

Rule 520-1-.14. Citations

- (1) **Imposition of Penalties.** Whenever the Commission determines from the evidence gathered in an investigation that a licensee has violated one or more of the provisions of O.C.G.A. Chapter 43-40 or the rules and regulations adopted by the Commission or has committed an unfair trade practice, the Commission, in its discretion, may (a) initiate the process for the imposition of sanctions in accordance with the hearing procedures established for contested cases by Chapter 13 of Title 50; or (b) issue a citation to the licensee in lieu of initiating the process for the imposition of sanctions. A citation issued by the Commission may include an order to complete a course of study in real estate brokerage or instruction; to file periodic reports by an independent accountant on a real estate broker's designated trust account; and/or to pay a fine not to exceed \$1,000.00 for each violation, with fines for multiple violations limited to \$5,000.00 in any one citation.
- (2) **Approved Education.** The Commission may elect to require successful completion of approved continuing education or post license education courses in addition to or in lieu of the financial penalties cited in paragraph (3) below.
- (3) **Schedule of Violations and Penalties.** Violation of the following rules, regulations, and unfair trade practices may become the basis for the issuance of a citation. While the Commission may determine that circumstances warrant the imposition of a lesser penalty, the monetary penalties prescribed constitute the maximum penalty for a single violation of the cited rule, regulation, or unfair trade practice. In the event of any conflict between the description of a violation in the schedule below and the language in the code section or rule, the language in the code section or rule shall control.
 - (a) Failure of a community association manager, salesperson, or associate broker to turn over trust funds to the broker as soon as practicably possible. 43-40-25(b)(23) & 520-1-.08. Fine of \$500.00.
 - (b) Failure of a licensee to include financing terms in a sales contract having a financing contingency. 43-40-25.1. Fine of \$500.00.
 - (c) Failure of a licensee to provide a copy of any document used in a real estate transaction to any individual signing such document. 43-40-25(b)(19), [520-1-.06\(1\)](#) & (2), & [520-1-.10\(2\)](#). Fine of \$500.00.
 - (d) Where a Commission examination of a brokerage firm's operations reveals a violation of requirements set forth in 43-40-11, 43-40-18, 43-40-25.1, [520-1-.06](#), [520-1-.07](#), & [520-1-.08\(5\)\(c\)](#). Fine of \$500.00.
 - (e) Where an examination of an approved school reveals a violation of requirements set forth in Chapter 520 of the Rules of the Commission. Fine of \$100.00.
 - (f) Failure of a licensee to present promptly a signed offer to a seller or failure to deliver copies of an accepted contract to the parties within a reasonable time. 43-40-25(b)(19) & [520-1-.07](#). Fine of \$600.00.
 - (g) Conducting business under a name other than that which is registered with the GREC.

- [520-1-.07](#). Fine of \$600.00.
- (h) Where a Commission examination of a brokerage firm's operations reveals a trust account violation. 43-40-20 & [520-1-.08](#). Fine of \$600.00.
 - (i) Failure of a community association manager, a salesperson, or an associate broker to notify the broker of personal real estate activities. [520-1-.11](#). Fine of \$600.00.
 - (j) Failure of a licensee to include the correct amount of earnest money, security deposit, or terms in a sales or lease contract. 43-40-25.1. Fine of \$600.00.
 - (k) Where an approved school violates the requirements set forth in the Rules of the Commission developing or offering computer-based courses. Fine of \$200.00.
 - (l) Where a licensee pays a commission or a referral fee for performing a real estate brokerage activity to a person who does not hold a current, active real estate license in this or some other state except as provided in 43-40-25(b)(17). Fine of \$600.00.
 - (m) Advertising that violates a provision of 43-40-25(b)(11) or [520-1-.09\(3\)](#), [\(5\)](#), or [\(6\)](#); but is not discriminatory or intentionally misleading or inaccurate in violation of 43-40-25(b)(1) or (2) or [520-1-.09\(2\)](#) or [\(4\)](#). Fine of \$600.00.
 - (n) Failure of a licensee to register with the GREC an account into which trust funds have been deposited. 43-40-20(b) & [520-1-.08\(1\)](#). Fine of \$600.00 per account not registered.
 - (o) Failure of a licensee to have the financial institution designate an account as a trust or escrow account, except where the financial institution has erred. 43-40-20(b). Fine of \$600.00 per account not designated.
 - (p) Failure of a licensee to disclose his or her licensure in a contract requiring such disclosure. [520-1-.11](#). Fine of \$600.00 per contract.
 - (q) Where a broker continues to allow an affiliated licensee to conduct brokerage transactions after the licensee's license has been in a lapsed status for more than one month. 43-40-18 & [520-1-.05\(4\)](#). Fine of \$600.00 per brokerage transaction.
 - (r) Where a licensee performs real estate brokerage activity in violation of [520-1-.05\(4\)](#) beyond the month in which a license lapses for non-payment of renewal fees. Fine of \$600.00 per brokerage transaction.
 - (s) Where an approved school offers a course without prior authorization, if such prior authorization is required. Fine of \$200.00 per student enrolled, not to exceed the limits set forth in [520-1-.14\(1\)](#).
 - (t) Failure of a licensee to deposit trust funds promptly where the deposit was made more than three business days after receipt unless the contract provides otherwise. 43-40-25(b)(3). Fine of \$600.00.
 - (u) Failure of a licensee to notify the Commission of the final disposition of any administrative, civil, or criminal action within ten days of the conclusion of court or administrative proceedings. [520-1-.05\(5\)](#). Fine of \$600.00.

