;
- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-4(9), in that he failed to produce and furnish to the Commission the documents relating to his plea of guilty in Case Number CM-2008-5826; and
- Title 59 O.S. §858-312, Subsections 8 and 9 and Rule 605:10-17-2(b), in that he failed to submit a written response to complaint in this matter.

The Commission ordered that the Oklahoma real estate sales associate license of Respondent Casey Lee Griffin be revoked effective 05-27-11.

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FHA Extends Anti-Flipping Rule (Again)

The Federal Housing Administration (FHA) has announced that it will, for another year, waive its anti-flipping rule, this time through 2011. Under the regulation (24 CFR 203.37a), FHA will not insure certain mortgages if the contract of sale is executed within 90 days of its acquisition by the seller, subject to several exceptions. The regulation was originally promulgated in 2003 to address "property flipping" schemes in which properties are acquired and then quickly resold at an artificially inflated price. Like last year, FHA says that under current market conditions a one-year waiver will encourage buyers to continue to use FHA-insured financing to purchase HUD and bank-owned properties, and private resales, and help

to stabilize real estate prices and revitalize neighborhoods. The agency asserts that FHA borrowers are still protected against predatory property "flipping" because the waiver is still limited to "arms-length" transactions; detailed conditions apply to transactions in which the sales price exceeds the seller's acquisition price by 20 percent or more; and the waiver is limited to "forward mortgages" and does not apply to the Home Equity Conversion Mortgage (HECM) program. More details regarding the waiver and its conditions have been published in HUD's formal waiver notice.

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PERMANENT RULES *continued from page 5*

605:10-5-3. Standards for Commission approved real estate courses

* * *

(e) Course examinations. ~~Every~~ Each approved prelicense provisional sales associate course and postlicense course offering shall conclude with an end-of-course examination consisting of no less than ~~one hundred and thirty (130)~~ two hundred (200) questions administered by the approved entity. Each approved prelicense broker course shall conclude with an end-of-course examination consisting of no less than two hundred and fifty (250) questions administered by the approved entity. ~~Every~~ Each approved distance continuing education course offering shall conclude with an end-of-course examination consisting of no less than seven (7) questions for each clock hour. End-of-course examination questions may not be the same as any previously used questions covering the respective course content.

(f) Successful completion. In order for a student to successfully complete a prelicense, postlicense or distance education course, the entity must require that the student complete all class material and/or modules and achieve a passing score of at least ~~seventy-five percent (75%)~~ eighty percent (80%) on the entity's final examination. An entity shall require the student to complete sufficient material or modules to ensure mastery of the course offering, and shall require the student to complete the end-of-course examination. An entity may allow any student who fails to achieve a passing score the opportunity to take another examination without repeating instruction.

* * *

SUBCHAPTER 7. LICENSING PROCEDURES AND OPTIONS

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

(a) License term and fees. Each original license issued under the Code on and after July 1, 1981, shall be issued to expire at the end of the thirty-sixth (36) month including the month of issuance.

Each original provisional sales associate license issued under the Code on and after August 1, 2001, shall be issued to expire at the end of the twelfth (12th) month including the month of issuance. On and after August 1, 2001:

* * *

~~(8) An additional~~ The Fifteen Dollar (\$15.00) fee, ~~the~~ Education and Recovery Fund fee; shall be added and payable with the license fee for an original license and for each subsequent license renewal, ~~for each license with the exception~~ Exceptions to this rule are: of 1) a provisional sales associate license which fee shall be Five Dollars (\$5.00) for their twelve (12) month license term; and, 2) a branch office which shall not pay the fee.

* * *

(f) Reinstatement of license. Any licensee whose license term has expired shall be considered for reinstatement of such license upon payment of an amount equal to the current examination fee in addition to the license and late penalty fee(s) for each delinquent license period(s). The following documents and fees must be submitted:

(1) Lapsed less than one year. In the case of a license lapsed less than one year:

- (A) License and late penalty fee.
- (B) Reinstatement fee.
- (C) National criminal history check.
- (D) Documents as required by the Commission.

(2) Lapsed more than one year but less than two years. In the case of a license lapsed more than one year but less than two years.

- (A) License and late penalty fee.
- (B) Reinstatement fee.
- (C) National criminal history check.
- ~~(D)~~ A completed reinstatement application.

