

A Guide to Safe Sailing Through Commissioners Rules



Time to Play Sink My Battleship

AND NOW
MB
KEY
TO FUN
and learning

FOR
AGES
8 TO
ADULT

MILTON
BRADLEY
COMPANY
SPRINGFIELD
MASSACHUSETTS
4730
MADE IN U.S.A.

AMERICA'S ALL TIME
FAVORITE GAME

BATTLESHIP

IT'S A HIT

G-4



For
2
players
OBJECT
Sink all of your
opponent's ships
average playing 20 minutes

BATTLESHIP

GAME



MB
MILTON
BRADLEY

In 2010 ADRE Issued How Many Convictions for Rule Violations?



609 Convictions

UP 294%
From
2005



**“When we know the
rules of the game,
it’s so much easier
to play it!”**

A Quick Trip to ADRE



**Course
Creators
Field Trip**



Let's Check the Log Books

THE
SHIP'S
LOG™



From the Real Estate Bulletin



Volume 2010, Issue 4

Page 14

Disciplinary Actions

Continued from page 13

<u>Respondent</u>	<u>Offense</u>	<u>Order Terms</u>
Helen J. Rose	Failed to complete CE in a timely manner	\$300 CP, complete CE in 30 days
Gary L. Roy	Failed to complete CE in a timely manner	\$300 CP, complete CE in 30 days
Vicki Saunders	Multiple violations, failure to maintain broker trust accounts, substantial Misrepresentations, violated terms of previous Order, failed to respond during the course of an investigation	Summary Suspension
Shana B. Sawyer	Failed to comply with terms of previous Consent Order, denial of broker license	2 yr PL, \$1,000 CP, 6 hr CE in Commissioner's Standards
Thomas Schulz	Failed to complete CE in a timely manner	\$300 CP, complete CE in 30 days
Clint Ryan Shuman	Multiple violations; unlicensed activity, failed to account for monies received, failed to respond to investigation requests	Cease and Desist all activities requiring a real estate license
Nancy L. Smith	Failed to complete CE in a timely manner	\$300 CP, complete CE in 30 days
Sonoran Insights Construction LLC	Divided and conveyed land parcels in Pima County without complying with applicable subdivision statutes and rules	\$2,000 CP, obtain Public Report, 6 hr CE in Commissioner's Standards
Matthew Stiver	Failed to complete CE in a timely manner	\$300 CP, complete CE in 30 days
Lois Sunderman	Failed to complete CE in a timely manner	\$300 CP, complete CE in 30 days
Mandy Sutter	Failed to complete CE in a timely manner	\$300 CP, complete CE in 30 days
Natasha Swallows-Feagin	June 2010 felony conviction for	Summary Suspension

From the Real Estate Bulletin

SURRENDERS

License Surrenders as of December 17, 2010

LAST NAME	FIRST NAME	LIC NUMBER	E&C FILE	SURRENDER DATE
ANDRASCHKO	MELVIN J	BR011103000	11F-DI-071	8/27/2010
BOYD	KATHRYN SOLIE	SA576505000	11F-DI-081	10/5/2010
BUSH	JOHN W	BR013853000	11F-DI-134	10/25/2010
CALIENDO	ANDREW J	SA576365000	11F-DI-107	9/7/2010
CARROLL	SEAN P	SA552767000	11F-DI-169	11/8/2010
CONTRERAS	RUDY	BR010270000	11F-DI-137	11/17/2010
CUMMINGS	CRISTINE H	SA534160000	11F-DI-078	9/16/2010
DA SILVA	MARIA C	SA552968000	11F-DI-174	11/9/2010
DRAKE	MAWKISHU	SA551127000	10F-DI-117-1	8/18/2010
FELIX	TERESA B	BR011813000	11F-DI-087	9/10/2010
FLYNN-GILES	JO ANN	SA533445000	11F-DI-022	9/1/2010
FREDERICK JR.	HAROLD Z	SA512168000	11F-DI-211	11/9/2010
FRYHOVER	RICHARD COLIN	BR109602000	11F-DI-241	12/9/2010
GESKE	CHRISTINE M	SA576343000	11F-DI-111	9/1/2010
GODWIN	RICHARD C.	BR003550000	11F-DI-128	10/12/2010
HINKLEY	JAMES MICHAEL	BR533505000	11F-DI-006	10/5/2010
HOCKEYDYK	MICHAEL J	SA552405000	11F-DI-129	10/5/2010
JOHNSON	MARC A	SA532442000	11F-DI-061	8/18/2010
JOHNSON	ANNE M	SA512556000	11F-DI-244	12/14/2010
KNOX	SUZANNE D	BR011760000	11F-DI-250	12/16/2010
LAIRD	JERRY L	BR006529000	11F-DI-089	9/20/2010
LANG	SNEZANA A	SA554966000	11F-DI-176	11/30/2010
LEMIEUX	STACEY	SA577014000	11F-DI-146	11/2/2010
MALUSA	PATRICIA	BR010813000	11F-DI-181	11/19/2010
MAREK	MARK A	SA553624000	11F-DI-253	11/29/2010
MATTHIAS	MARY LEE	SA028137000	11F-DI-034	8/12/2010
MCGAREY	PATRICK M	SA553215000	11F-DI-185	11/23/2010
MENDEZ	JOHN	SA552916000	11F-DI-186	11/8/2010
MOORE	BETTY J	SA018369000	11F-DI-103	9/27/2010
NUGENT	VIRLIE LEE	BR047693000	11F-DI-189	11/12/2010
POLLEY	RONALD C	BR013402000	11F-DI-104	9/10/2010
RANDALL	OSCAR D.	BR004223000	11F-DI-268	11/23/2010
RATHBUN	DAVID	SA577721000	11F-DI-193	11/9/2010
RICE	LEONETTE K	BR567768000	10F-DI-575	12/6/2010
RIDENOUR	WILLIAM E	BR012026000	11F-DI-271	12/10/2010
RODOLPH	JAMES A	BR012413000	11F-DI-105	9/15/2010
RUBIN	ELAYNE	BR008421000	11F-DI-044	8/10/2010
SALMONS	JANET T	SA552347000	11F-DI-153	11/10/2010
SEIDEL	FRED J.	SA046155000	11F-DI-247	12/2/2010
STEVerson	JAMES ROGERS	BR012225000	11F-DI-198	11/4/2010
TAKELUCHI	VICKI S	SA522517000	11F-DI-083	8/30/2010
THOMAS	PATTI J	SA576417000	11F-DI-090	10/7/2010
VASKO	ALBERT J	BR019761000	11F-DI-277	11/23/2010
VOZEL	LEO	SA578968000	11F-DI-058	9/16/2010



Arizona Loan Officer and a Real Estate Agent Both Indicted in a Mortgage Fraud Conspiracy

BY MOE BEDARD ON FEBRUARY 3, 2011 IN FBI

Friday, March 11, 2011

Pastor, Wife & 3 Others Indicted for Mortgage Fraud

Clint Rogers, 37, Scottsdale, Arizona, and Angela Rogers, 31, Scottsdale, a pastor and his wife, as well as Shannon Kato, 40, Sedona, Arizona; [Name], 55, Scottsdale; and Drew Hull, 30, Prescott, Arizona, [Name] alleged mortgage fraud crimes. Clint Rogers, Angela [Name] have been arrested, and Ernest...

Thursday, May 05, 2011

Investor Sentenced for \$4M Mortgage

Dustin Thompson, 32, Phoenix, Arizona, was sentenced to [Term] involvement in a \$4 million mortgage fraud conspiracy. He was charged with participation in a two-year mortgage fraud scheme in Phoenix, Arizona.

