



## Policy & Procedures Manual

Zellerman is a registered D.B.A of “JFA” Jason Fox & Associates, Inc.

## **Introduction**

Zellerman has created this policy and procedures manual to provide you with information that will enable you, as a Real Estate Agent, to operate most efficiently. We call your attention to our sophisticated technology, office equipment, facilities, support, and we urge you to utilize them.

We do follow but do not list in detail all of the statutory laws, rules, regulations ethics, and standards of conduct that regulate the activity of a real estate licensees in this manual. We recommend that all agents holding an active Georgia Real Estate License obtain a copy of the Georgia Real Estate license Law and Rules and Regulations from the Georgia Real Estate Commission and a copy of Professionalism in Real Estate (A ready reference to the Code of Ethics and Standards of Practice of the National Association of Realtors) from the National Association of Realtors.

In addition, covenants, agreements, and provisions governing Agents’ conduct are included in our Independent Contractor Agreement and real estate forms promulgated by the Georgia Association of Realtors and the various Boards of Realtors. You should carefully observe all the above provisions.

**Hereinafter, “Agent(s)” refers to all licensed real estate personnel holding an active Georgia Real Estate License; “Associates(s)” refers to all firm’s personnel; and, “the Firm” refers to Zellerman D.BA. Jason Fox and Associates, Inc.**

The firm retains the rights to change, amend, delete, or add provisions herein at any time and by any means of notification deemed appropriate.

## **Mission Statement**

Zellerman strives to provide its clients exclusive services and superior results combining the latest trends with proven traditional methods conducted by a talented and elite collection of associates and staff.

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## **POLICIES**

### **Fair Housing**

We do business in accordance with the Federal Fair Housing Law, (Title VIII of the Civil Rights of 1968, as amended by the Housing and Community Development Act of 1974). IT IS ILLEGAL TO DISCRIMINATE AGAINST ANY PERSON BECAUSE OF RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, FAMILIAL STATUS, SEXUAL ORIENTATION, OR HANDICAP.

The Firm is an equal housing opportunity Firm that adheres to each provision of The Fair Housing law and any violation will not be tolerated. Errors and Omission Insurance does not cover violation of Fair Housing.

### **Equal Employment Opportunity Statement**

The Firm is an equal employment opportunity Firm. The Firm will not discriminate against any Buyer Seller, Or licensed sales person because of race, religion, color, age, sex, national origin, disabilities, or any other reasons prohibited by law.

### **Non-Discrimination Policy**

It is the law of the land that no person shall be discriminated against based on sex, race, color, religion or national origin. Accordingly, it is the policy of this office that no person will be discriminated against in either hiring or Firing of personnel based on sex, race, color, religion, or national origin. Furthermore, it is the policy of this Firm that the independent contractors (Agents) will not discriminate in the showing, selling, leasing, advertising or listing of real estate because of sex, race, color, religion or national origin.

Should an Agent be accused of discrimination, the Broker will conduct an investigation and if the investigation confirms the accusation, the Agent's actions will be reported to the Georgia Real Estate Commission for further investigation and necessary action.

Our Firm, its management, administrators, and Associates subscribe to the principles that:

- Free housing choice is a choice free of practices of influences that would limit that choice because of sex, race, color, religion or national origin.
- Information and services will be made available to enable all Buyers and renters to have free housing choices.

### **Sexual Harassment Policy**

Our Firm is committed to providing a work environment that is free of discrimination. In keeping with this commitment, the Firm maintains a policy prohibiting unlawful harassment, including verbal, physical, or visual, when the harassment is based on race, color, religion, sex, national origin, age, disability of any other factor protected by applicable law.

