

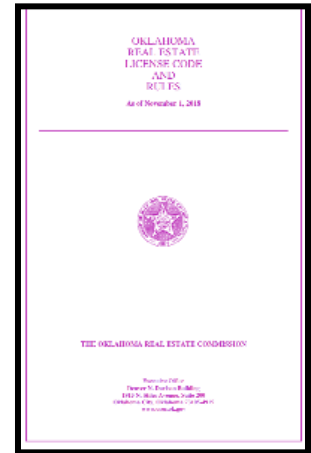
23 PROHIBITED DEALINGS TO AVOID

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Objectives:

After participation in this one-hour class, the student will be able to:

1. Define 'untrustworthy, improper, fraudulent or dishonest dealing' within the meaning of Section 858-312(8) of the OREC License Code
2. List at least three of the Prohibited Dealings which relate to a licensee who is handling the 'buyer side' of a transaction.
3. Successfully complete a seven-question quiz.



CAUSE FOR SUSPENSION OR REVOCATION OF LICENSE

§858-312. Investigations—Cause for suspension or revocation of license. The Oklahoma Real Estate Commission may, upon its own motion, and shall, upon written complaint filed by any person, investigate the business transactions of any real estate licensee, and may, upon showing good cause, impose sanctions as provided for in Section 858-208 of this title. Cause shall be established upon the showing that any licensee has performed, is performing, has attempted to perform, or is attempting to perform any of the following acts:

1. Making a materially false or fraudulent statement in an application for a license;
2. Making substantial misrepresentations or false promises in the conduct of business, or through real estate licensees, or advertising, which are intended to influence, persuade, or induce others;
3. Failing to comply with the requirements of Sections 858-351 through 858-363 of this title;
4. Accepting a commission or other valuable consideration as a real estate associate for the performance of any acts as an associate, except from the real estate broker with whom the associate is associated;
5. Representing or attempting to represent a real estate broker other than the broker with whom the associate is associated without the express knowledge and consent of the broker with whom the associate is associated;
6. Failing, within reasonable time, to account for or to remit any monies, documents, or other property coming into possession of the licensee which belong to others;
7. Paying a commission or valuable consideration to any person for acts or services performed in violation of the Oklahoma Real Estate License Code;

8. Any other conduct which constitutes untrustworthy, improper, fraudulent, or dishonest dealings;

“Prohibited Dealings,” Rule 605:10-17-4

9. Disregard or violating any provision of the Oklahoma Real Estate License Code or rules promulgated by the Commission;

PROHIBITED DEALINGS

Source: Oklahoma Real Estate License Code and Rules; Rule 605:10-17-4

Within the meaning of subsection 8 of Section 858-312 of the "Code," 'untrustworthy, improper, fraudulent or dishonest dealing' shall include, but not be limited to, the following:

1. The making of a brokerage service contract without a date of termination.
2. Purchasing of property by a licensee for himself or herself or another entity in which the licensee has an interest as defined in 605:10-15-1 (c), if such property is listed with the broker or the broker's them self or another entity in which they have an interest as defined in 605:10-15-1 (c).
3. Repeated misrepresentations, even though not fraudulent, which occur because of the failure by the licensee to inform himself or herself of pertinent facts concerning property, as to which he or she is performing services.
4. Procuring the signature(s) and dates of such signature(s) to a purchase offer or contract or to any lease or lease proposal which has no definite purchase price or lease rental, or no method of payment, termination date, possession date or property description.
5. The payment of any fees or amounts due the Commission with a check that is dishonored upon presentation to the bank on which the check is drawn.
6. Lending a broker's license to an associate; permitting an associate to operate as a broker; or failure of a broker to properly supervise the activities of an associate. A broker permitting the use of the broker's license to enable an associate licensed with the broker to, in fact, establish and conduct a brokerage business wherein the broker's only interest is the receipt of a fee for the use of the broker's sponsorship.
7. Failure to make known in writing to any purchaser any interest the licensee has in the property they are selling.
8. Failure of the licensee to inform the buyer and seller in writing at the time the offer is presented that the buyer and seller will be expected to pay certain closing costs, brokerage service costs, and approximate amount of said costs.
9. Failure, upon demand in writing, to respond to a complaint in writing, or to disclose any information within licensee's knowledge, or to produce any document, book or record in licensee's possession or under licensee's control that is real estate related and under the jurisdiction of the Real Estate Commission, for inspection to a member of the Commission staff or any other lawful representative of the Commission.
10. Failure to reduce an offer to writing, when a proposed purchaser requests such offer to be submitted.
11. Failure to submit all bona fide offers to an owner when such offers are received prior to the seller accepting an offer in writing.
12. Any conduct in a real estate transaction which demonstrates bad faith or incompetency.
13. Failure to act, in marketing the licensee's own property, with the same good faith as when acting in the capacity of a real estate licensee.
14. An associate who does not possess the license of a broker or branch office broker as defined in the Rules but is intentionally acting in the capacity of a broker or branch office broker.
15. Discouraging a party from obtaining an inspection on a property.
16. Allowing access to, or control of, real property without the owner's authorization.

