



Association of Real Estate License Law Officials

Supervising Broker Best Practices

**A Broker's Guide to Creating a
Policy and Procedure Manual**

September 2012

PREFACE

This guide and information has been prepared by real estate regulators to assist a broker who is considering owning and/or operating a real estate brokerage, as this endeavor comes with much responsibility and liability. Prior planning and research coupled with developing a policy and procedure manual will assist the broker in succeeding in the business, as well as reducing future problems and liability that can be costly to the organization. Managing individuals, both licensed and unlicensed, can be challenging and there is no guide or manual that has all of the answers; however, the real estate broker must always look to the local jurisdiction's laws and rules that provide guidance and require standards of licensed activity.

Disclaimer: This guide has been prepared by the Association of Real Estate License Law Officials (ARELLO®) as a basic template that can be modified by brokers to fit the particular set of policies, laws and rules in their respective jurisdiction. Brokers are encouraged to seek legal counsel in the development of their company policies and procedures.

This document was prepared by the 2011-2012 Supervising Broker Best Practices Task Force created by the 2011 ARELLO® President Grace Berger. Members of the task force included:

Anne Woody, Chair (Oklahoma)
Nick D'Ambrosia, Vice Chair (Maryland)
Al Jacobson (Saskatchewan)
Loretta DeHay (Texas)
Dave Moore (Sauder School of Business, British Columbia)

Pete Galbraith (Oklahoma)
Kathy Connelly (Maryland)
Doug Dixon (Alberta)
Doug Nelson (South Dakota)

TABLE OF CONTENTS

Definitions	1
Employment or Work Contract	2
Terms	
Compensation to licensee	
Termination	
Licensee selling or leasing out personally owned real property	
Board/Association membership	
Written Office Policies	4
Orientation for new licensees to the company	
Multiple responsible brokers – delegation of duties	
Ensure licensees comply with regulatory license requirements	
Establishing competency	
Advertising and solicitation	
Unlicensed Activity	
Marketing	
Organization and Administrative Procedures - Documentation, Process and Requirements	
Teams and Groups	
Professional Conduct)	
Regulatory Compliance	
Association Code of Ethics and the Multiple Listing Service (MLS)	
Records Management	11
Record retention schedule	

Documents to be retained

Personal Information Protection Act

Disaster Recovery

Company acquisition – Continuity of record retention

Trust Accounts _____ 13

Account responsibility and authorized signor(s)

Names, numbers and banks

Bank fees

Interest on trust accounts

Proper handling of trust accounts

Handling of option fees and earnest money

Deposits received by broker and placed in a trust account

Property Management accounts

Adequate controls for maintaining trust accounts

Audit requirements from regulator

Broker Relationship with Consumer - Agency, Transaction Broker, Facilitator, etc. _____ 15

Office policy on broker relationship with consumer

Disclosure of relationship

Fiduciary vs. non-fiduciary duties

Confidentiality of information

Conflict of interest

Mandatory duties and responsibilities

Confirmation of disclosure

Consent to change relationship

Safety Procedures _____ 15

Crisis Management – Dispute Resolution _____ 15

Additional Information _____ 16

A BROKER'S GUIDE TO CREATING A POLICY AND PROCEDURE MANUAL

DEFINITIONS

Jurisdiction's regulatory authority - Commission, Council, Board, etc.

Broker – the supervising managing broker (broker).

Employee – Salaried employee as defined by jurisdiction's governmental tax authority.

Independent Contractor – Individual who contracts for a specific task or job and responsible for all expenses per the contract (this may also be defined by the jurisdiction's governmental tax authority).

Licensee – Broker, branch broker, registrant, agent, associate, sales associate, broker associate, salesman, provisional sales associate, etc.

Associate (broker associate, sales associate, provisional sales associate, salesman, etc.) – A person who is licensed under the supervision of a managing broker and is referenced as a licensee in this document unless it is referencing a particular license type.

Assistant

Licensed Assistant – A person who is licensed under the managing broker, who works and exclusively assists a team, group or individual licensee also licensed under the managing broker. The broker, in conjunction with the employing licensed individual, group or team, is responsible for all acts of the assistant.

Unlicensed Assistant – A person who is unlicensed and exclusively assists a team, group or individual licensee and who is prohibited from performing activities that require a license. The broker, in conjunction with the employing licensed individual, group or team, is responsible for all acts of the unlicensed assistant.