Sexual harassment is broadly defined as unwelcome sexual advances, requests for sexual favors, and

other verbal or physical contact of a sexual nature. Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It does refer to any remarks or actions of a sexual nature that are not welcome and are likely to be viewed as personally offensive. This includes sexual flirtations, unwelcome physical or verbal advances, propositions, verbal abuse of a sexual nature, vulgar talk or jokes, degrading graphic or verbal comments of a sexual nature about an individual or his or her appearance, the display of sexually suggestive objects, and physical contact of a sexual or particularly personal nature. Cartoons, pictures or offensive working environment may also be considered as harassment. In addition, no one should imply or threaten that an employee, Agent, or applicant's "cooperation" with unwelcome sexual advances or requests for sexual favors (or refusal thereof) will have any effect on an individual's employment, assignment, compensation, advancement, career development, or any other condition of employment or contractual relationship.

Prohibited harassment of a non-sexual nature is broadly defined as verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of that individual's race, color, religion, gender, national origin, age, sexual orientation, or disability (or that of the individual's relatives, friends, or Associates) and that:

- Has the purpose or effect of creating an intimidating, hostile, or offensive work environment.
- Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- Otherwise, adversely affects an individual's work performance.

Prohibited harassing conduct includes epithets, slurs, negative stereotyping, and threatening, intimidating, or hostile acts that relate to race, color, religion, gender, national origin, age or disability, sexual orientation, and written or graphic material for example: pictures or cartoons posted or circulated in the work place that denigrates or shows hostility or aversion toward an individual or group because of race, color, religion, gender, national origin, sexual orientation or disability.

All harassing conduct, whether committed by management or non — management personnel, is strictly prohibited and will bring prompt and certain disciplinary action, including possible termination. No one has the authority to engage in this kind of unacceptable behavior and the Firm will not tolerate it.

If you believe co-workers, Supervisors, or Agents of the Firm have harassed you in violation of this policy, you should promptly report, without fear or reprisal, the facts of the incident and the name(s) of the individual(s) involved to the managing Broker or to the Broker-Owner. Appropriate corrective action will be taken in all such claims. All harassment complaints will be treated in the strictest confidence possible.

## **OFFICE PROCEDURES**

### **Administrative and Management Staff Support**

Clerical and administrative staff is in place to provide efficient and professional services to support the sales staff. The Office Staff are responsible for the orderly conduct of the administrative functions of the office. They do not advise Agents regarding real estate practice or legal matters. Questions should be directed to the Broker only.

### **Legal Assistance**

It is our Firm policy to support a select group of closing attorneys who have demonstrated legal competence over a sustained period of time with our real estate transaction; other than the obvious benefit of a successful closing, an attorney who receives a significant business from our office will lend us legal advice and consultation without billing us for that service. If a question arises during a real estate transaction and the Agent believes legal advice is necessary, the Agent shall inform the management staff of the problem and consult with the management staff and one of our selected attorneys.

If the Agent is sued or threatened with a lawsuit in conjunction with a real estate transaction, he or she should immediately inform the Broker. The Broker will then report the suit to any Errors and Omissions insurance carrier if contracted. The policy deductible is the obligation of the Agent.

In matters of arbitration or alleged violation by an Agent of the Code of Ethics and/or License Law, the Agent and principal Broker will determine the need for an attorney.

### **Code of Ethics**

Our purpose is to provide services to Buyers and Sellers of real estate in a manner that will bring credit to this Firm and our profession; therefore, it is required that we follow the guidelines of the Code of Ethics, made a part hereof by reference.

Should an Agent believe that another Agent of this or any other Firm has violated any of the articles of the Code of Ethics, this violation should be reported immediately to the Broker.

### **Maintaining Contact with the Office**

It is your responsibility to check emails and voice mails on a daily basis. You are expected to check emails a minimum of four times daily during the week and at least once a day on weekends. Voice mails should be checked a minimum of two times daily and once a day on weekends. Failure to respond to messages promptly will result in loss of leads and/or other disciplinary actions. Because much of our core function relies on both communications with our clients and ourselves, not responding to either a voice mail or email in accordance with the above could result in dismissal.

