






Richardson Ober LLP 5-13-25

Goings-on from Sacramento – Legal Forum Recap

Presented by Kelly G. Richardson, Esq.

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BRBC *Horror* Story

Civil Code 1670.50

....

- (d) (1) A buyer-broker representation agreement shall not last longer than three months from the date the agreement was made. ...shall not apply to ...agreement entered into [with] ...a corporation, limited liability company, or partnership.
- (2) A buyer-broker representation agreement shall not renew automatically, ...A renewal of a buyer-broker representation agreement subject to paragraph (1) shall not last longer than three months from the date the renewal was made.
- (3) A buyer-broker representation agreement that is made in violation of this subdivision is **void and unenforceable.**

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Competency/capacity of contract signers

- Estate planning attorney
- Conservatorships/guardianships
- Probable major delay if court intervention necessary

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DRE – What they're looking at regarding further regulations & amendments

- Buyer-broker agreement clarifications
- Broker supervision – amend §2725 to add training requirement
- Transaction coordinators – Clarifying §10133.2 to define “clerical functions”
- Removal of certain disciplinary history from DRE website

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Transaction Coordinators – What they can't do

Enter into a listing agreement
Take part in negotiations that may lead to a real estate transaction
Discuss and/or negotiate the terms of a contract
Discuss the condition of a property
Discuss and/or negotiate conditions of a transaction
Discuss legal content of a document
Solicit for a specific property, transaction, or product
Induce a prospective client into a transaction

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Problems DRE is seeing with TCs

1. Performing "Licensed" activities without a license
 - ♣ Pass off from licensee to TC, licensee disappears, and TC performs "licensed" activities
 - ♣ TC takes on more responsibility and crosses over "licensed" activity line
 2. Competency
 - ♣ Outsourcing to TC out-of-state/out-of-country
 3. TC working for multiple brokers
 - ♣ Maintaining confidentiality
 - ♣ Real estate licensed-TC working for non-affiliated broker
 4. Salesperson Teams using TC without broker supervision/review
 5. Limits on DRE's ability to discipline licensed/unlicensed out-of-state TC practicing in state
 6. Problems involving compensation of transaction coordinators
 - ♣ Client (seller or buyer) pays TC without proper disclosure
 - ♣ Affiliated licensee performs TC work and charges client a TC fee (Unearned compensation)
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Advice from DRE Attorney Stephen Lerner – "What you can do to avoid disciplinary action"

What you can do to avoid disciplinary action

→ Fiduciary Duties

- Placing the interests of your client ahead of your own personal interests
- Be aware of your fiduciary duties

→ Disclosures

- Disclose agency relationship
- Negotiability of Real Estate Commissions
- Broker Compensation must be fully disclosed

→ Advance Fees

- Advance fee agreement must be approved by Real Estate Commissioner
- Advance fees must be deposited in trust account

→ Broker Supervision

- Policies, rules, procedures & systems
- Review, oversee, inspect & manage

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Questions?



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