Firm – Corporation, Partnership, Association, Sole Proprietor.

Branch office – An extension of a main firm location (additional operating location).

Branch office broker – A broker associate appointed by the broker to manage the activities of a branch office location.

Team or group members – A group of licensees (under the broker's sponsorship) who form a workgroup to assist each other and work as a team in all transactions.

EMPLOYMENT OR WORK CONTRACT

A. **Employment or Work Contract.** The Broker needs to have an agreement with all licensees affiliated with the broker whether that relationship is as an employee or independent contractor. This agreement should spell out various terms of the relationship – it should be renewed periodically. Following are some of the items that should be addressed in the agreement:

1. **Terms.** This will establish the kind of the relationship between the broker and the licensee and discusses supervision of the licensee and any assistants (licensed or unlicensed). The broker is ultimately responsible for the actions of anyone in the firm and the broker has the authority to terminate anyone in the firm. All listings, contracts, service agreements, etc. are the property of the broker or firm. Items to address:
 - a. Independent contractor or employee
 - b. Personal assistants (licensed or unlicensed). An unlicensed assistant is prohibited from performing licensed activities. The broker (and/or licensee) who engages any assistant to work for the firm is fully responsible for all acts of the assistant.
 - c. Teams and groups
 - d. Ownership of listings, contracts, management agreements, etc.
 - e. Licensee's personally owned real property – sale or lease thereof
 - f. Other

2. **Compensation to licensee.** All compensation received by associates for performing licensed activities must be paid to them through the associate's broker. A broker's policy must address how compensation is to be paid to team members as well as assistants to associates. It should also address how unlicensed assistants are compensated to make sure it falls within related rules and regulations. Normally, compensation for acts not requiring a license do not have to flow through the broker; however, the broker must address these situations and address them in the policy manual. Items to address:
 - a. Compensation schedule
 - b. Compensation following termination
 - c. Compensation to team members to include unlicensed assistants
 - d. Splits between licensees within office (referrals) and co-brokerage referrals
 - e. Withholdings, garnishment, remuneration assignment, etc.
 - f. Annual income reporting – IRS 1099, etc.
 - g. Commission disputes
 - h. Other

3. **Termination.** Termination of a licensee could occur for many reasons to include for cause, licensee desiring to transfer to another firm, death or disability.

Therefore, a broker may have slightly different procedures regarding such termination and how it relates to the disposition of unfinished transactions, compensation, etc. Following are a few examples:

- a. Disposition of service agreements and contracts
- b. Unpaid expenses
- c. Licensee requested release to transfer to another firm
- d. Other

4. **Licensee selling, purchasing or leasing out personally owned real property.**

The broker must be very clear as to the requirements that will apply when a licensee sells, purchases or leases out personally owned real property as both broker policy and jurisdiction regulations must be followed. This includes any fee or commission that must be paid to the brokerage. The broker's policy might address, among other things, prior authorization of broker required, use of company tools and facilities, compensation, compliance with regulatory disclosures, etc. From a regulatory point of view, the broker is advised that if a complaint is filed against the licensee and it involves the licensee's personal transaction however, the licensee utilized the brokerage firm's facility, contracts, etc., the broker may be included in the complaint – thus the reason for a licensee to keep their personal and real estate license business separate and clearly identified. Items to address:

- a. Broker policy
- b. Regulatory required disclosures
- c. Errors & Omissions insurance coverage for personal transactions
- d. Personal residence vs. investment property
- e. Other

5. **Board/Association Membership.** The broker will discuss the need for maintaining membership in boards/associations if required by the broker. Normally, if the broker is a member of the association, all licensees sponsored by the broker must also belong to the association. Most associations have a strict Code of Ethics and violations of the Code are met with consequences jeopardizing membership. Membership in the association may also require additional membership requirements, i.e., if a licensee is a member of the REALTOR[®] organization, the licensee must also be a member of the Multiple Listing Service (MLS).

6. Other

WRITTEN OFFICE POLICIES

B. **Written office policies.** Written office policies are useful for standardizing operational tasks and expectations, which in turn is an important component of a brokerage's enterprise risk management. The content will obviously vary with the size and complexity of the brokerage, and it may be started in a small way and grow in content as the broker considers it necessary to augment the procedures. The whole purpose is to provide guidance for all related licensees and for employees and others who perform duties on behalf of the brokerage. It is a combination of instructions and procedures to be followed and the documents or forms that should be utilized. The following section outlines the typical recommended subject matter that should be included in the written office policies.