17. Knowingly providing false or misleading information to the Commission during an investigation.
18. Interfering with an investigation by means of persuading, intimidating or threatening any party or witness, or tampering with or withholding evidence relating to the investigation.
19. Knowingly cooperating with an unlicensed person or entity to perform licensed real estate activities as required by Title 59 O.S. Section 858-301.
20. Failing to disclose any known immediate family relationship to a party to the transaction for which the broker is providing brokerage services.
21. Failure by a broker to ensure all persons performing real estate licensed activities under the broker are properly licensed.
22. An associate shall not perform licensed activities outside their broker's supervision.
23. Failing to maintain documents relating to a trust account or real estate transaction for the time required by Rule 605:10-13-1.

Prohibited Dealings

QUIZ

1. Betty, a licensee, understands that she is required to inform a buyer and/or seller with whom she is working that they will be expected to pay certain closing and brokerage service costs as well as the approximate amount of these costs. When must she provide this information to the party?

PROHIBITED DEALING # _____

- a. Before closing
- b. Within 3 days of beginning the transaction
- c. As soon as possible
- d. At the time the offer is presented.

2. Jim had a listing interview with Jones, the seller, who wanted to price at \$250,000. Jim knew this too high and told the seller that it was above market value and might take a long time to sell. Jones insisted on trying \$250,000 'for a while' so Jim listed and put it in MLS. The house stayed on the market for 9 months, then the seller lost his job and told Jim he just wanted to "get rid of it, now." Jim offered to buy the property for \$200,000 and seller accepted. To comply with the license law, what should Jim do?

PROHIBITED DEALING # _____

- a. Keep a complete paper trail of all conversations with this seller about the transaction.
- b. Make full disclosure of his license status in writing and obtain owner's approval to purchase the property. Contract should also disclose Jim's license status and OREC license number.
- c. Make full disclosure of his license status and put OREC license number on contract.
- d. Release the listing before purchasing the property.

3. Before getting her real estate license, Mary Smith owned several rental properties and managed them herself. After she got in the real estate business, she listed a home in Edmond that did not sell before the sellers were required to move to another city. The owners decided to take the home off the market until they could get a better price or possibly move back to Edmond. They asked Mary to manage the rental and agreed to pay her 15% of the rental each month. She agreed and managed this property along with her own and simply paid herself the 15% management fee each month from the rent. Which of the following statements is true?? **PROHIBITED DEALING # _____**
- Mary actions in managing someone else's property is an act that would be considered an "untrustworthy, improper, fraudulent or dishonest dealing" in the real estate license law.
 - Mary has done nothing wrong.
 - Mary has found a useful source of income.
 - Mary actions in managing someone else's property is NOT an act that would be considered an "untrustworthy, improper, fraudulent or dishonest dealing" in the real estate license law.
4. As a real estate license, you sell a rental property which you own to someone at your church that you have known a long time. Since this is a private transaction, it has nothing to do with your license status and requires no special handling. **PROHIBITED DEALING # _____**
- True
 - False
5. You have a prospective buyer with whom you entered an exclusive Buyer Brokerage Agreement. Since he is planning to buy several properties over an unknown period, the expiration date of the agreement is "upon five days' notice by either party." This is NOT in compliance with the real estate license law. **PROHIBITED DEALING # _____**
- True
 - false
6. It is not necessary to obtain special authorization of the homeowner of your listing to allow an unlicensed assistant to open a home for an open house and simply hand out brochures. **PROHIBITED DEALING # _____**
- True
 - False
7. Joanie, a sales associate, lives in a suburb about 50 miles from her office. Her market area is her home neighborhood and she found that her clients don't want to drive that far to come into her office. She discussed this with her broker and he suggested she rent a small office space with no street signage as an unofficial office near her neighborhood to accommodate her customers and clients. He agreed to increase her commission split to help her pay for the space since they would both benefit from the increased business. She does this and places a handmade cardboard sign on the front door which reads "Joanie Jetson, Real Estate Agent, and XYZ Agency." Which of the following statements is true? **PROHIBITED DEALING # _____**
- This is a good arrangement for Joanie, her broker and her clients.
 - This is a violation of the license law and could jeopardize her real estate license.
 - She should require the broker to pay for the rent.
 - Her broker is really a nice guy to help her this way.

