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February 18, 2014

NOTICE OF INTENT

NOTICE IS HEREBY GIVEN that the Georgia Real Estate Commission proposes to amend the following Rule:

520-1-.09 Advertising.

Any party wishing to express opinions or views on the proposed Rule listed above may do so by contacting or writing Commissioner William Rogers or Deputy Commissioner Craig Coffee at the Georgia Real Estate Commission, Suite 1000 - International Tower, 229 Peachtree Street, N. E., Atlanta, Georgia 30303-1605, no later than March 21, 2014.

This Rule is being promulgated pursuant to O.C.G.A. §43-40-2(e). The Commission proposes to amend this Rule at its scheduled meeting on April 2, 2014, at 9:00 a.m. at the address listed above. This Rule will become effective May 1, 2014.

GEORGIA REAL ESTATE COMMISSION

CRAIG COFFEE
Deputy Commissioner

520-1-.09 Advertising.

(1) Definitions.

(a) Advertising or Advertisement. For the purposes of this Rule, the term “advertising” or “advertisement” means any manner, method, or activity by which a licensee through the use of any media makes known to the general public real estate for sale, rent, lease, or exchange.

~~(1)(b) Media. This rule regulates advertising whether done personally by a licensee or through any media. For the purposes of this Rule, ¶ the term “media” includes, but is not limited to, print, photographs, broadcast, and computer media, the Internet including, but not limited to, such examples as newspapers, magazines, flyers, posters, business cards, billboards, radio, videos, television, signs (including, but not limited to, office, directional, “for sale”, “for lease”, “sold”, or vehicle signs), newsletters, and the Internet voicemail, email, facsimile transmissions, Internet websites, blogs, video blogs, property listing database services, email farming, news groups, discussion lists, bulletin boards, social networking/social media, instant text messages, multimedia advertising, banner ads, pop-ups, and similar media.~~

(2) Misleading Advertising. Any advertising that is misleading or inaccurate in any material fact or in any way misrepresents any ~~property real estate, terms, values, services, or policies~~ is prohibited. Whenever a licensee becomes aware that a principal with whom the licensee’s firm has a brokerage engagement is advertising to sell, buy, rent, lease, or exchange a ~~property~~ real estate in such a manner that is inconsistent with this rule, the licensee must immediately take steps to stop the advertising until it complies with this rule.

(2.1) Advertising by Affiliated Licensees. All advertising by associate brokers, salespersons, and community association managers must be under the direct supervision ~~and in the name of the~~ their broker and in the name of their firm ~~who holds their licenses.~~

(3) Written Permission to Advertise. A licensee shall not advertise any real estate ~~property~~ for sale, rent, lease, or exchange unless the licensee has first secured the written permission of the owner ~~or~~, the owner's authorized agent, or the owner of a leasehold estate. ~~Where~~ When such permission is granted, a licensee advertising real estate ~~property~~ that is listed with another ~~licensee~~ firm shall clearly and conspicuously disclose that fact and the name of the listing ~~licensee~~ firm unless the listing ~~licensee~~ firm has expressly agreed in writing to waive those clear and conspicuous disclosures.

(4) Discriminatory Advertising Prohibited. A licensee shall not advertise to sell, buy, exchange, rent, or lease ~~property~~ real estate when such advertisement is directed at or referred to persons of a particular race, color, religion, sex, handicap, familial status, or national origin. The contents of any advertisement must be confined to information relative to the ~~property~~ real estate itself, and any advertisement that is directed at or referred to persons of any particular race, color, religion, sex, handicap, familial status, or national origin is prohibited.

~~(5) Internet Advertising. Any licensee who advertises any property for sale, rent, lease, or exchange on the Internet must remove such advertisement within ten days after the expiration of the listing. Note: See 520-1-.11(3) for requirements for licensees advertising as principals. In addition to the unfair trade practices found in O.C.G.A. §43-40-25 (b) (1), (2), (11), (12) and (21) or any other requirements found in this Rule, any advertising on the Internet by a licensee of real estate for sale, rent, lease, or exchange shall disclose the name and telephone number of the licensee's firm on every viewable web page of a website except as herein otherwise provided.~~

(a) When advertising in electronic messages of limited information or characters, a licensee shall provide a direct link to a display that is in compliance with this Rule.

(b) When advertising real estate for sale, rent, lease or exchange on an internet website not owned or controlled by the licensee or firm with which the licensee is affiliated and that website's terms of use limit the licensee's ability to comply with this paragraph, the advertising shall provide a direct link to a display that is in compliance with this Rule on every viewable webpage of the website.

(c) Information on a website maintained by a licensee that is outdated shall be updated or removed from the website within thirty (30) days of the information becoming outdated.

(d) If a licensee's website is maintained by an authorized third party (other than its firm or its franchisor's webmaster), the licensee shall provide to the third party, a timely written notice, by mail, fax, or electronic means, of any updates to outdated information or information to be removed from the website, so that such updates or information removal may be accomplished in accordance with this Rule. A licensee

who provides such timely notice shall not be in violation of this Rule if the third party fails to effect an information change as notified.

(e) The requirements of this Rule apply to advertising and information on a website that is within the licensee's ownership or direct control. No licensee shall be responsible for any information taken from the licensee's website, or other advertising, if placed on a website, or in other advertising outside the licensee's ownership and/or direct control and without the licensee's consent.