Arizona Real Estate Notebook

"WAKE UP AND CALL JOHN!" - JOHN WAKE, REALTOR, ASSOCIATE BROKER, HOMESMART REAL ESTATE

13 mortgage fraud convictions in Arizona since June

East Valley Tribune.com
May 27, 2011 | 12:16 pm
Welcome! Login | Signup
Home | Local | Arizona | Nation/World | Sports | Varsity Xtra | Money | GetOut
2011 LINCOLN MKX
Technology that will amaze you,
at a price that may surprise you.
ROLL OVER TO EXPAND
Home | East Valley Local News
Real estate agent arrested in Scottsdale assault
Share | Print | Font Size
Story | Comments
6 people recommend this.
Posted: Wednesday, April 27, 2011 9:06 pm

Monday, February 14, 2011

Indictment Charges 2 for Cash Back Scam

JamieLee Lawler, 41, Phoenix, Arizona, a former Countrywide loan officer and real estate investor, and Brett Matheson, 44, Scottsdale, Arizona, were charged in a 30-count indictment returned by a federal grand jury in Phoenix, Arizona, for Wire Fraud, Conspiracy, Money Laundering and Conspiracy to Commit Money Laundering related to their...

Individual

The following information was retrieved from the Department's database at 5/27/2011 9:24:10 AM. The information presented reflects the database records at the time of your inquiry; however, it will not reflect pending updates which are being processed by the Department.

Name: ELDER, LEONARD C

Nickname: Len

License Number: BR522213000

License Status: Active

License Type: Real Estate Broker

PC/PLC Name: Not Applicable

Original Date: 3/16/2004

Expiration Date: 3/31/2012

Employment History:

License Number	Employment Type	Sever Date
LC635438000		
CO000690000		2002
SE009899000		
SE522213000	Self Employed Broker	
LC548917000	Designated Broker	
SE522213000	Self Employed Broker	10-2-2006

Your Online Data Base Card Reflects Violations

Continuing Education:

Course Name	Date Started	Date Completed
BROKER MANAGEMENT CLINIC--ON LINE	4-5-2010	4-5-2010
EDUCATING THE SELLER- THE HOME SELLING PROCESS	5-22-2009	5-22-2009
WHEN THEY SAY, YOU SHOULD SAY	3-24-2010	3-24-2010
MAKING MONEY WITH REO PROPERTIES	10-24-2008	10-24-2008
AN AFTERNOON WITH THE FORMER COMMISSIONER	3-10-2009	3-10-2009
MEET THE EXPERTS-SHORT SALE & BANK OWNED PROPERTIES	5-4-2009	5-4-2009
A PERSPECTIVE FROM THE ARIZONA STATE TREASURER	5-5-2009	5-5-2009
TO DISCLOSE OR NOT TO DISCLOSE- THAT IS NOT A QUESTION	3-19-2010	3-19-2010
GET LINKED-IN	3-10-2010	3-10-2010
DIVERSITY IN YOUR HOOD	2-12-2010	2-12-2010
CATCH THE 'SOCIAL' WAVE	11-3-2009	11-3-2009
OVERCOMING THE MOST COMMON CLIENT OBJECTIONS		

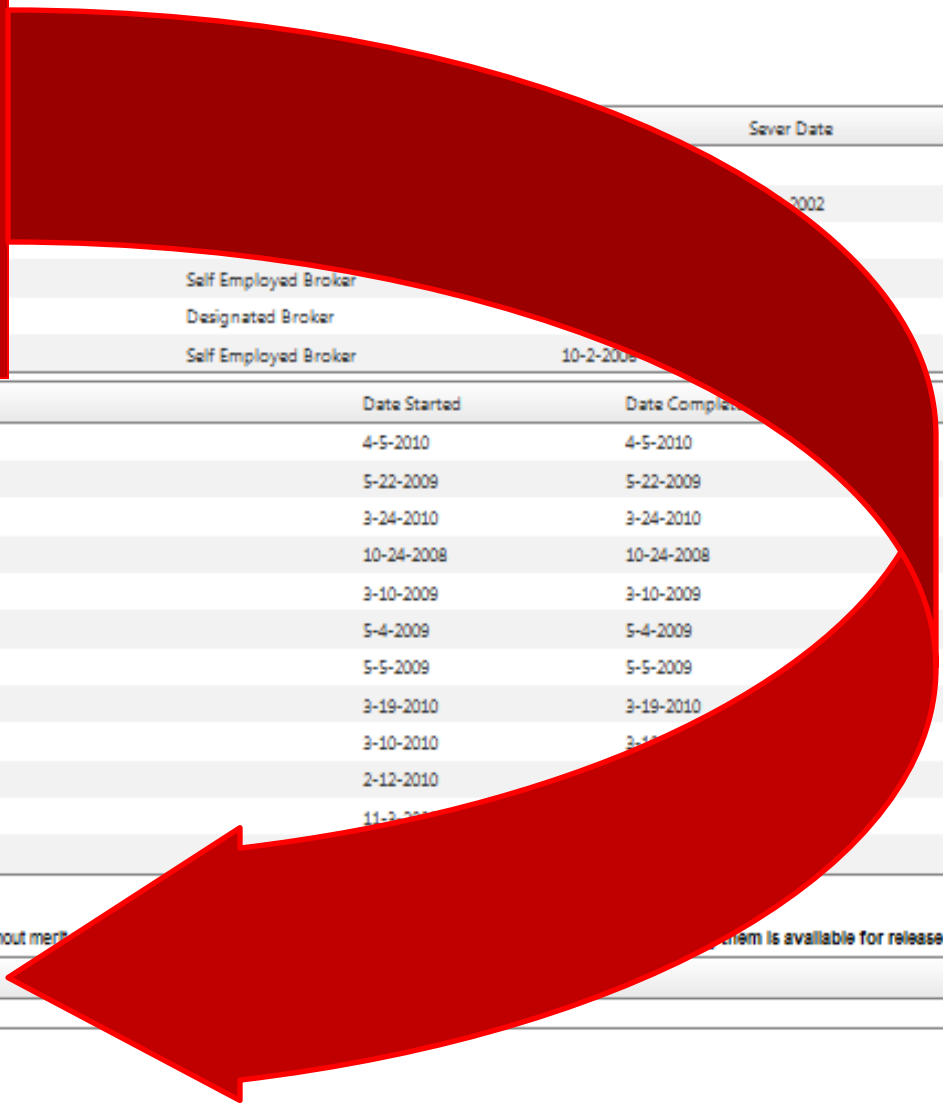
The courses listed are for the last two CE Periods.

Open Complaints: 0

Open complaints represent unproven allegations - Upon investigation many complaints are found to be without merit. Information is available for release.

Disciplinary Actions:

File Number	Order Type
No records to display.	



Unfortunately Your Card Can Look This This!

Open Complaints: 0

Open complaints represent unproven allegations - Upon investigation many complaints are found to be without merit and dismissed. Open complaints are confidential and no information concerning them is available for release.

Disciplinary Actions:

File Number	Order Type	Order Date
<u>02A-051</u>	Consent Order	10-21-2003
<u>08F-DI-135</u>	Consent Order	12-7-2007
<u>11F-DI-222</u>	Consent Order	10-28-2010

**And That Affects
Your Path to
Success**



Some Are Taking the Offensive

Investigate Your Arizona Remax Realtors

I think everyone should investigate not only their Arizona Remax Realtors, but any real estate professional that you are deciding to work with or not. Staying with the theme of the website to provide you the tools to do whatever research you may want to do, here are links directly to the Arizona Department of Real Estate web site that provides public information about the status of my real estate license.

You can check to be certain I don't have any open complaints, or disciplinary actions against my license.