~~(D)~~(E) A statement that the applicant has read a current License Code and Rules booklet.

~~(E)~~(F) If applicable, a statement as to why the license fee was not paid in a timely manner.

~~(F)~~(G) Documents as required by the Commission.

(3) Lapsed more than two years. In the case of a license lapsed more than two years.

(A) License and late penalty fee(s).

(B) Reinstatement fee(s).

(C) National criminal history check.

~~(C)~~(D) A completed reinstatement application.

~~(D)~~(E) Successful completion of the appropriate licensing examination.

~~(E)~~(F) Documents as required by the Commission.

(4) Lapsed more than five years. If ~~such late an~~ application is submitted more than five (5) years subsequent to the most recent year of licensure, the applicant shall be regarded as an original applicant.

(5) May apply as an original if lapsed more than two years. In the case of a license lapsed more than two (2) years but less than five (5) years, the applicant may at his or her option apply as an original applicant provided evidence is submitted to show that the applicant has successfully completed the appropriate prelicense course(s). A person who does not possess a valid license may be considered for re-license only through the provision for reinstatement unless such license has been lapsed more than two (2) years. In the case of a provisional sales associate, the applicant would be required to repeat and successfully complete the postlicense requirement. If this option is elected by a previously licensed sales associate, the sales associate shall be regarded as an original applicant.

* * *

(i) Reinstatement of revoked license. An applicant may not apply for re-license or reinstatement of license for a minimum of three (3) years from the effective date of license revocation, except for an applicant whose license was automatically revoked pursuant to Sections 858-402 or 858-604 of Title 59, Oklahoma Statutes. Upon the passage of the three (3) year period, the applicant shall be required to comply with the requirements of an original applicant.

(j) Reinstatement of an automatically revoked license. An applicant who has had their license automatically revoked, pursuant to Section 858-402 or 858-604 of Title 59 of the Oklahoma Statutes, shall be required to comply with the requirements of (f) of this Section. In addition, reinstatement will not be granted until all outstanding amounts due the Commission have been paid in full.

* * *

~~(H)~~(m) Sales to broker license fee prorated. If a real estate sales associate or provisional sales associate ~~shall qualify~~ qualifies for a license as a real estate broker, the unused license fee shall be credited to the broker license fee. The unused license fee credit shall commence with the first full month following the month in which the broker license is to be issued.

~~(m)~~(n) ~~Licensed prior to effective date of national criminal history check and license expires. License expires after effective date of national criminal history check.~~

(1) Any 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 fingerprint card, application Part A, and fee as stated elsewhere in these rules for the background search. If, the Commission does not receive a completed Part A of the application, completed finger print card and fee within thirty (30) days from the date ~~their license was reinstated, of request by the Commission,~~ the license will be placed inactive and a hold placed on the license until receipt by the Commission of the aforementioned items. Thereafter, upon receipt by the Commission, the license may be reactivated so long as appropriate reactivation forms and fees, as stated elsewhere in these rules, have been received by the Commission.

(2) A Provisional Sales Associate who fails to renew and/or complete the post licensing education requirement shall be eligible to apply under the requirement under paragraph (m)(1) of this section the preceding paragraph. However, after a period of five (5) years from the date of the license expiration such applicant shall no longer be eligible to apply under this section.

~~(m)~~(o) Issuance of license from provisional sales associate to sales associate if licensed on and after August 1, 2001. A provisional sales associate is required to furnish to the Commission evidence of successful completion of the Provisional Postlicense Course of Real Estate, Part II of II education requirement as set forth in Section 858-302 of Title 59, of the Oklahoma Statutes. Upon successful completion of the Provisional Postlicense Course of Real Estate, Part II of II education requirement, the provisional sales associate must submit the appropriate document(s) to the Commission prior to the provisional sales associate's license expiration date for issuance of a renewable sales associate license. The Commission shall not issue the provisional sales associate a renewable sales associate license until the end of the provisional sales associate's license term and until the provisional sales associate has ~~successfully completed the Provisional Postlicense Course of Real Estate, Part II of II education requirement and has initiated a renewal for a renewable sales associate license~~ submitted evidence of successful completion of the forty-five (45) clock hour postlicense course requirement and submitted all required form(s) and fee(s) as required by the Commission.