1. **Orientation for new licensees to the company.** Orientation is the process of informing new employees about the nature of the organization, its policies, procedures, and rules, and the duties and responsibilities of the job. Orientation is the employee's first step in the process of learning the norms, values, attitudes, and behaviors that are expected in the organization. It provides new employees with basic information about the duties of the job; working conditions; compensation and benefits; policies, procedures, and rules; and will also serve to correct any erroneous impressions which may have been created in the recruitment and selection process.

Formal orientation programs are usually conducted within the first week of an employee joining an organization. Examples of the items to be included in an orientation program are listed below:

- a. Read, date and sign acknowledgement of office policy manual and in the future revision pages at specified periods
- b. Accessibility of policy manual or provision of personal copy of policy manual
- c. Regular attendance required for information meetings
- d. Timely pay license renewal fee and complete other license renewal requirements
- e. Duty to account requirements (broker policy and regulatory requirements):
 - i. Submission of deposits to the brokerage
 - ii. Cash policy, including identification of party (know who party is paying cash)
 - iii. Other
- f. Transaction flow process and requirements
- g. Identity of go to person for questions and problem
- h. Sexual harassment
- i. Discrimination
- j. Personal safety procedures and requirements
- k. Other

2. **Multiple responsible brokers – delegation of duties.** Depending upon the regulatory requirements of the jurisdiction, a broker cannot delegate his duties and eliminate responsibility and liability. A broker may appoint an alternate person, on a temporary basis, who may be in charge in the absence of the broker however, the broker is fully responsible at all times. The same is true for jurisdictions that allow branch offices to operate as a branch of the main office. In these cases, the broker may appoint a branch broker to supervise the activities of the licensees (and any assistants) at the branch location however, the broker is still fully responsible for all activities at all locations.
3. **Ensure licensees comply with regulatory license requirements.** The importance of maintaining an active real estate license is paramount and if regulatory requirements are not met on a timely basis, the license could be placed inactive, revoked or suspended. In order for a licensee to legally operate and attempt to limit their liability and risks, the licensee should timely meet all renewal requirements. Depending upon regulatory jurisdiction requirements, the licensee may, in addition to paying the renewal fee, be required to successfully complete continuing or post-license education, show evidence of errors and omissions insurance, etc. prior to each active license renewal term or a designated time as required by the jurisdiction.

In addition, if the licensee is a member of a professional association, i.e., real estate boards/associations, Multiple Listing Service, etc., the professional association requires the member to pay regular membership dues and complete additional training in specified content areas, i.e., to retain REALTOR[®] membership the member must complete a two (2) clock hour REALTOR[®] Code of Ethics course every three (3) years.

In addition, if the licensee maintains certain professional designations, CCIM, (locate designations that require yearly requirements to remain certified) these requirements must be met in order to maintain the professional designation.

The broker should address these requirements with all licensees and have a system designed to constantly remind the licensees of the yearly requirements.

If a licensee is placed inactive for not completing active license renewal requirements, or for that matter professional organization member or designation requirements, the regulatory jurisdiction may initiate a complaint against the broker and licensee for failure to supervise, unlicensed activity, false advertising, etc.

- a. Active license
- b. Continuing education compliance
- c. Errors and omissions insurance compliance
- d. Professional association renewal requirements, i.e., REALTOR[®], MLS, etc.

- e. Professional designations (maintenance requirements)
- f. Other

4. **Establishing Competency.** Upon entering the real estate profession, a real estate licensee has only been exposed to basic real estate terminology, land descriptions and basic real estate facts and instructor-formed scenarios. The licensee successfully passed a jurisdiction specific examination however, most pre-license education does not delve into the process of how to assist customers, how to obtain a listing, how to show a property, how to write a contract, how to process through a transaction, etc. It is the broker's responsibility to inform and educate the licensee with real estate knowledge and expertise necessary for the day-to-day functions needed by the licensee to adequately and professionally assist consumers through the real estate process and transaction – this is known as “broker risk reduction, 101”. The broker may require that each licensee graduate from this process and could assign other mentors (within the office) to assist the licensee through the process.