(6) Trade Names and Franchise Names. For purposes of this rule the term trade name shall include trade mark and service mark; and the term advertising shall include, but is not limited to, advertising done by others ~~in~~ on behalf of the licensee.

(a) Any firm using a trade name or any franchisee in advertising specific ~~properties~~ real estate for sale in any media shall clearly and unmistakably include ~~said~~ the firm's name as registered with the Commission in a manner reasonably calculated to attract the attention of the public. The firm's name shall appear adjacent to any specific ~~properties~~ real estate ~~said~~ the firm advertises for sale so that the public may unmistakably identify the firm ~~responsible for the handling of the listing of the specific property~~ real estate. In advertising a ~~specific property or properties~~ real estate for sale, ~~for~~ rent, or ~~for~~ exchange, the name of the ~~licensed~~ firm offering the ~~property~~ real estate for sale, ~~for~~ rent, or ~~for~~ exchange shall appear in equal or greater size, prominence, and frequency than the name or names of any affiliated licensees or groups of licensees.

(b) Any firm using a trade name or any franchisee shall ~~on any signs, business cards, contracts, or other documents relating to real estate transactions~~ clearly and unmistakably include ~~said~~ the firm's name as

registered with the Commission on any contracts or other documents relating to a real estate transaction.

(c) Any firm using a trade name or any franchisee shall clearly ~~and unmistakably~~ include ~~said~~ the firm's name as registered with the Commission on office signs.

(7) Firm Names and Telephone Numbers in Advertising. In advertising ~~a specific property or specific properties~~ real estate for sale, ~~for~~ rent, or ~~for~~ exchange in any media:

(a) ~~all~~ firms must include in the advertisement a name of the firm ~~that is~~ as registered with the Commission and a telephone number for the firm, except when complying with lawful restrictions (such as covenants or local governmental ordinances) that forbid the use of the firm's name on a particular type of sign;

(b) the name of the ~~licensed~~ firm ~~offering~~ advertising the ~~property~~ real estate for sale, ~~for~~ rent, or ~~for~~ exchange shall appear in equal or greater size, prominence, and frequency than the name or names of any affiliated licensees or groups of licensees;

(c) the firm's telephone number shall appear in equal or greater size , prominence, and frequency than the telephone number of any affiliated licensee or groups of licensees, and it must be a number at which the public can reach ~~the~~ a broker or a manager of the firm without going through the affiliated licensee(s) listed in the advertisement;

(d) whether contained in a logo or standing alone, the name of the firm ~~as registered with the Commission~~ must be in equal or greater size, prominence, and frequency than the name of any affiliated licensee or group of licensees; and

(e) a block advertisement in any print media that advertises various listings of a ~~brokerage~~ firm and includes the name of the listing agent next to each listing shall be in compliance with this rule if the name of the ~~brokerage~~ firm appears only once at the top of the advertisement in equal or greater prominence and print size than any of the listing agent's names. The firm's name may be located in other positions in such block advertisements if the firm name appears clearly larger and more prominently than the name of any other licensee in the advertisement.

(8) Licensees Advertising as Principals. A licensee shall not advertise to sell, buy, exchange, rent, or lease ~~property~~ real estate in a manner indicating that the offer to sell, buy, exchange, rent, or lease such ~~property~~ real estate is being made by a private party not licensed by the ~~Real Estate~~ Commission.

Every associate broker, salesperson, and community association manager is prohibited from advertising under the licensee's ~~own~~ individual name to buy any ~~property~~ real estate or offering for sale, rent, or lease any ~~property~~ real estate. All advertising by associate brokers, salespersons, and community association managers must be under the direct supervision ~~and in the name of the~~ their broker and in the name of their firm ~~holds their licenses~~. However, when a licensee wishes to advertise ~~property~~ real estate owned by the licensee and which is not under a brokerage engagement ~~with a broker~~, the licensee may do so provided:

1. if the licensee's license is affiliated with a ~~broker~~ firm, the broker holding the licensee's license has been notified in writing of the specific ~~property~~ real estate to be advertised;

3 2. if the licensee's license is affiliated with a ~~broker~~ firm, the broker gives written consent to advertising the specific ~~property~~ real estate and approves the advertisement itself.

2 3. regardless of whether the licensee's license is affiliated with a ~~broker~~ firm or on inactive status, any advertisement must include either (a) the legend "seller, buyer, landlord, tenant (select the appropriate name) holds a real estate license" or (b) the legend "Georgia Real Estate License # (insert licensee's six digit number; for example, 000001)." "Georgia Real Estate License" may be abbreviated to "GA R. E. Lic.;" and

(9) Licensees Advertising Approved Schools. A licensee shall not advertise that such licensee offers, sponsors, or conducts Commission approved courses or that such licensee offers, sponsors, or conducts Commission approved courses in conjunction with an approved school or other approved organization unless the licensee is approved by the Commission to offer such courses.

(10) Notwithstanding any other provision of this Rule, a licensee shall make every reasonable attempt in advertising to assure the public knows that they are being contacted by a licensee.

Authority O.C.G.A. Secs. 43-40-2, 43-40-3, 43-40-7, 43-40-12, 43-40-14, 43-40-16, 43-40-19, 43-40-20, 43-40-27, 43- 40-27.1.