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PERMANENT RULES *continued from page 17*

(p) Active status requested, however, Commission unable to activate for reasons as stated in statutes elsewhere. In the event a licensee requests an active original license or subsequent license renewal to be issued on active status and for reasons beyond the Commission’s control the licensee is unable to obtain an active license at that time, the fees as received by the Commission shall be retained and not refunded. Once the licensee corrects the problem with the appropriate regulatory agency and such agency authorizes the issuance of an active license, the Commission will then, upon receipt of an activation fee and required documentation, initiate the issuance of an active license within the respective license term issue an active license.

* * *

605:10-7-8. Corporation licensing procedures and requirements of good standing

* * *

(c) Corporation closing requirements or partial ceasing of real estate activities. When a corporation discontinues a portion of real estate activities or ceases all real estate activities, the corporation is required to comply with the following:

- (1) Immediately notify the Commission.
- (2) Comply with Section 605:10-13-1 (m)(n).

* * *

605:10-7-8.1. Partnership licensing procedures and requirements of good standing

* * *

(c) Partnership closing requirements or partial ceasing of real estate activities. When a partnership discontinues a portion of the real estate activities or ceases all real estate activities, the partnership is required to comply with the following:

- (1) Immediately notify the Commission.
- (2) Comply with Section 605:10-13-1 (m)(n).

* * *

605:10-7-8.2. Association licensing procedures and requirements of good standing

* * *

(c) Association closing requirements or partial ceasing of real estate activities. When an association discontinues a portion of the real estate activities or ceases all real estate activities, the association is required to comply with the following:

- (1) Immediately notify the Commission.
- (2) Comply with Section 605:10-13-1 (m)(n).

* * *

605:10-7-8.3. Sole Proprietor licensing procedures

(a) Sole Proprietor. A sole proprietor is a broker who is the sole owner of a real estate business/firm. To qualify for a sole proprietorship, the firm shall not conduct business in the name of an entity, i.e., corporation, association (Limited

Liability Company) or partnership and the business/firm shall not be owned by any other person or entity. To apply as a sole proprietor one must qualify for a broker license and submit to the Commission the following:

(1) Completed sole proprietor broker application form(s) and required fee(s).

(2) An associate release form if terminating the association as a broker associate. If upgrading a license from a sales associate or obtaining an initial broker’s license, submit the required application form(s) and fee(s) for qualifying for a broker’s license as required by the Commission.

(b) Death, disability or retirement. In the event of the death, disability or retirement of the sole proprietor, the sole proprietor firm shall cease business activities.

(c) Broker responsible. A sole proprietor broker is responsible for all acts of associates licensed with the firm.

(d) Ceasing business activities. When the sole proprietor discontinues a portion of the real estate activities or ceases all real estate activities, the sole proprietor is required to comply with the following:

- (1) Immediately notify the Commission.
- (2) Comply with Section 605:10-13-1 (n).

(e) Group change information. Under certain circumstances as determined by the Commission, the Commission may place a cap of Seven Hundred Fifty Dollars (\$750.00) on group transactions requesting licenses to be issued. To qualify, such request must be received complete and require no further correspondence and/or documents except for the issuance of the licenses.

605:10-7-10. Resident applicants currently or previously licensed in other jurisdictions

(a) Requirements. In order to qualify under previously licensed procedures, an applicant must complete and submit all appropriate documents as required by the Commission and furnish evidence that the applicant possesses or has possessed a license in good standing in another jurisdiction. The Commission, at its discretion, may issue the applicant a license if such previously licensed applicant meets all of the requirements of either paragraphs (1), (2), (3) or (4) of this subsection:

* * *

(4) An applicant who has not been actively licensed during any portion of the previous five (5) years in the other jurisdiction.

(A) An applicant applying under this paragraph must complete and submit the following:

(i) Appropriate application(s) ~~along with~~ examination fee.

- (ii) License certification from the jurisdiction in which the applicant has held or currently holds a license.
 - (iii) Qualify as an original applicant by submitting appropriate required education.
 - (iv) Examination fee and successfully complete the entire appropriate examination.
- (B) Upon the Commission granting approval to the applicant for licensure in this jurisdiction, the applicant must complete and submit the appropriate license application form(s) along with license and education and recovery fund fees.
- (C) An applicant qualifying under this paragraph will be issued either a provisional sales associate, broker associate or broker license.