Not only am I making it simple to check my license. I am providing links to my partner Michelle Sander's license, and even my broker Mark Paris. I threw in his dad Eddy Paris too. Not because it really matters for you, but because he looks so much like a famous (or infamous depending on your opinion) elected official.

Your Arizona Remax Realtors Have No Complaints With The Arizona Department of Real Estate



[Bobbi Herman](#) - You can check out the status of my real estate license. You'll be able to verify that I started with Coldwell Banker in November of 2004 and moved to Remax in June of 2007.

You can also see that I have no open complaints with the Arizona Department of Real Estate, and no disciplinary actions against my license.



**What Does All
This Say About
Our
Professionalism?**

Disciplinary Actions



ARS§32-2111

The Attorney General shall act for the Commissioner in all legal actions or proceedings and shall advise him upon all questions of law arising out of the administration of this Chapter



ARS§32-2153

Authority of the
Commissioner to
suspend, revoke
or deny a license
for any violations
of the statutes or
rules.



Disciplinary Penalties

- Suspend
- Revoke
- Probation
- Fines
- Restitution
- Criminal Referral



Mapping Out the Process ARS§32-2160

- Commissioner Investigates
- Commissioner files a Complaint
- Prosecuted by the Attorney General
- Administrative Law Judge Hearing
- Commissioner Adopts, Rejects, Modifies Conclusions



Sailing Scenario Surrender

Jack has a California license and an Arizona license which he uses occasionally. When he receives notice of a violation in Arizona he wants to just give up his license and avoid the violation. Can he do this?



