

Department of Commerce Regulations

Access to Governing Statutes & Rules

[MN Statute 82.48](#) requires that every real estate office and branch office have a current copy of MN Statutes [82](#) and [83](#) available for the use of licensees. You can access the current Statutes and Rules through the Minnesota State Legislature web site at www.leg.state.mn.us.

Advertising

[MN Statute 82.22, Subd. 6](#) states that, "A salesperson shall only conduct business under the licensed name of and on behalf of the broker of whom he or she is licensed." This language technically prohibits the use of nicknames or team names in any real estate advertising. However, the MNAR has worked with the MN Department of Commerce (DOC) to obtain an exception to this rule. The DOC has agreed to allow a licensee to use a nickname in their advertising as long as the individual also identifies their first and middle initial of their legal name immediately before their nickname. As an example, if the licensee's legal name is William F. Jones and his nickname is "Bud", the Department would allow him to advertise using one of the following three options:



Please keep in mind that any and all advertising must also contain the name of the real estate company.

**W.F. Bud Jones; or
W.F. "Bud" Jones; or
W.F. (Bud) Jones**

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When using a real estate "team" name in any advertising, the Department conditions their use as follows:

- ✓ The broker is aware and authorizes the use of group or team names, and
- ✓ The broker/company name must be more prominently displayed in **bolder and larger print** than the team or group name, and
- ✓ The Department will only allow team names which are informal designations such as **Smith Team** or **Smith Group**, and
- ✓ The Department **will not** allow names such as Smith Partners or Smith Associates or Smith Real Estate Company, as they may imply a separate entity or company which may be misleading to the public.

The following two options would be acceptable forms of using team names in real estate advertising:

The Smith Team at ABC Realty; or

The Smith Group
ABC Realty

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Compensation

- ✓ A licensee shall not accept compensation or other consideration for the performance of any acts requiring a real estate license from any person except the real estate broker to whom he is licensed or to whom he was licensed at the time of the transaction.
- ✓ A licensee shall not accept, give or charge any undisclosed commission or realize any direct or indirect compensation that is paid to or for the benefit of the licensee on an expenditure made for a principal. An example of this would be commissions received on homeowner warranty packages. Such a commission must be disclosed.
- ✓ A licensee may not pay any portion of his/her compensation to an unlicensed person except a licensee may pay part or all of his/her compensation to a principal to the transaction in which the licensee is involved, i.e. buyer's agent sharing his/her compensation with the buyer, a listing agent sharing his/her compensation with a seller. If a licensee is sharing his/her compensation with a party to the transaction who is not being represented by that agent, the agent should advise his/her client that s/he is paying a portion of the compensation to the other party to the transaction.



A licensee may not pay any portion of his/her compensation to an unlicensed person...

Offers

- ✓ All written offers to purchase shall be promptly submitted in writing to the seller. Any delays other than those dictated by the circumstances of the parties or the transaction (i.e. one party is out of town) runs the risk of violating this Commerce Department Rule.
- ✓ Licensees shall not disclose the terms of an offer to another prospective buyer or the buyer's agent prior to the presentation of the offer to the seller.

Negotiation of Future Contracts

A licensee may discuss and negotiate the terms of a future listing agreement, buyer representation agreement or facilitator services contract directly with a seller or buyer knowing that the seller or buyer has an exclusive written contract for representation or assistance with another broker as long as the consumer initiates the conversation. However, a licensee must inquire of the seller or buyer whether an exclusive contract for representation or assistance exists before entering into any discussions with the consumer and the licensee **MAY NOT** enter into a contract until after the consumer's existing contract expires.

Procedures When a Commerce Department Violation is Alleged

- ❶ Once a complaint is filed, an investigation is conducted by Commerce Department representatives including oral or written questions proposed to the licensee.
- ❷ Depending on the severity of the alleged violation, the Commerce Department will often times seek to negotiate a settlement with the licensee on some agreed upon sanction.
- ❸ If a licensee and the Commerce Department cannot reach an agreement, the matter will proceed to an administrative hearing. At the administrative hearing, evidence is presented by the Commerce Department and the licensee, and an administrative judge makes the decision as to whether a Commerce Department rule has been violated, and if so, the sanction that will be issued. The sanction can be greater than was proposed by the Commerce Department during negotiations.

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Commerce Department Sanctions

- ✗ Letter of Warning (Informal and not public)
- ✗ Censure
- ✗ Fine, up to \$10,000 per violation
- ✗ Suspension of license
- ✗ Revocation of license

Licensing Renewal

Licenses are issued for a two year period and must be renewed by June 30.

(Much of the information listed below was taken directly from the [Department of Commerce website](#).)

- ✓ Prior to each renewal period, reminder postcards are sent to the Primary Broker of each real estate company. The renewal postcards direct the primary broker to the PULSE portal (www.pulseportal.com) and provide any other necessary information that the primary broker may need in order to renew a salesperson license online.
- ✓ The Primary Broker must certify through the on-line renewal process that the licensee has completed thirty (30) hours of continuing education within the two (2) years prior to each renewal, including at least one (1) hour of fair housing law and one (1) hour of agency law.
 - ✗ Non-residents who complete their state's approved continuing education during the two (2) years prior to renewal may count it toward the thirty (30)-hour Minnesota continuing education requirement.
 - ✗ The licensee's continuing education should NOT be reported to the Department at renewal time.
 - ✗ The licensee and the Primary Broker must retain copies of all education forms and certificates for their own records.
 - ✗ All education records are subject to random audit by the Commerce Department, and course completion records for those individuals selected must be submitted to the Department upon request.
 - ✗ Approved continuing education courses may be sponsored or offered by a broker of a real estate company and may be held on the premises of a company licensed under [MN Statute 82](#), programs offered by the Minnesota Continuing Legal Education will not automatically be approved for credits.
 - ✗ Approved continuing education courses may be taken using interactive technology and the Internet.



Salespersons who move from one Broker to another must submit a Salesperson Application and Transfer fee.

License Transfer

Transfer requirements:

- ✓ Effective May 30, 2007, applications to transfer a real estate (broker/salesperson) license will be done electronically using the PULSE portal (www.pulseportal.com).

Application for License:

- ✓ Effective May 30, 2007, applications for a real estate broker or salesperson license must be submitted electronically through the PULSE portal (www.pulseportal.com).

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Trust Accounts

No corporate officer, or partner, who maintains a salesperson's license, may exercise any authority over any trust account administered by the broker nor may they be vested with any supervisory authority over the broker.

✓ **Deposits:**

Trust funds, including earnest money checks, must be deposited in the listing broker's trust account not later than the third business day (unless otherwise agreed to in writing) after delivery of the check to the broker, except the check may be held by the listing broker until acceptance or rejection of the offer when the standard MNAR Purchase Agreement is being used.

✓ **Co-mingling of Funds:**

A broker, salesperson or closing agent may not co-mingle personal funds in a trust account except a sum from personal funds may be maintained in a trust account as long as it is identified and used to pay service charges or satisfy the minimum balance requirements related to the trust account.

✓ **Release of Trust Funds:**

In the sale of real estate, trust funds held by the Broker should be release only upon:

- ✗ distribution pursuant to closing under a purchase agreement, or
- ✗ signed cancellation of the purchase agreement by all sellers and buyers, or
- ✗ a court order authorizing distribution, or
- ✗ presentation of proper cancellation of purchase agreement documentation pursuant to [MN Statutes 559.21, 559.217, Subd. 3](#) or [559.217, Subd. 4](#).



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