* * *

SUBCHAPTER 9. BROKER’S OPERATIONAL PROCEDURES

605:10-9-1. Place of business and broker requirements

(a) Place of Business. Each broker shall maintain a specific place of business, and supervise a brokerage practice which is available to the public during reasonable business hours. Each broker shall be available to manage and supervise such brokerage practice and comply with the following:

- (1)The broker’s license, as well as those of all licensees associated with the broker, must be prominently displayed in such place of business.
- (2)The place of business shall consist of at least one enclosed room or building of stationary construction wherein negotiations and closing of real estate transactions of others may be conducted and carried on with privacy and wherein the broker’s books, records and files pertaining to real estate transactions of others are maintained.
- (3)Each broker shall register for each place of business a physical business address and office telephone number(s).

* * *

605:10-9-4. Advertising

* * *

- (b) Associates advertising.
- (1)An associate is prohibited from advertising under only his or her name.
 - (2)All advertising by an associate must be under the direct supervision of his or her broker.
 - (3) In all advertising, the associate must include the name of his or her broker or the name under which the

broker operates, in such a way that the broker’s reference is prominent, conspicuous and easily identifiable. If allowed by a broker, an associate may include in the advertisement:

- (A) The associate’s personal insignia of which such approval is to be maintained by the broker and which cannot be construed as that of a firm’s name.
- (B) The associate’s personal nickname or alias which must be registered at the Commission prior to its use and which cannot be construed as that of a firm’s name.
- (C) An associate’s contact information.
- (D) A team name approved by the broker, so long as the broker’s reference is prominent, conspicuous, and easily identifiable, and which cannot be construed as that of a firm’s name. The broker’s reference must be in close proximity to the team name reference.
- (E) A slogan which cannot be construed as that of a firm’s name.
- (F) A domain/website name that is registered with the broker. Within this domain/website, the broker’s reference shall appear on every individual page and/or frame.

(4)An associate’s contact information may be added to a yard sign if the yard sign contains the registered name or trade name and office telephone number of the broker so long as it is approved by the broker.

(5)Open house or directional signs used in conjunction with broker’s signs do not have to contain the name or trade name of the associate’s broker and broker’s telephone number.

* * *

605:10-9-5. Broker change of address or office telephone number

(a) Change of business address or office telephone number. Any change of business address or office telephone number of a broker must be filed in the Commission office within ten (10) days of such change. Filed shall mean the date of the United States ~~postal-service~~ Postal Service postmark or the date personal delivery is made to the Commission office. The broker shall return his or her certificate to the Commission along with those of all licensees in his or her association with a request for a change of address. Upon any request for a change of address there shall be paid a fee to the Commission of Twenty-five Dollars (\$25.00) for each license to be changed. No fee shall be charged for adding or deleting an office telephone number.

* * *

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DISCIPLINARY ACTION *continued from page 15*

C-2010-025: CHAD F. STITES (BP) – TULSA

Violations by Chad F. Stites:

- Title 59 O.S. §858-312, Subsection 3, in that he failed to enter into a written brokerage agreement to provide services as either a single-party broker or a transaction broker; and
- Title 59 O.S. §858-312, Subsections 9 and Rule 605:10-9-3, in that he failed to register with the Commission, in writing, the trade name of Property Management Group.

The Commission ordered that Respondent Stites be ordered to pay an administrative fine in the sum of \$200.00 for each violation, for a total of Four Hundred Dollars (\$400.00).

“Never, never, never give up.”
— *Winston Churchill*

ONLINE LICENSE RENEWAL SYSTEM *continued from page 2*

Do not procrastinate - If the Commission does not receive your renewal form and fee on or before your current license expiration date, your license will lapse and you will be subject to reinstatement forms, fees and a criminal history background check.

Updating Personal Information - Another new feature of the system will allow you to update your personal contact information online at any time and as changes occur. Personal contact information consists of personal residence address, residence telephone number, cell telephone number, daytime telephone number and email address. Personal name changes cannot be made online and require the filing of a form and/or fee with the Commission as a new license and/or pocket card must be issued.

Email Notification System - Upon receipt of a renewal postcard (at the managing broker’s office), the Commission will also send you an email renewal notice to your personal email address on file with the Commission. It is extremely important to keep all personal contact information updated, as the email notification system was designed especially so that the Commission can keep you informed regarding your license renewal, Commission newsletters, news releases, CE course notifications, special alerts, etc.

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