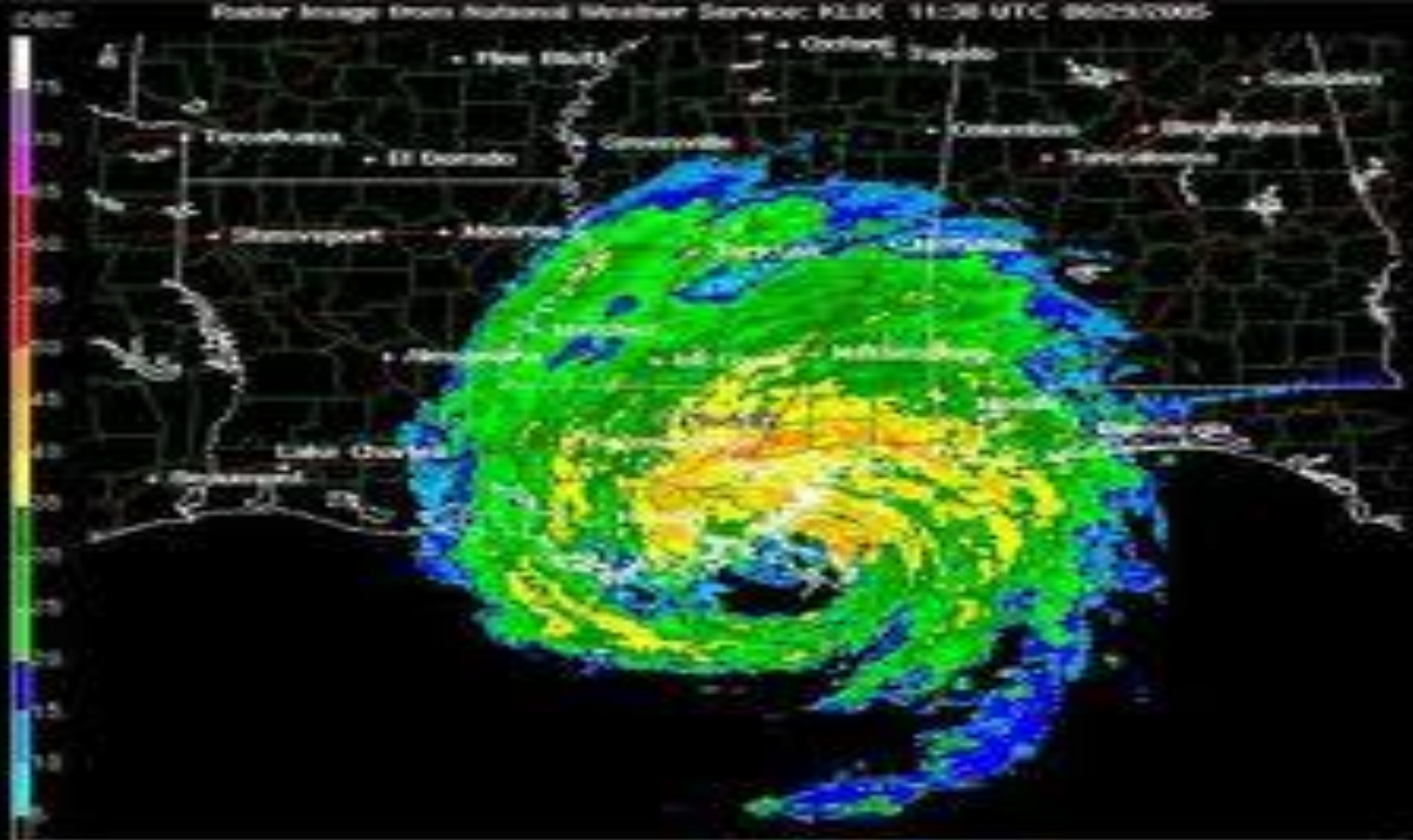
Surrendering a License

ARS§32-2157

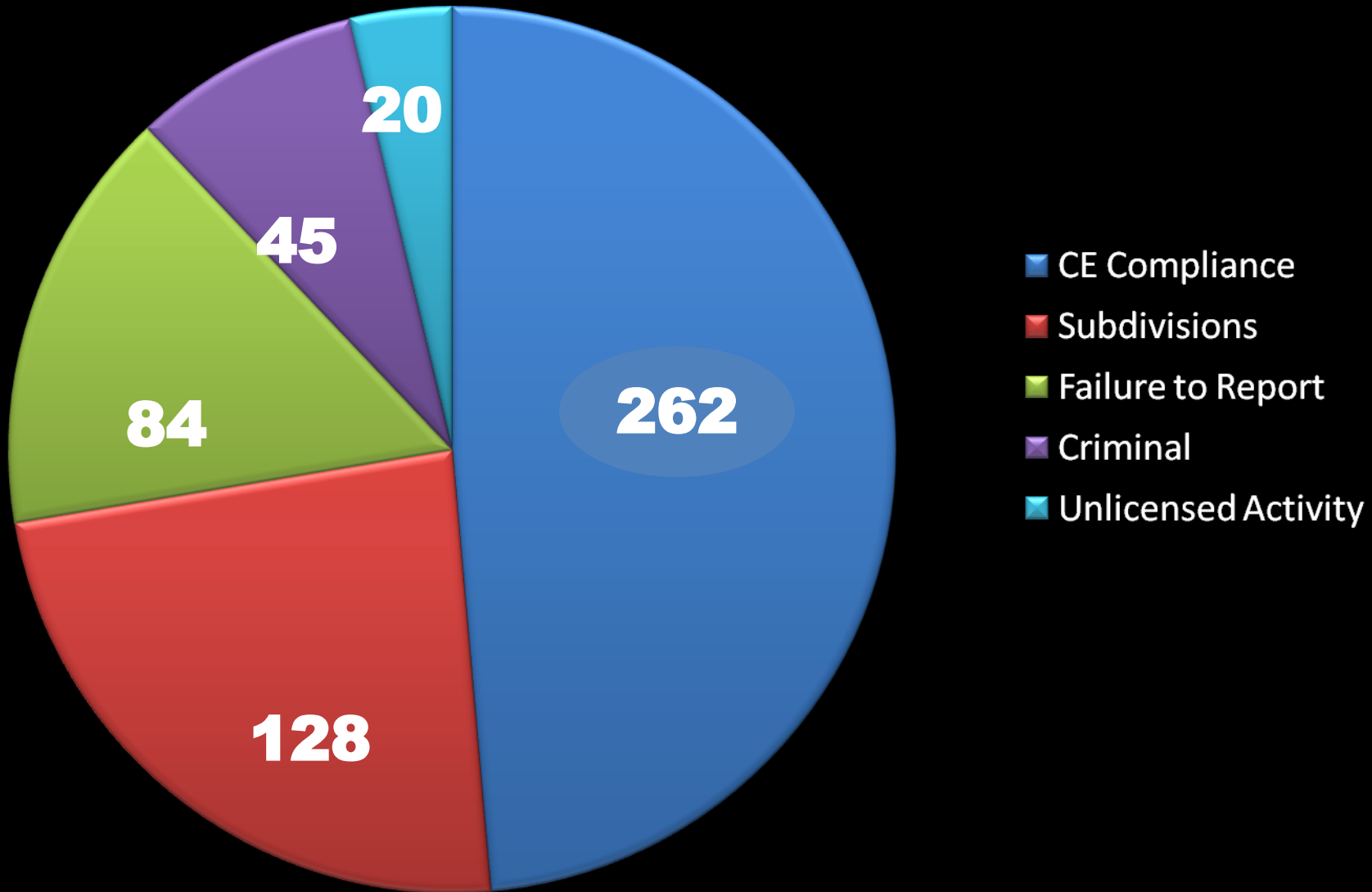


- **Within 20 Days After Service of a Notice of Violation**
- **Licensee May Voluntarily Surrender License**
- **May Never Be Licensed Again**
- **ADRE May Issue Summary Suspensions**

Weather Condition Report



ADRE Category Violations



WEATHER ALERT

The logo features the word "WEATHER" in red and white, and "ALERT" in yellow and white, both in a bold, sans-serif font. Below the text are three yellow chevrons pointing to the right. The entire logo is set against a dark blue background with a lightning bolt graphic.

**WEATHER
ALERT**

A graphic logo for a weather alert. The word "WEATHER" is in red and "ALERT" is in yellow, both in a bold, sans-serif font. The text is set against a dark blue background with a subtle grid pattern. A white lightning bolt strikes the letter 'H' in "WEATHER". To the right of the word "ALERT" are three yellow chevrons pointing to the right.

Sailing Scenario

Zillow

Margaret listed a home in MLS and input all of the required information. The MLS syndicated the ad to Zillow and it appears as follows. Is Margaret in violation?



Neighborhood or City or ZIP Code or Address

GO

Map > US > Arizona > Nogales Homes for Sale >

Views: 26

148 E Grant St

Nogales, AZ 85621

For Sale: **\$66,500**
Mortgage payment: **\$398/mo** ▾

▶ See current rates on Zillow

📄 Check your 2011 Credit Score for \$0

Bedrooms: 3
Bathrooms: 1
Sqft: 971
Lot size: 3,920 sq ft / 0.09 acres
Property type: Single Family
Year built: 1964
Parking type: --
Cooling system: --
Heating system: --
Fireplace: --
Days on Zillow: 5
MLS number: 110578

📄 More facts



1 of 6 Larger

Description

This 971 square foot single family home has 3 bedrooms and 1.0 bathrooms. It is located at 148 E Grant St Nogales, Arizona.

Contact a buyer's agent

- Blass Team** PREMIER AGENT
★★★★★ (1 review)
Call: (888) 880-8193
- Ofelia Lichtenheld** PREMIER AGENT
★★★★★ (no reviews)
Call: (888) 728-6966
- Donna Beedy**
★★★★★ (no reviews)

Name	Phone number
Theresa Barnabei	

Your e-mail

Message (optional)

Contact Agent

▶ Learn how to appear in the list of agents above

Splinternet Marketing

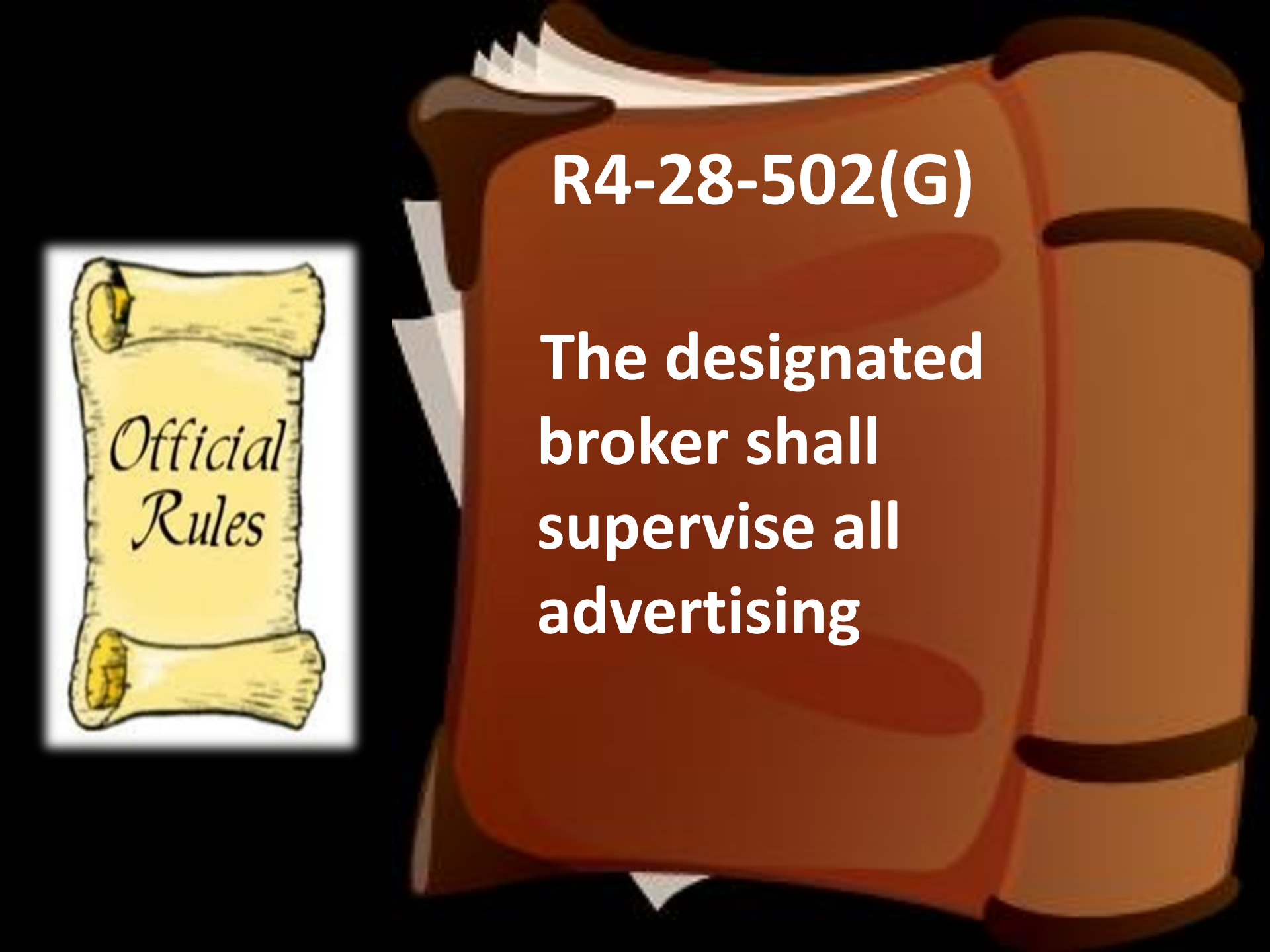


**Rule 502
Applies to
All of This**

R4-28-502(L)

**The use of the
internet or web
site technology...
constitutes the
dissemination of
advertising.**





R4-28-502(G)

**The designated
broker shall
supervise all
advertising**



Sailing Scenario

Trulia

John listed a property in MLS and put his “owner agent” disclosure at the end of the property description. The description was republished in Trulia as follows. Is John in violation?