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1. Making a materially false or fraudulent statement in an application for a license.
2. Making substantial misrepresentations or false promises in the conduct of business, or through real estate licensees, or advertising, which are intended to influence, persuade, or induce others.
3. Failing to comply with the requirements of Sections 858-351 through 858-363 of this title;
4. Accepting a commission or other valuable consideration as a real estate associate for the performance of any acts as an associate, except from the real estate broker with whom the associate is associated;
5. Representing or attempting to represent a real estate broker other than the broker with whom the associate is associated without the express knowledge and consent of the broker with whom the associate is associated.
6. Failing, within reasonable time, to account for or to remit any monies, documents, or other property coming into possession of the licensee which belong to others.
7. Paying a commission or valuable consideration to any person for acts or services performed in violation of the Oklahoma Real Estate License Code.
8. Any other conduct which constitutes untrustworthy, improper, fraudulent, or dishonest dealings. **Prohibited Dealings, Rule 605:10-17-4**
9. Disregard or violating any provision of the Oklahoma Real Estate License Code or rules promulgated by the Commission.
10. Guaranteeing or having authorized or permitted any real estate licensee to guarantee future profits which may result from the resale of real estate.
11. Advertising or offering for sale, rent or lease any real estate, or placing a sign on any real estate offering it for sale, rent or lease without the consent of the owner or the owner's authorized representative.
12. Using prizes, money, gifts or other valuable consideration as an inducement to secure customers or clients to purchase specific property; however, licensees may use prizes, money, gifts or other valuable consideration for marketing purposes provided they are not contingent or limited to individuals making an offer or purchasing a specific property;
13. Accepting employment or compensation for appraising real estate contingent upon the reporting of a predetermined value or issuing any appraisal report on real estate in which the licensee has an interest unless the licensee's interest is disclosed in the report. All appraisals shall be in compliance with the Oklahoma real estate appraisal law, and the person performing the appraisal or report shall disclose to the employer whether the person

performing the appraisal or report is licensed or certified by the Oklahoma Real Estate Appraiser Board.

14. Paying a commission or any other valuable consideration to any person for performing the services of a real estate licensee as defined in the Oklahoma Real Estate License Code who has not first secured a real estate license pursuant to the Oklahoma Real Estate License Code;

15. Unworthiness to act as a real estate licensee, whether of the same or of a different character as specified in this section, or because the real estate licensee has been convicted of, or pleaded guilty or nolo contendere to, a crime involving moral turpitude;

16. Commingling with the licensee's own money or property the money or property of others which is received and held by the licensee, unless the money or property of others is received by the licensee and held in an escrow account that contains only money or property of others;

17. Conviction in a court of competent jurisdiction of having violated any provision of the federal fair housing laws, 42 U.S.C. Section 3601 et seq.;

18. Failure by a real estate broker, after the receipt of a commission, to render an accounting to and pay to a real estate licensee the licensee's earned share of the commission received;

19. Conviction in a court of competent jurisdiction in this or any other state of the crime of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, fraud, or any similar offense or offenses, or pleading guilty or nolo contendere to any such offense or offenses;

20. Advertising to buy, sell, rent, or exchange any real estate without disclosing that the licensee is a real estate licensee.

21. Paying any part of a fee, commission, or other valuable consideration received by a real estate licensee to any person not licensed.

22. Offering, loaning, paying, or making to appear to have been paid, a down payment or earnest money deposit for a purchaser or seller in connection with the real estate transaction; and

23. Violation of the Residential Property Condition Disclosure Act