A licensee should only work in the area of their expertise, i.e., residential sales, property management, commercial, farm and ranch transactions, etc. As indicated previously, most pre-license education is directed toward the basics of real estate, which is geared toward residential sales transactions. If licensees are to provide services in other specialty areas like commercial, property management or farm and ranch transactions, it is suggested that additional education and certifications be obtained by the licensee prior to them providing services to the consumer.

5. **Advertising and solicitation.** The rules applying to advertising and other solicitations generally restrict licensees from knowingly publishing real estate advertising containing any false statement or misrepresentation concerning real estate, a trade in real estate or the provision of real estate services. In addition, licensees are generally prohibited from publishing real estate advertising concerning real estate sales or other disposition unless the owner of the real estate, or an authorized agent of the owner, has consented to the advertising. These provisions would include pamphlets, letters and electronic communications, and would also cover press releases about real estate deals and even references in letters to matters pertaining to properties. The brokerage's written policies should address the following:
- a. Definition of advertising (as per the regulatory authority)
 - b. Forms of advertising (newspaper, internet, social media, billboards, etc.)
 - c. Distribution methods for advertising
 - d. General mandated rules for advertising (federal, state, province, territory, etc.)
 - e. Brokerage approval process
 - f. Client solicitation and consent
 - g. Joint advertising
 - h. Special promotions

- i. Self-promotion and marketing
- j. Teams and Groups
- k. Unlicensed assistants
- l. Personally owned property
- m. Responsibility of costs related to advertising
- n. Other

6. **Unlicensed Activity.** A broker must be actively engaged in the management of their related brokerage, ensuring that the business of the brokerage is carried out competently and in accordance with the applicable legislation and rules. The broker must ensure that there is an adequate level of supervision for licensees, licensee assistants, employees and others who perform duties on behalf of the brokerage. The broker must take steps to deal with any conduct that may constitute a breach of the licensing requirements to include Code of Ethic violations, if applicable. The written office policies may assist in this regard, and should include the following information:

- a. Identify what activities require a license (and what does not) and develop policy to display in office
- b. Must possess an active license prior to performing licensed activity
- c. Prohibited from splitting a fee with an unlicensed person
- d. Unlicensed assistants
- e. Report individuals who perform licensed activity without a license to licensing authority immediately
- f. Other.

7. **Marketing.** In addition to the restrictions dealing with advertising and solicitation regarding specific properties, there are some specific rules that a broker must address regarding the marketing of real estate services generally. In addition to the marketing of the brokerage's services, these rules may also apply to the marketing of personal offices, including an office that is in the residence of an individual licensee or of any other person and deal with the placement of signage and the manner in which the brokerage name and address is presented in any advertisement.

8. **Organization and Administrative Procedures - Documentation, Process and Requirements.** A broker must be actively engaged in the management of their related brokerage, ensuring that the business of the brokerage is carried out competently and in accordance with the applicable legislation. The broker must ensure that there are adequate resources available for licensees, employees and others who perform duties on behalf of the brokerage. The written office policies may assist in this regard, and should address the following:

- a. Identify contact and resource person for questions
- b. Timely deposit of earnest money or items
- c. Ethical conduct

- d. Process and procedures:
 - i. Residential Sales:
 - a. Contract Usage and Resources
 - b. Listing – Obtaining and Servicing
 - c. Buyer Representation Agreement
 - d. Showings, Open House Prospects
 - e. Obtaining and Presenting the Purchase Agreement
 - f. Counter-Offers, Back-up Offers
 - g. Inspections
 - h. Title and abstract
 - i. Appraisal
 - j. Closing Procedures
 - k. Commission/compensation/referral fee/finder’s fee, etc
 - l. Other
 - ii. Lease Purchase
 - iii. Property Management
 - iv. Commercial
- e. Disclosures:
 - i. Agency or broker relationship
 - ii. Material facts or defects
 - iii. Property Condition
 - iv. Beneficial interest
 - v. Referral compensation
 - vi. Lead-based Paint
 - vii. Radon
 - viii. Meth labs
 - ix. Mold
 - x. Floodplain certification
 - xi. Landlord and Tenant
 - xii. Other
- f. Forfeiture of earnest money or items
- g. Return of earnest money or items
- h. Closing
- i. File reconciliation
- j. Other