©2011 TARMLS

Price: **\$79,900**

[Get Prequalified](#)

Est. payment: **\$470** /mo

[Wells Fargo: Prequalify](#)

Bedrooms: **3**

Bathrooms: **2**

Property type: **Single-Family Home**

Size: **1,165 sqft**

Lot: **4,791 sqft**

Price/sqft: **\$69** /sqft

Year built: **1995**

Added on Trulia: **4 days ago**

Total views: **87** (as of 5/30/11)

MLS/ID: **21114534**

Nearby School: **Raul Grijalva El...** [Nearby schools](#)

Neighborhood: **Midvale Park**

Zip: **85746**

Provided by: **Realty Executives**

[Get a free app to see transaction files 24/7](#)

[Contact the agent](#)

[Follow home](#)

[Share](#)

[Report error](#)

[More](#)

[Co-listing agents – track listing stats »](#)

Single Family, Contemporary - Tucson, AZ

Property sold as is. NO Warranties, CLUE, SPDS. Buyer to verify all information. Allow 3-5 business days for offer review. Please use seller title co. Appliances at the property at time of closing will convey.

[Like](#)

[Write a personal note about this listing](#)

R4-28-502

**(A) Indicate
involvement of
licensee**

**(B) Disclose Your
Interest**

**(C) Accurate Claims
and Representations**

**(E) Include the Name
of the Brokerage**



Reprint of Michelle Lind's Article



Real Estate Advertising Complaints on the Increase

by Tom Adams, Former Assistant Commissioner, Investigations of the Arizona Department of Real Estate and K. Michelle Lind, AAR General Counsel

Posted: November 2005 ~ Reviewed: May 2011

The Arizona Department of Real Estate ("ADRE") receives numerous advertising complaints each month. The ADRE investigates advertising complaints and takes action against those licensees whose advertising violates the ADRE Commissioner's Rules, so it is important to be familiar with the advertising laws and ensure that your advertising is in compliance.

Advertising is broadly defined and highly regulated

Advertising means "the attempt by publication, dissemination, exhibition, solicitation or circulation, oral or written, or for broadcast on radio or television to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in [property] and any photographs, drawings or artist's presentations of physical conditions or facilities existing or to exist on the property." A.R.S. §32-2101(2). Nearly anything salespersons or brokers do to circulate their names among people, other than "keep in touch" or "thank-you" items such as gifts or birthday cards to clients, falls under the definition of advertising.

The Commissioner's Rules, A.A.C. R4-28-502, set forth the rules for all advertising. A salesperson or broker acting as an agent is prohibited from advertising property in a manner which implies that no salesperson or broker is taking part in the offer for sale or lease. The designated broker must supervise all advertising, however, associate brokers and salespeople are responsible for insuring that their advertising is in compliance with the Rules.

The employing broker's name must be "clear and prominent" in all advertising

All advertising must identify in a "clear and prominent manner the employing broker's legal name or the licensed dba name." The employing broker is the corporation, limited liability company, partnership or sole proprietorship licensed as a broker that has engaged the services of salespersons and associate brokers. The employing broker designates a natural person to act as the designated broker.

The requirement that all advertising identify the employing broker's name in a "clear and prominent manner" is by far the most common subject of complaints. Although the Rules do not specify precisely what constitutes "clear and prominent," Webster defines prominent as "thrusts itself into attention" or "conspicuous in position or importance." A primary guideline to consider when creating an advertisement is that the employing broker represents the client in the transaction and the associate broker or salesperson represents the employing broker. This relationship must be indicated in the advertisement; that is, the ad must be clear that the employing broker is involved in the process. Consider the following guidelines:

- The employing broker's name must be included in all newspaper advertisements, including classified ads, real estate advertising guides, and other magazine ads.
- In advertising flyers, the employing broker's name may be located on either the top or the bottom of the flyer however the employing broker's name must be clearly legible.
- On any other promotional material the employing broker's name must be on the front page or front of the object.
- The employing broker's name must be spelled out in its entirety. For example, if an employing broker's legal or dba name on a license includes "Southeast Valley," that is what must appear in the ad; simply saying "SE" is not sufficient.
- If the brokerage is an office of a franchise, the office must be identified; simply displaying the franchise name alone is not sufficient.

Sailing Scenario

MARS

Anne listed a short sale and charged the seller a non-refundable advertising fee of \$500. The bank agreed to the short sale and Anne closed the transaction. Is Anne in violation of the rule?

short
sales



MARS Compliance

- **FTC's Mortgage Assistance Relief Services Act**
- **Effective April 30, 2011**
- **Limits Certain Fees**
- **Mandatory Disclosures**



1. General Advertising Disclosure

- **IMPORTANT NOTICE** *(in two-point type larger than the font size of the disclosure): (Name of company) is not associated with the government, and our service is not approved by the government or your lender. Even if you accept this offer and use our service, your lender may not agree to change your loan. [If the broker represents that the seller should stop making payments add: "If you stop paying your mortgage, you could lose your home and damage your credit rating"]*

Fee Limitations of MARS

- **You can't collect any fees for intermediate steps you take as part of the process. For example, it would be illegal to charge separately for:**
 - **conducting an initial consultation;**
 - **reviewing or auditing a customer's mortgage;**
 - **gathering financial or other information;**
 - **communicating with a lender or servicer on a customer's behalf;**

2. Consumer Specific Disclosure

- **IMPORTANT NOTICE** (*in two-point type larger than the font size of the disclosure*): You may stop doing business with us at any time. You may accept or reject the offer of mortgage assistance we obtain from your lender [or servicer]. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us (*insert amount or method for calculating the amount*) for our services. (*Name of company*) is not associated with the government, and our service is not approved by the government or your lender. Even if you accept this offer and use our service, your lender may not agree to change your loan. [*If the broker represents that the seller should stop making payments add: “If you stop paying your mortgage, you could lose your home and damage your credit rating”*]