## **Out of Town Policy**

When you leave town, please keep your clients and Associates in mind. Please be sure to assign an Associate to help facilitate your clients while you are out of town and make all arrangements before you leave. Please leave a phone number where you can be reached in case of an emergency. Please submit in writing information pertaining to the length of time you will be out of town and who will be handling your real estate business in your absence. Failure to comply with this request will prompt Zellerman to appoint someone to handle your real estate business. If this happens, you may forfeit your rights to the client, including commission

## **Wall Certificates**

The licenses of all active Agents are kept in the office and readily available if requested.

## **Dress Code**

All Associates are expected to dress in a professional manner at all times while in the office or with clients of Zellerman. Tennis shoes, shorts, jeans, warm-up suits, t-shirts, are not suitable. If a casual day is announced, then please use your judgment

## **Non Smoking Office**

Smoking is not allowed in the office. There is a designated smoking area outside the lobby on the main floor. Please make sure you do not smell like smoke when returning to the office. Some of our Associates are allergic.

## **Drug and Alcohol**

Prohibited in the office.

## **Vehicle**

Associates shall keep their vehicles clean, uncluttered and in good operating condition at all times. In accordance with Georgia law, while transporting an infant under the age of four years, the Associate must require that the child be secured in a restraining seat. While transporting all other children, the Associate must insure that the child wears a seat belt.

## **Change of Address or Name**

The Firm and the Georgia Real Estate Commission must be immediately notified in writing of any change in an Associates' name or address. The Social Security Administration also must be notified. The Firm must have in its records the correct full name and address of each Associate as well as the Associate's correct Social Security number.

## **Reporting Problems to Management**

Please report the following issues to the Broker or Sales Manager immediately:

- 1) Customer/client complaints involving real estate transactions
- 2) Automobile accidents while the Agent is participating in real estate Brokerage transactions.
- 3) Criminal charges, with the exception of traffic offenses and civil lawsuits involving real estate Brokerage transactions.
- 4) Administrative actions, which involve the license law, Code of Ethics and/or inefficient operation.
- 5) Contract default.
- 6) Multiple contract offers (when our Agent is acting as a principal).
- 7) Threatened legal actions and acts of discrimination.
- 8) Unresolved disputes between Agents, within or outside the office.
- 9) Injuries within the office must be promptly reported to the Brokers.

## **Legal and Tax Advice**

No Agent shall give legal advice to a customer or client, specifically, if this advice pertains to whether a client/customer has certain rights under the law to sue, to withdraw, or to enforce certain agreements of a contract through the courts of any other areas of law not specifically covered in a listing or sale contract.

The Agent is, however, authorized to explain and should explain the paragraphs of the standard listing and sales contract and the actions required by both parties resulting from these agreements. No Agent shall give tax advice to a client/customer, specifically, if this advice pertains to IRS laws regarding deductions, exemptions, and/or tax liabilities resulting from the purchase or sales of real estate.

The Agent is authorized to provide, and should provide, information to the client/customer regarding the payment, pro-ratio, or distribution of real estate property taxes.

If a legal or tax question is of the type that is beyond the scope of real estate practice and training, the Agent should suggest that the inquiring individual consult an attorney or tax accountant.

## **Arbitration of Disputes**

Disputes are defined as disagreements regarding whose right it is to work with a particular customer, who has the right to a sales commission when more than one Agent knowingly or unknowingly works with the same customer, or the amount of the sales commission earned by each Agent when a situation presents itself as a result of two Agents working with the same customers. The Georgia Arbitration Society shall settle any dispute that cannot be settled within the office.

## **Inter-Office Disputes**

All disputes with other companies involving real estate Brokerage transactions are to be reported to the management staff for resolution with the Agent; every attempt will be made to settle the dispute at the Broker level. Failing this, the Broker and Agent will determine if Board level arbitration is warranted.