9. **Teams and Groups.** The broker must ensure that there is an adequate level of supervision for related licensees, including groups of licensees who work together (possibly referred to as a “team or group”). As for any other licensees or employees and others who perform duties on behalf of the brokerage, the broker is responsible for ensuring that such groups are supervised accordingly and that they are conducted in such a way as to avoid misleading the public (e.g. that they do not give the impression of being an incorporated company or a separate real estate brokerage). Written office policies may assist in this regard and should include direction on the following:

- a. Broker authorization
- b. Broker and team identification in advertising
- c. Advertising of team must meet local statutes and regulations
- d. Meet all local statutes and regulations, i.e., team leader name must be in the advertising; team leader must supervise team members, etc.
- e. Unlicensed persons
- f. Compensation
- g. Other

10. **Professional Conduct.** A broker is responsible for exercising all of the rights of the brokerage, performing the duties imposed on the brokerage and controlling the brokerage's real estate business, which includes supervising all activities performed on behalf of the broker. As such, the professional conduct of the licensee and others who perform duties on behalf of the brokerage is the responsibility of the broker, and the written office policies should address the standards and expectations of the industry in general and of the brokerage in specific.

11. **Regulatory Compliance.** The managing broker is responsible for performing the duties imposed on the brokerage and controlling the brokerage's real estate business, which includes the services and activities performed by licensees and others on behalf of the brokerage. While these may vary by jurisdiction, the written office policies should reflect any applicable legislative requirements, such as:

- a. License Code and Rules
- b. Related Laws (federal, state, province, territory, etc.):
 - i. Do Not Call Registry Act
 - ii. Human Rights Act
 - iii. Fair Housing Act
 - iv. Anti-Trust
 - v. Financial Transaction Accounting Act
 - vi. Electronic Monitoring Act
 - vii. Taxation
 - viii. Real Estate Settlement and Procedures Act (RESPA), Truth in Lending Act (TILA)
 - ix. Foreign Investment in Real Property Tax Act (FIRPTA)
 - x. Interstate Land Sales Act (ILS)
 - xi. Reporting Cash Payments of Over \$10,000
 - xii. Other

12. **Association Code of Ethics and the Multiple Listing Service (MLS).** The responsibilities of a broker are very complex and are required to be performed with an increasingly high degree of professionalism. For this reason, knowledge of the law and business standards is crucial to maintaining good standing as a real estate licensee. The most important source of standards is the applicable

legislation however, legislation can only set a basic or minimum standard of legal conduct. Therefore, nearly all professional bodies establish a Code of Ethics in order to raise general business standards to a higher level and also to provide guidelines for interaction between professional members. The written office policies should address professional ethics in general, and professional association rules specifically, as applicable.

13. Other.

RECORDS MANAGEMENT

C. **Records Management.** Proper records management is vital to a well-run and efficient brokerage business. Ensuring that the files, accounts, records and information are maintained and secured are fundamental steps toward limiting a broker's risk and providing public protection.

1. **Record retention schedule** (that complies with relevant laws). Every jurisdiction has specific laws or rules pertaining to record retention and security as well as other applicable federal law requirements that must be followed. Normally, jurisdictions require that the records be retained for a specific time period; and upon expiration of the time period, the records are to be destroyed in a secure manner. Some examples of records that should be retained are service agreements, transaction files (consummated or not), trust or escrow account records, bookkeeping systems, i.e., canceled checks, expenditures, deposits, general account ledgers, etc., that pertain to a real estate transaction in which the broker provided service(s).

Whether the retained records are hard copy documents or electronic images of documents, a reference log or filing system should be developed so that the records can be easily found and accessed. There should also be a notation on each file indicating when the records can be destroyed based on applicable retention time periods required by your regulatory jurisdiction and/or judicial, this is particularly important.

2. **Documents to be retained:**
 - a. Contracts.
 - b. Addenda
 - c. Service agreements
 - d. Banking agreements/records/ledgers
 - e. Sales meeting attendance
 - f. Independent contractor agreements
 - g. Advertising records
 - h. Continuing education records
 - i. Errors and omissions insurance
 - j. Other
3. **Personal Information Protection Act** (breach of consumer's personal information). Each country and/or jurisdiction may have laws governing the protection of a consumer's personal identity information. For example, in the United States there is a federal law outlining requirements for licensees to follow in the event consumer's personal information, that is maintained as part of a database, is breached and used by a third party.