3. Communication of Offer Disclosures (1)

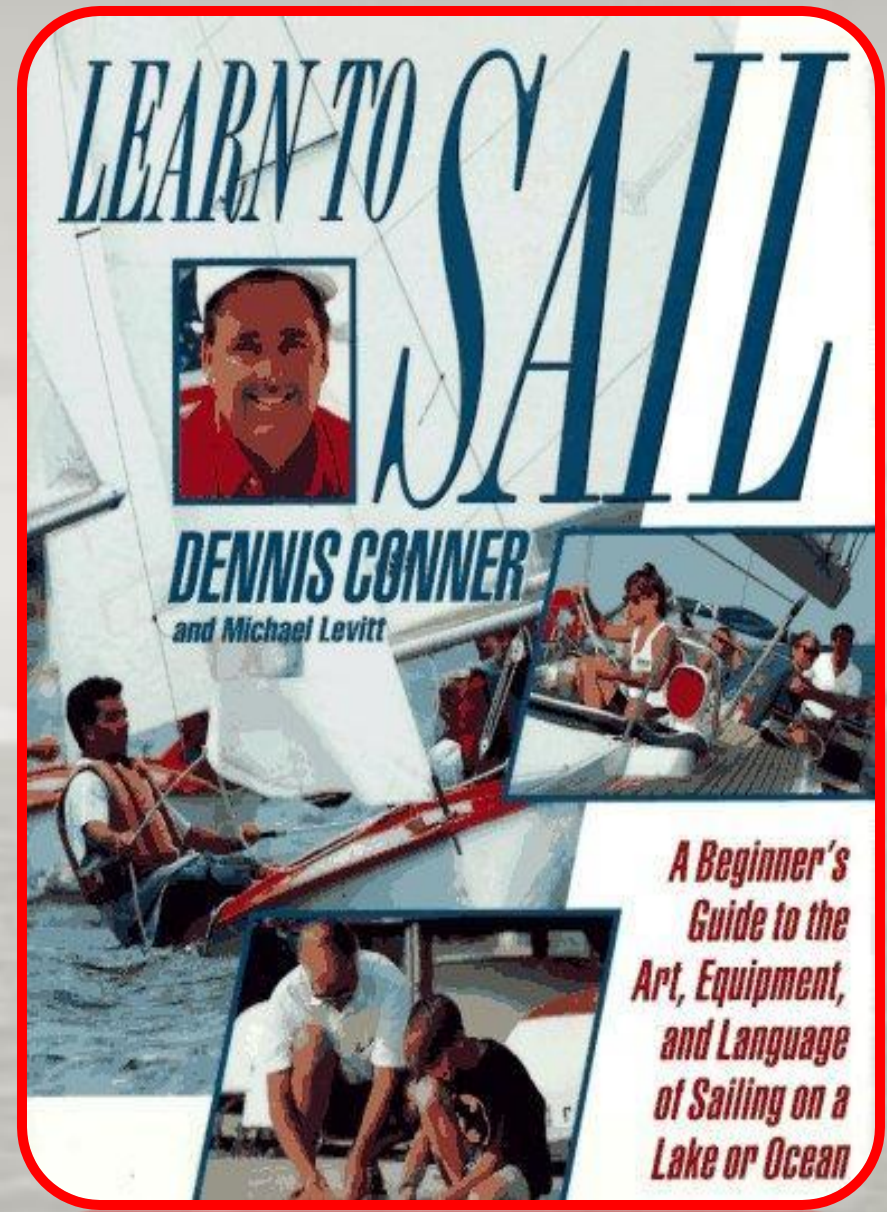
- **IMPORTANT NOTICE:** Before buying this service, consider the following information (*in two-point type larger than the font size of the disclosure*): This is an offer of mortgage assistance we obtained from your lender [or servicer]. You may accept or reject the offer. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us [*same amount as disclosed previously*] for our services. [*If the broker represents that the seller should stop making payments add: “If you stop paying your mortgage, you could lose your home and damage your credit rating”*]

3. Communication of Offer Disclosures (2)

- **IMPORTANT NOTICE:** You have to give your customer a separate one-page written notice *from the customer's lender or servicer* that explains all material differences between the offer of mortgage relief you got from the lender or servicer and the customer's current loan.

Educational Violations

- Failure to Have 24 Hours in Each 2 Year Period
- \$300 Fine
- 30 Day Order to Comply
- Permanent Registration Notation



ARS§32-2130

- 24 Hours Every Two Year Period
- Failure to Properly Renew = Expired
- Mandatory Broker Severance
- 1 Year to Renew Late



Failed to complete CE in a timely manner.

\$300 CP, complete CE in 30 days

Failed to complete CE in a timely manner.

\$300 CP, complete CE in 30 days

Failed to complete CE in a timely manner.

\$300 CP, complete CE in 30 days

Failed to complete CE in a timely manner.

\$300 CP, complete CE in 30 days

**\$78,600
In Fines**

Failed to complete CE in a timely manner.

\$300 CP, complete CE in 30 days

\$300 CP, complete CE in 30 days

Failed to complete CE in a timely manner.

\$300 CP, complete CE in 30 days

Failed to complete CE in a timely manner.

\$300 CP, complete CE in 30 days

Failed to complete CE in a timely manner.

\$300 CP, complete CE in 30 days

Senate Bill #1219

- Make sure your continuing education is entered every two years when it is due (**Effective July 29, 2010, any renewals being processed from July 1, 2010 and forward will be issued a two year license.**)



Tucson Office Officially Closed

The Arizona Department of Real Estate announced today that the Tucson office will officially close May 31, 2011. Despite valiant efforts by the ADRE to keep the Tucson office open, budget challenges have necessitated the closure.



Subdivisions



Sailing Scenario Subdivisions

George owned one SFR in a Tucson subdivision. 6 years ago he had previously owned 5 other properties in the single platted subdivision. Jill lists the property. What must she do?



The Additional Definition



By law, **A.R.S. 32-2101(54)**, you are a subdivider if you own or have owned 6 or more lots in a single platted subdivision and offer any number of them for sale. All subdividers are required to obtain a Public Report (s) prior to offering lots for sale in accordance with **A.R.S 32-2181 et seq.** and **Commissioner's Rule R4-28-B1207.**

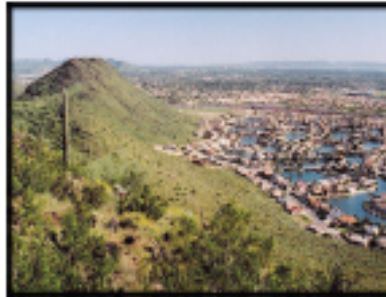
Respondents offered subdivided lands in Santa Cruz without complying with applicable subdivision statutes and rules	\$5,000 CP, obtain Public Report
Failed to use a purchase contract with required public report disclosures	\$1,000 CP J&S
Conveyed land parcels in Apache County without complying with applicable subdivision statutes and rules	\$20,000 CP, Obtain Public Report
Working in concert, divided and conveyed land parcels in La Paz County without complying with applicable subdivision statutes	\$1,000 CP, cooperate with La Paz County and current owners of affected parcels, complete and provide Affidavit of Disclosure
Divided and conveyed land parcels in Maricopa County without complying with applicable subdivision statutes and rules	\$2,000 CP, obtain Public Report

Use the Brochure

A Subdivider shall obtain a Public Report or exemption before selling lots in a subdivision.

Penalties for sales violations may include:

- Buyer rescission
- \$1,000.00 civil penalty for each infraction.
- Revocation or suspension of real estate licenses.



Arizona Department of Real Estate
Development Services Division

2910 N. 44th Street, Suite 130
Phoenix, Arizona 85018
(602) 771-7750

400 W. Congress, Suite 523
Tucson, Arizona 85701
(520) 628-6940



JANICE K. BREWER
GOVERNOR

**Acquired Six or
More Lots?**

**You've participated in a tax
sale.**

**Are you now considered a
Subdivider?**

**Do you need to file with the
Arizona Department of Real Estate?**

ILLEGAL SUBDIVISION RED FLAGS

ARIZONA DEPARTMENT OF REAL ESTATE

Consumers, taxpayers and reputable developers are harmed by a common concern - illegal subdivision activity. Unsuspecting buyers discover water and utilities are unavailable contrary to what they are told; communities struggle with substandard roads unusable by school buses or emergency vehicles; and legal developers must compete with an illegal subdivider who gains unfair advantages by not disclosing important information to buyers nor makes the necessary investments to ensure proper infrastructure.

Often, people think this type of activity is limited to rural areas where oversight is more difficult. But, with the tremendous growth across Arizona, we are also finding illegal subdivisions just outside of and within town and city limits.