- (v) Failure of a licensee to obtain written permission before depositing trust funds into an interest-bearing account where the licensee retained the interest. 43-40-25(b)(30) & 520- 1-.08(1). Fine of \$600.00.
- (w) Failure of a broker to sign a release form immediately upon personally receiving the request of a community association manager, salesperson, or associate broker to be released from the broker's firm. [520-1-.07\(5\)](#). Fine of \$600.00.
- (x) Failure of a transferring salesperson or associate broker to account for or to return to the releasing broker all items belonging to that broker. [520-1-.07\(5\)](#). Fine of \$600.00.
- (y) Failure of a licensee to deposit into a trust account trust funds received in connection with a transaction in which a licensee is a principal. 43-40-20(f), [520-1-.08\(1\)](#) & (4). Fine of \$600.00.
- (z) Failure of a licensee to include a fixed date of expiration in a listing agreement or failure to leave a copy with the principal. 43-40-25(b)(18). Fine of \$600.00.
- (aa) Where an approved school allows a person who has not been approved by the Commission as a pre-license instructor to instruct a Community Association Managers Course, a Salespersons Prelicense Course, or a Brokers Prelicense Course. Fine of \$300.00 per course, not to exceed the limits set forth in [520-1-.14\(1\)](#).
- (bb) Failure of a licensee to deposit earnest money, security deposits or other trust funds according to the terms of a contract. 43-40-25(b)(5) & [520-1-.08\(1\)](#). Fine of \$800.00 per contract.
- (cc) Where a broker upon disbursing trust funds without obtaining the express agreement to all the parties to the contract, fails to notify all parties in writing of the disbursement. 520- 1-.08(3). Fine of \$800.00.
- (dd) Where a licensee has made a false statement of material fact on his or her application or caused to be submitted or been a party to preparing or submitting any falsified application to the commission on paper, electronically, or by any other means or media.

43-40-15(d) & 520-2-.16(1), & [520-3-.07](#). Fine of \$800.00.
- (ee) Failure to handle trust funds as required by 43-40-20; 43-40-25(b)(3), (4), & (5); & [520-1-.08](#) in a transaction in which a client or a customer claims a loss and full restitution has been made. Fine of \$900.00.
- (ff) Where the annual percentage of students passing the real estate examination from any prelicense school falls ten percentage points or more below the percentage of all examinees passing the real estate examination in any two consecutive calendar years.

520-2-.16(2). Fine of \$900.00.
- (gg) Where an approved school fails to have students complete the required number of hours in any course or to complete all exercises and/or examinations required by

the school. [520-2-.10\(3\), \(4\), \(5\)](#), & (6). Fine of \$400.00 or \$100.00 per student, whichever is greater, but not to exceed the limits set forth in [520-1-.14\(1\)](#).

(hh) Failure to reconcile a trust or escrow account at least monthly; to provide the required information in the reconciliation statement; or, in the event of a discrepancy in the account, to provide an explanation or description of the discrepancy and the corrective action taken. [520-1-.08\(6\)](#). Fine of \$600.00 per violation if the account balances; fine of \$900.00 per violation if the account is not in balance. And such other violations and fines as the Commission and the respondent parties agree upon.

- (4) **Consent in lieu of Citation.** In lieu of imposing a citation upon a licensee, the Commission in its discretion may offer the licensee the opportunity to consent to completing a course of study, to submit periodic reports on a designated trust account, to paying a fine, or some combination of these or other penalties.
- (5) **Effective Date of Citation.** When the Commission issues a citation on its own motion, the order in the citation shall become final when 30 days have passed since the date of service of the citation upon the licensee either personally or by certified mail or statutory overnight delivery unless prior to that time:
- (a) the licensee and the Commission have reached agreement on alternative terms; or
 - (b) the licensee has requested a contested case hearing.

When a citation becomes final, the licensee named in the citation must meet any requirements contained in the order in the citation within 30 days of the effective date of that order unless the order prescribes a different timetable for completion of the requirements.

- (6) **Service of Citation.** Service of the final order in a citation shall be by personal delivery or by certified mail or statutory overnight delivery to the last address provided to the Commission by the broker or in the case of a community association manager, salesperson, or associate broker, the last address provided to the Commission by the broker with whom the community association manager's, salesperson's, or associate broker's license is affiliated or in the case of an inactive licensee, at the last address provided to the Commission by the inactive licensee or in the case of an approved school or instructor, the last address provided to the Commission by the approved school or instructor. Service upon a licensee's, approved school's, or approved instructor's attorney shall be deemed service upon the licensee, school, or instructor.
- (7) **Citation in lieu of Contested Case.** After initiating a contested case action, the Commission, in its discretion and with the consent of the licensee, may elect to dismiss the contested case action and issue a citation.
- (8) **Sanction for Failure to Comply with Order.** The Commission may impose sanctions on the license of a licensee who fails to comply with the terms of a final order in a citation after giving notice to the licensee and the opportunity for a hearing.
- (9) **Citations and Subsequent Disciplinary Actions.** In imposing a disciplinary action on a licensee's license in a contested case, the Commission shall not consider prior citations if the licensee has fully complied with the terms of those citations.

see also O.C.G.A. §§ [43-40-2](#), [43-40-25](#), [43-40-25.2](#)

Authority: Authority O.C.G.A. Secs. [43-40-2](#), [43-40-8](#), [43-40-14](#), [43-40-25](#).