If a licensee maintains a consumer's name along with other personal identification numbers, i.e., SSN, driver's license, or a credit card or financial information with

the personal security code, the information must be encrypted or redacted so that in the event of a breach, the information cannot be obtained and used by a third party. If the information is breached, federal requirements outline a notification process to be given to consumers whose information was breached. Further, there may be additional local laws requiring notification be made to the local jurisdiction's regulatory authority (Real Estate Commission, Council, Department, etc.).

4. **Disaster Recovery.** The brokerage should outline recovery procedures to be taken in the event of a disaster, i.e., fire, water damage, natural disaster, computer hardware crash, etc. Normally, these incidents occur without prior notice thus the reason for an advance procedure plan. If possible, the brokerage should have a procedure plan in place for minor incidents like a roof leak that damages IT equipment and transaction files versus a major natural disaster destroying the entire office contents. Of utmost importance is the following:
 - a. Ensure that data information is backed up nightly and stored at a remote location or taken off site. If all of the information that is kept by a brokerage is stored on a personal computer's hard drive, and the personal computer is destroyed in a disaster, or for that matter the hard drive crashes, all information will be lost – this is the reason for taking the backed-up information off site or backing the information to a remote location.
 - b. Transaction files that are in hard copy form should be maintained in one location within the office. Once a transaction file is closed, if at all possible, it should be scanned and made into an image that can be stored by a computer. Once the transaction file becomes a range of images, a file can be created and it can be included in the nightly backup of information.
 - c. Other.
5. **Company acquisition – Continuity of record retention.**
6. Other.

TRUST ACCOUNTS

D. **Trust Accounts.** Trust accounts are normally regulated by the jurisdiction's regulatory authority and subject to audit. If a broker accepts funds or items of others, the broker must maintain a trust account that is styled in the name of the broker or registered trade name and the broker must be a signor on the account. All trust accounts must be registered with the regulatory authority. The funds held in a trust account must never be commingled with funds of the broker. The broker is responsible to account for said funds and items held by the broker thus requiring that. Monies or items of others shall not be placed in the broker's operating account. Some jurisdictions require specific trust accounting software to be utilized so that the broker's information can be easily accessed and monitored by the regulatory authority.

1. **Account responsibility and authorized signor(s).** In most jurisdictions, the broker is ultimately responsible for the trust account but may authorize additional persons to have signature authority on the account.
2. **Names, numbers and banks.** The broker may maintain several accounts in the same bank or in different banks; however, the broker shall ensure that all accounts are registered with the regulatory authority and updated regularly. Anytime an account is added or deleted, the broker shall notify the regulatory authority.
3. **Bank fees.** Bank fees are not to be deducted from monies of others that are held in trust by the broker, but rather must be paid for by the broker. If bank fees are required to be paid, the bank should deduct the fees from the brokerage's general account, or if allowed by the real estate regulator, the broker shall place an amount of money into the trust account to cover customary administrative account fees; however, the amount of funds should be minimal and routinely accounted for.
4. **Interest on trust accounts.** If laws permit the broker to retain interest on trust funds, the broker should ensure that the client/consumers have consented in writing to the broker keeping the interest payments. If the broker does not keep the interest payments and such shall accrue to the client, the broker shall keep very detailed records pertaining to the interest earned – if not the broker could be found in violation of commingling funds. When the broker's account bears interest, the broker shall account for said interest as interest is earned. If the broker's account bears interest, and the interest belongs to the broker, the broker shall routinely sweep the interest from the account so as to not be considered as commingling funds. If the brokerage's trust account is required to submit the interest to an industry/consumer fund the broker shall account for all interest earned and see that the interest is paid over to the fund as stipulated in the regulations.
5. **Proper handling of trust accounts.** Regulatory authorities normally outline these requirements in their laws and/or regulations.