ADRE's mission is to protect the public. Our existing subdivision laws are designed to:

- Protect consumers from fraud and misrepresentation.
- Ensure full disclosure of property characteristics to buyers.
- Ensure residential developments have adequate and safe streets, utilities and other infrastructure.

ILLEGAL SUBDIVISION RED FLAGS INCLUDE:

- > Earnest monies paid in cash
- > Monies paid out of escrow
- > Double escrows
- > Short time between transactions
- > Same last names in transactions
- > Transfers from individuals to company to individuals
- > Use of same address for different transactions
- > Use of the same Notary in several transactions
- > Use of same surveyor
- > Use of same Real Estate Agent
- > Agreements of sale, purchase contracts or Deeds of Trust, etc., with lot release provisions
- > Numerous transactions involving the same parties, usually in the same geographical area
- > Carry backs-seller financed
- > Unusually low down payments
- > Several lot splits in short period of time involving the Original large parcel
- > An individual is referred by one escrow company to another for additional splits

These "Red Flags" do not necessarily mean you are dealing with an illegal subdivision. However, many illegal subdivisions do have more than one of these items. If you recognize any of these "Red Flags" when you are showing property, please:

1. Ask questions of the seller
2. Look closer into the property
3. Protect your client
4. Contact the Department with any questions.

For more information on how to identify illegal subdivisions, contact the Investigations Division at 602.771.7730 or investigations@azre.gov.

Updated 01/09

Use The Red Flag Checklist



Failure to Report



Failure to timely disclose within
10 days, January 2010 misdemeanor
conviction

Consent Order (ASA), \$300 CP

Failed to timely disclose within 10
days January 2010 misdemeanor
conviction

\$300 CP

Failed to timely disclose within
10 days September 2008
misdemeanor conviction

\$600 CP

Failed to timely notify the Department of multiple
actions by other jurisdictions.

A.R.S. §32-2153 (A)(3), (B)(11)

09F-DI-224

August 10, 2009

Consent Order

\$2,500 CP, 90 day stayed suspension of license,
2 yr PL, 6 hr CE in Comm Standards.

R4-28-303(D)

Licensees Must Report
Within 10 Days

- Convictions
- Change of Address & Phone Numbers
- Adverse Judgments
- Restriction of Professional License



Update Your Registration Card



Ignoring ADRE



Failed to complete CE in a timely manner, Failed to respond to Notice of Hearing

Revocation of License

Multiple violations; unlicensed activity, failed to respond to investigation requests.

Cease & Desist all activities requiring a real estate license

Failed to timely disclose a November 2009 misdemeanor conviction, failed to comply with terms of previous Consent Order

\$1,950 CP, 60 day license suspension, 2 yr PL/PM, Sobriety Monitor

Tucson, Arizona

Failure to comply with terms of previous Consent Order, failure to comply with requests for documentation from Department staff.

A.R.S. §32-2153 (A)(3), (A)(17), (A)(21), (A)(22), (A)(24), (B)(7), (B)(8), (B)(9), (B)(11).

10F-DI-064

August 25, 2009

Summary Suspension

Summary Suspension of license.

Unlicensed Activity



Sailing Scenario Relos & Referrals

Amy worked with Safeway's relocation department. They sent her referrals and Amy paid 25% of the commission as a referral fee paid out of closing. Is she in violation?



ARS§32-2122(B)

It shall be unlawful for any person, corporation or partnership or limited liability company to engage in any business, occupation or activity listed in Subsection A without first obtaining a license.



Unlicensed Activity by a Licensee?

BR028444000

Gilbert, Arizona

Unlicensed activity, 2nd Violation.

A.R.S. §§32-2153 (A)(3), (A)(10), (B)(6)

10F-DI-308

October 26, 2009

Consent Order

60 day License Suspension, 2 yr PL/PM, \$1,000

CP, 6 hr CE in Comm Standards.



LEAD TO REALTY

REAL ESTATE PHONE VERIFIED LEADS ☰



- The highest-quality phone validated leads
- Leads have requested your expert assistance

Join our network of Real Estate Sales Professionals

- Proactive Buyers and Sellers
- 100% Phone Verified
- Increase Your Close Rates and ROI

First Name:

Last Name:

Business Phone:

e-mail:

Submit

Sailing Scenario Out of State Co-Op

John was contacted by a California broker, Sam, who had a buyer relocating to Arizona. Together they counseled the buyer and split the fees at closing. Are they in violation?



New Statute ARS§32-2163 Cooperation Agreement

- **Limitations on Relationships with Out of State Brokerages**
- **NEW requirement for a Co-Op Agreement**
- **A licensed broker in this state may pay to and receive compensation from an out-of-state broker, IF:**



Co-Op Agreement Requirements

- A list of the real estate activities to be conducted
- A statement that the out-of-state broker agrees to comply with laws of this state
- Licensed AZ Broker accepts responsibility
- All negotiations conducted through the licensed broker in this state.
- Handle all funds under AZ statutes

Branch Office?



ARS§32-2127(A)

When a broker maintains more than one place of business within the state he shall be required to procure an additional license for each branch office maintained.





Failure to Supervise

Yuma, Arizona

Failed to exercise reasonable supervision over salesperson.

A.R.S. §§32-2153 (A)(3), (A)(6), (A)(21)

10F-DI-008

July 16, 2009

Consent Order (ASA)

\$300 CP

Tucson, Arizona

Failed to exercise reasonable supervision over salesperson.

A.R.S. §§32-2153 (A)(3), (A)(6), (A)(21)

10F-DI-600

December 16, 2009

Consent Order (ASA)

\$300 CP

Arizona City, Arizona

Failed to exercise reasonable supervision.

A.R.S. §32-2153 (A)(3), (A)(21)

10F-DI-340

January 16, 2010

Consent Order

\$1000 CP, 3 hr CE in Commissioner Standards

Failed to supervise licensees regarding subdivision violations.

A.R.S. §§32-2153 (A)(22); 32-2164

05F-SD-144

October 30, 2009

Consent Order

\$750 Education Grant, \$2,250 CP, 6 hr CE in Comm Standards.

R4-28-1103

**Broker Must Maintain
a Policy & Procedures
Manual unless:
Only 1 salesperson
and up to 1 non-
licensed employee**



New Model Broker Policies and Procedures Manual

ADRE MODEL BROKER'S POLICY AND PROCEDURE MANUAL

For Arizona Real Estate, Cemetery, and Membership
Camping Salespersons and Brokers

Developed by the Broker Office Policies Model Manual Committee
Holly Eslinger, Tom Fannin, C. Dale Hillard, Michelle Lind, and Jan Steward



AS of
MAY, 2011

ADVERTISING MODEL PROVISION

This section should cover all advertising media, including the Internet and Social Media, and should contain:

- **A review of advertising for Fair Housing compliance and use of the Fair Housing logo.**
- **A review of advertising for compliance with Regulation Z and Truth in Lending laws.**
- **Instructions regarding the usage of Company logo, name, and phone numbers on advertising.**
- **Policy for Broker review before placement of advertising.**
- **Instructions regarding placement of Broker name and logo**

1099 Reporting Model Provision


This section should cover:

- What IRS 1099 forms will include and exclude (such as any deductions) and who pays deductions.**
- Earnings that are paid out of escrow or assigned should be included on the 1099 form.**

Very Specific Model Disclosure Information

This section should include:

- Information about areas that have been designated by the Federal Government and by the State of Arizona as environmentally impacted.
- Where information or maps regarding these areas can be obtained, such as from the Arizona Department of Environmental Quality Web site, www.azdeq.gov.
- When and how to fully disclose to prospective buyers that a property is located in these areas.



