

LENDERS UPDATE™

ALT & ASSOCIATES NEWSLETTER

A COMPLIMENTARY SERVICE TO THE MORTGAGE LENDING INDUSTRY

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BRE PUBLISHES WARNING

The California Bureau of Real Estate through its commissioner, W. Bell has issued a special Bulletin warning real estate salespersons not to intentionally or inadvertently represent that they are BRE brokers.

In September 2015, the Bureau issued an advisory captioned “*Disciplinary Warning to Real Estate Salespersons Who Act, Conduct Themselves, and/or Advertise as ‘Independent’ Real Estate Professionals -- and a Simultaneous Caution to Brokers Who Allow or Support Such Practices*”. Licensees are advised to review that prior advisory since the practices warned against are apparently still continuing. This new advisory is a supplement to that prior warning. BRE has noticed the use by some salespersons of names and designations that suggest and mislead the public into falsely believing that such salespersons are real estate brokers.

A common scenario is the use by a salesperson of a fictitious business name that would lead the public to incorrectly believe that the business is operated and managed by a real estate broker. For example, a salesperson conducts business and advertises using a business name, marketing the virtues of say “DBA Real Estate”. The public would not think that individual salesperson must be supervised by another, and could conclude that DBA Real Estate is a real estate broker or brokerage.

Also, salespersons continue to identify themselves as “independent” real estate practitioners, and they advertise as such. Unless those salespersons are operating as “teams”, in full compliance with the California laws and rules, that is also prohibited. As was also stated in the prior warning;

“under California law, with its two-tiered licensing system, real estate salespersons cannot provide - or advertise that they can provide - real estate services independently of their responsible brokers. Likewise, salespersons must be associated or affiliated with, and be reasonably supervised by (which supervision includes broker review of the advertising used by the broker’s salesperson or salespersons pursuant to Commissioner’s Regulation 2725(e)) a responsible broker in order to engage in real estate licensed activities in California.”

Both the broker and salesperson are subject to significant disciplinary action if found to have engaged in these practices.

ABOUT ALT & ASSOCIATES

Alt & Associates publishes the *Lenders Update* via e-mail as a complimentary service to our friends and clients in the financial industry throughout California and the United States. Over the past three decades, members of the firm have represented Institutional Lenders and Mortgage Bankers and Brokers in all aspects of their business operations. Legal counsel provided to the mortgage industry includes, but is not limited to:

- **Regulatory assistance, both state and federal**
- **Compliance work**
- **Operational advice**
- **Transactional work**
- **Agreements such as Loan Officer Compensation Agreements etc.**
- **Various forms of employee, officer, and/or manager contracts**
- **Litigation representation**

You may direct any questions or comments directly to:

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