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Calendar

GREC Brokerage Course & Trust Accounts Class

Dates:

- October 25 & 26, 2010
I-85 North Board
(706) 335-3044
- November 29 & 30, 2010
Statesboro Board
(912) 764-3818

Common Violations Class

Dates:

- October 14, 2010
Georgia Institute
- October 20, 2010
Camden Board
- October 21, 2010
Savannah Board

Georgia Instructor Training Workshop Dates:

- October 21 & 22, 2010
GIT - Atlanta
<http://www.grec-git.com/>

[Click here to see GREC Disciplinary Sanctions](#)

Georgia Real Estate
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International Tower
229 Peachtree Street NE
Atlanta, GA 30303-1605
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Documentation for Referrals

When a licensee is presented an opportunity to be involved in a transaction beyond his/her level of expertise or maybe just in a different part of the state, he/she may refer out the business. Clearly, it is better to make a referral than it is to simply turn down the business. A referral will allow the licensee to receive a commission while avoiding any possible issues of incompetency. It is a simple matter to refer, but it is important to remember that certain forms and documents must be obtained to comply with the license law, rules and regulations.

When referring a client or customer (Joe) to another licensee, the party referring (Bob) must first obtain 2 documents:

1. Referral Authorization

The Referral Authorization must be signed by the party being referred (Joe) to another licensee/firm. The client/customer (Joe) that is being referred must give his/her permission for the referral. This authorization must also disclose whether the referring licensee (Bob) is to receive any compensation for the referral and an estimate of the compensation. In other words the client/customer (Joe) needs to understand that Bob expects to receive compensation for referring him to another licensee.

2. Referral Agreement between the 2 Brokers

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The Facts on Forms

The Georgia Real Estate Commission does not require specific forms to be used for transactions, such as contracts, listing forms, leases, or disclosures. In fact, the Commission does not endorse or promote any specific forms.

What the license law does require is that the forms must be prepared by an attorney. Many real estate companies and individual licensees use preprinted forms or electronic versions of forms prepared by various organizations such as the Atlanta Commercial Board of Realtors or the Georgia Association of Realtors. These organizations have years of experience in developing and updating forms and they can be a valuable resource. Established brokerage firms usually develop their own contracts and transaction forms just as franchise companies often provide them to their franchisees. Whatever form is used, it must comply with the Georgia Real Estate License Law, Rules and Regulations. (Reference [Chapter 43-40-25.1](#))

Documentation for Referrals

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The second document is an agreement between the brokers. The purpose of this document is to state who the party is that is being referred (Joe) and to clearly state what payment in the form of referral is due to the referring licensee (Bob) once the transaction is completed. The method of calculating the fee should be clear. For instance, is the referral fee based upon a percentage of the gross commission, the listing, commission, or the selling side of the commission? Both brokers need to sign the agreement.

3. Closing Statement and file documentation

Once the transaction closes, the broker who represented Joe in the transaction and attended the closing must maintain the customary closing documents, such as the closing statement, contract, and other transaction papers. In addition, the broker representing Joe must also keep the Referral Authorization and the Agreement between the

Brokers in the transaction file.

The license law requires that records of real estate transactions (closed or otherwise) be maintained safely and securely for 3 years from the final transaction date. The broker must have these documents available at the request of the Commission. These files may be electronically stored, or in paper form, but must be easily retrievable.

Referrals within the same brokerage firm require the same disclosures and forms as those outside the firm.

A referral fee cannot be paid unless the person being referred has been informed. The Commission has authority to sanction licensees who fail to disclose the payment of fees.

Reference [Rule 520-1-.10\(16\) Disclosure of Fees](#) and [Chapter 43-30-25\(b\) \(35\)](#)

Unfair Trade Practice:

“Failing to obtain a person’s written agreement to refer that person to another licensee for brokerage or relocation services and to inform such person being referred whether or not the licensee will receive a valuable consideration for such referral and an estimate of such consideration” Chapter 43-30-25(b)(35)

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Focus on Terminology: “Finders Fee”

A “Finder’s Fee” is an amount of money given to a person who brings a buyer and a seller of real estate together. A “Referral” fee is one type of a “Finder’s Fee”. Labeling a payment a “Finder’s Fee” does not avoid the fact that the fee is compensation received for providing real estate brokerage services and an individual must have a real estate license in order to receive such compensation. The Commission has the authority to issue a Cease and Desist Order to stop an unlicensed person from practicing real estate and fine the individual \$1,000 for each day or each violation when he/she practices real estate without a license. [Chapter 43-30-30](#).

Furthermore, only a broker can pay his/her licensees any type of commission. An individual that offers a “Finders Fee” to a licensee to find him a property cannot pay the individual licensee directly. The licensee can only be paid through the broker that is holding his/her license.