6. **Handling of option fees and earnest money.** Individual contracts and/or contract addendums should address these to include the disposition of these funds in the event of default.
7. **Deposits received by broker and placed in a trust account.** Regulatory authorities require that funds or items held by a broker shall be placed in a trust account by a certain time period.
8. **Property Management accounts.** In addition to the regulatory authority's requirements pertaining to trust accounts, there may be additional laws or rules governing accounts holding a tenant's security deposit – most of these laws can be found under a Landlord and Tenant Act in the respective jurisdiction. All funds received by the broker in connection with the management of property shall be placed in the trust account (rents, security deposits, pet deposit fee, advance funds for repairs, etc.) – funds belonging to others shall not be placed in the broker's operating account.
9. **Adequate controls for maintaining trust accounts.** Ultimately the broker is responsible for all funds and items held in the trust account. Regulatory authorities may vary on whether or not additional signors on the account have to be licensed or not. The broker's should do periodic audits on a routine basis verifying that accounting procedures are being followed, including reconciling the funds. Property management accounts have proven to be very vulnerable and subject to abuse by both licensed and unlicensed individuals, since the accounts and receivables are in constant flux.
10. **Audit requirements from regulator.** Regulatory authorities conduct periodic audits that may or may not be scheduled in advance with the broker. Either way, the broker should always maintain the accounts and files in an organized manner allowing audits to be performed efficiently.
11. Other.

BROKER RELATIONSHIP WITH CONSUMER

E. Broker Relationship with Consumer - Agency, Transaction Broker, Facilitator, etc.

1. Office policy on broker relationship with consumer
2. Disclosure of relationship
3. Fiduciary vs. non-fiduciary duties
4. Confidentiality of information
5. Conflict of interest
6. Mandatory duties and responsibilities
7. Confirmation of disclosure
8. Consent to change relationship
9. Other

SAFETY PROCEDURES

- F. **Safety Procedures.** Real estate licensees routinely find themselves in situations where they are alone with clients or customers about whom they have very little information. The very nature of showing real estate to prospective buyers and tenants who are virtual strangers can make licensees, both men and women, susceptible to becoming victims of violent crimes. Twenty-one real estate professionals were murdered while on the job in the United States in 2000. Between 1982 and 2000, 206 licensees died as a result of violent assaults. Many more were raped, beaten or robbed.

The broker should develop and implement safety procedures to be utilized by licensees and office staff on a daily basis.

Numerous personal safety guides and tips are available for view, i.e., www.orec.ok.gov, Publications, Safety Guide; www.REALTOR.org/safety, etc. Many guides contain common sense safety tips that have been compiled from crime victims and real estate associations across the country.

CRISIS MANAGEMENT – DISPUTE RESOLUTION

- G. **Crisis Management – Dispute Resolution.** When people cannot agree or unexpected circumstances occur the broker should be ready to assist in a resolution. Regarding disputes, most can be handled by merely bringing the parties together and allowing the parties to voice their concerns and/or solutions however others may require the use of a trained mediator to bring about some clarity to the facts at hand. Either way, the broker should have a process outlined so that the licensees know the standard process when disputes occur.

Crisis management is a bit tricky in that these situations occur quickly and without any advanced notice to anyone. These may range from a high-production licensee being charged with a crime, a licensee being brutally murdered or destruction of the office location and/or transaction records. The broker should immediately evaluate damage

control. Each situation may prompt a different set of actions and/or processes to include bringing in outside help and assistance. The broker should expect the news media to be promptly calling and requesting a statement so the broker must ensure the person answering the phone knows the policy regarding speaking to the media. If the broker has a policy setting out some simple steps that must be followed (during crisis situations) the broker will reduce the broker's liability and risk.

ADDITIONAL INFORMATION

H. **Additional Information.** The broker should find ways to motivate those they supervise to comply with all applicable law, rule and ethic requirements. Creating a simple list of items, as follows, that is posted in the office may assist with this challenge:

1. You are prohibited from working outside the broker's supervision
2. All funds or items of value are to be turned over to broker promptly
3. Seek approval prior to placing any advertising or promotions not previously approved
4. Do not procrastinate in paying your license renewal fee and completing other license renewal requirements for an active license
5. If you have questions, never hesitate to ask
6. Never ask an unlicensed person to perform a licensed activity
7. Safety first
8. Follow through with what you say you will do
9. Always return a customer's call or communication
10. Remember, your broker and your co-workers are also your customers
11. Other

The Broker may also want to consider compiling a list of activities that do not require a license to assist and ensure that unlicensed persons stay in compliance – some jurisdictions have compiled such a list.