This road
floods
each tide

PLANT BEDGROWTH
MONITORING
AREA

**Disclosure
Violations**

Yes, There Are Disclosure Disciplinary Cases

Arizona City, Arizona

Failed to disclose information that materially or adversely affects the consideration being paid by a party during a transaction.

A.R.S. §32-2153 (A)(3), (A)(22), (B)(8)

10F-DI-340

January 13, 2010

Consent Order

2 yr PL/BA, \$1,000 CP, 6 hr CE in Commissioner Standards

**But it's the
private
litigation
that will
KILL you!**

From the California Court of Appeals

The California Appellate Court said the decision *Holmes et al vs. Sieglinde Summer, Case G041906* represents a progression within the court system to define and expand the responsibilities of a real estate agent handling short sale transactions.

The Disturbing Language of Holmes

“While a buyer may be harmed by acquiring title to a property with undisclosed defects, such as hazardous waste or soils subsidence problems, a buyer may also be harmed by entering into an escrow to purchase property when it is highly likely that, unbeknownst to the buyer, the escrow will never close.”

The Disturbing Language of Holmes

“When the realtor accepted the listing, he agreed to handle everything, including the unrecorded deed of trust.”

The Disturbing Language of Holmes

“Particularly in these days of rampant foreclosures and short sales, “[t]he manner in which California's licensed real estate brokers and salesmen conduct business is a matter of public interest and concern.”

Posted From a Law Firm's Presentation on SlideShare

Lawsuits Over Short Sales Dramatic increase in lawsuits over Short Sales!

- Lawsuits are the result of a variety of different SS scenarios:
 - Lender did not absolve/relieve the debt (deficiency)
 - Seller received a 1099-S for the deficit
 - Broker/Agent gave legal, financial and/or tax advice
 - Broker/Agent acted outside scope of their expertise
 - Broker/Agent did not explore nor provide loan modification options
 - Broker/Agent misguided client on the impact of SS on credit score

Trust Account & Property Management Violations



Sailing Scenario

Property Management

Jack, a non-licensee, had his neighbor sign a power of attorney as an isolated transaction under ARS§32-2122 so that Jack could manage the property. Is Jack in violation?



ARS§32-2151

- Brokerage **MAY** maintain a trust account
- **Must promptly deposit**
- **Must keep documentation**
- **No commingling**



Tempe, Arizona

Performed Property Management activities without the express permission of supervisor Broker.

Performed property management activities prior to receiving license.

A.R.S. §32-2153 (A)(3), (A)(7), (A)(10), (B)(6), (B)(7)

10F-DI-631

April 8, 2010

Consent Order

2 yr PL, \$1,500 CP, 6 hr CE in Commissioner Standards

Tucson, Arizona

Multiple violations, failure to maintain broker trust accounts with approximately \$156,875 owed to clients.

A.R.S. §32-2153 (A)(3), (A)(9), (A)(15), (A)(16), (A)(17), (A)(21), (A)(22), (B)(7), (B)(8), (B)(10).

10F-DI-051

August 11, 2009

Summary Suspension

Summary Suspension of license.



THE MONEY BOAT

Compensation & Payment Issues

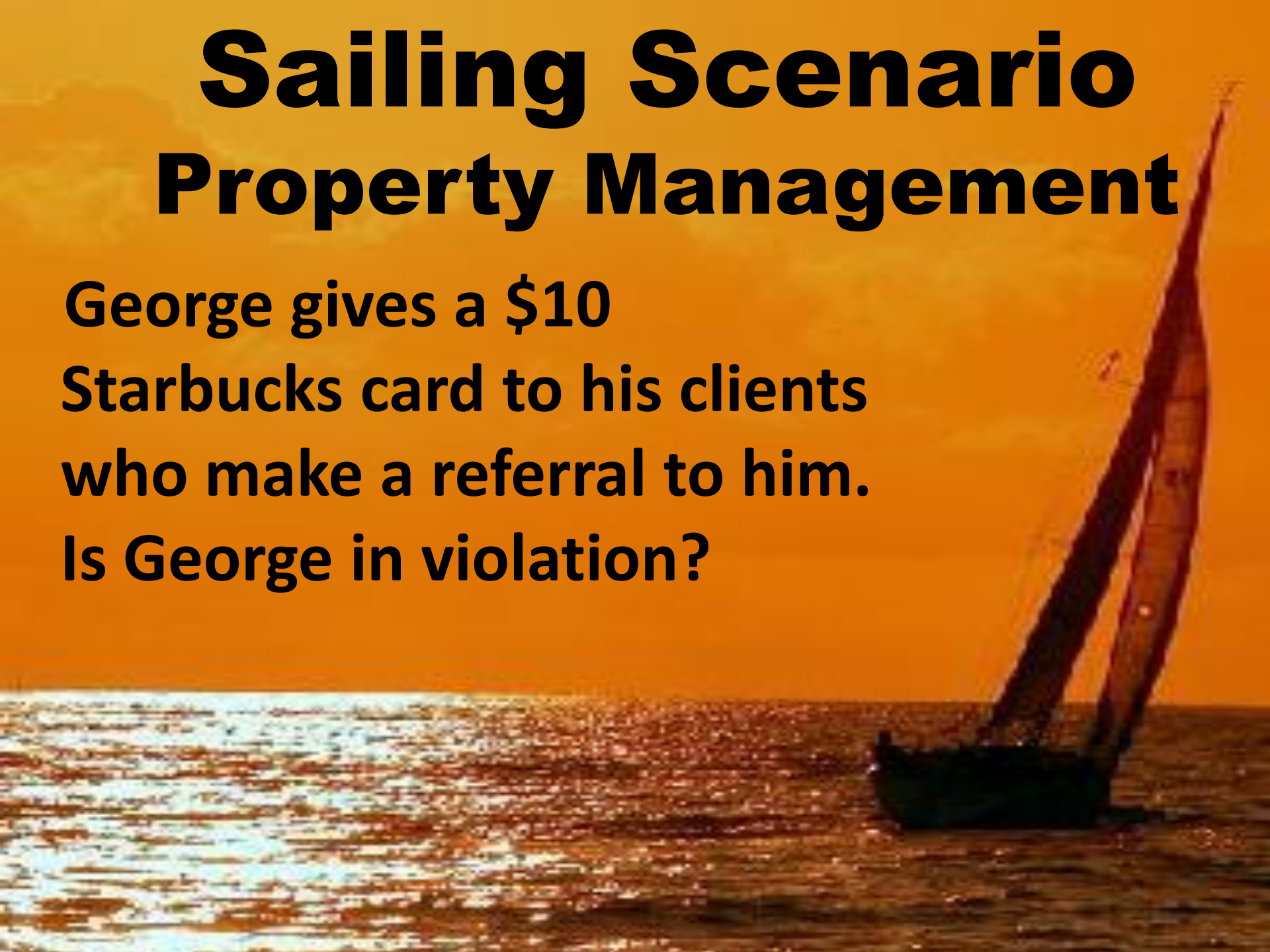
Sailing Scenario

Property Management

George gives a \$10

**Starbucks card to his clients
who make a referral to him.**

Is George in violation?



Sailing Scenario

Property Management

Helen is running a promotion giving everyone who lists with him a \$500 Home Depot gift certificate at closing. Is Helen in violation?



ARS§32-2155

- Broker shall employ and pay only licensees
- Licensees may pay no one



Tools to Stay on Course

- **The Law Book**
- **Late Breaking News**
- **Advisories & Substantive Policies**
- **The Bulletin**



Commissioner Lowe's Meetings



The thing that we hear over and over and over again is: “Please, we’ve got to do something about the professionalism in the industry.” We need to increase the knowledge base of the licensee and the professionalism of the licensee. And whatever it takes to do that, we’re committed to doing that.