Inter-Office Disagreements

It is not expected that an active Real Estate Office can operate totally devoid of any misunderstanding or disagreements; however, in the event of a misunderstanding in our office, it is expected that all parties should:

- 1) Pursue a solution in a non-confrontational manner with a professional respect for the other Associate's position.
- 2) Recognize that it is possible that both Associates will be right when viewed from their particular perspective.
- 3) Accept that there cannot always be unanimity of thought and action, but there can be a unity in mutual trust and respect for the other Associate.
- 4) Bring it to the attention of the Broker or the Managing Broker (Branch Manager). Do not debate the issue with other Associates in the office. This causes dissension within the office and accomplishes nothing positive.

If there is a dispute, no Associate will bring Ethics of Arbitration charges against a fellow Associates within the office to the Board of Realtors. Please seek counsel with your Broker or Managing Broker to see what action should take place. All disputes should be worked out to everyone's satisfaction within the office, If not, then the decision of the Broker will be final.

Any matter pertaining to license law should be brought to the attention of Broker or Managing Broker. It will be at the Broker's discretion if this matter should be brought to the attention of the Georgia Real Estate Commission.

It is the intention of this office to have a good working relationship among all Associates. A positive office helps to make a more productive office.

The Brokers/Associates will seek a solution beginning with the above premise.

### **Sales Meetings**

As required by the Georgia Real Estate Commission, business/sales meetings are held periodically for the purpose of informing Associates of any changes in Firm policy, Firm updates, changes in the market, new financing procedures, etc. In general, sales meetings are used to keep the Associates informed of all facets of real estate. They are training periods for Agents plus gatherings of the Associates and management to exchange ideas and to discuss policies, new listings, current market conditions, marketing techniques, fair housing policies and procedures, and our posturing in our immediate market place.

Sales meetings will be held at the discretion of Zellerman or an appointed Associate. All Agents are expected to attend unless otherwise informed. In the event you are unable to attend, please notify your broker ahead of time.

### **Education**

Pursuant to Georgia Real Estate Commission Regulation 520-1-25, the Firm is responsible for instructing Agents of the provisions set forth in the License Law and the Commission's Rules and Regulations. Accordingly, all Agents are required to attend Firm approved educational sessions each

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calendar year. It should be noted that this is a requirements of all Agents, no matter what kind of license they hold (sales person or Broker). In most instances, these sessions have been approved for the continuing education requirement of the Real Estate Commission. Agents are routinely notified of the time, location, and content of these sessions and are urged to attend

All Agents are required to attend and submit completion certificates for 24 hours of, approved, Continuing Education classes to the GREC every four years. Class dates and C.E. credit hours are displayed on the Internet and through other channels. It is the Agent's responsibility to complete the classes in a timely manner to avoid suspension of his or her license. Continuing Education classes are also offered through the Agent's Board of Realtors and other Board of Realtors and the listing service.

### **Confidentiality**

All records of this office as well as conversations between Agents and between customers/clients and the Agents are considered confidential. No files shall be removed from this office without the permission of the Broker and no other information obtained, while working for this Firm, shall be used to the detriment of the Firm, its staff or Associates.

For example, divulging information regarding the income, debts, or specific credit information on a customer or client without his/her permission is not only unethical but also illegal and must be held in the strictest confidence.

Other example are: Earnings of other Agents, information taken from files that, in the wrong hands, could be detrimental to the Firm, the customer, the client, the staff or the Agents.

### **Errors and Omission Insurance**

Errors and omission insurance coverage is required for all Agents. Be aware that fraud and some other activities are not covered. Also note that Agents acting as principals are not covered.

### **Auto Insurance**

Each Agent shall maintain automobile liability insurance to cover business use of Contractor's vehicle (which coverage may be, at Contractor's selection, added to existing automobile insurance policies) in the face amount of at least Five Hundred Thousand Dollars (\$500,000) combined signed limit of liability; bodily injury liability insurance having limits of at least Two Hundred and Fifty Thousand Dollars (\$250,000) for any one person and five Hundred Thousand Dollars (\$500,000) for more than one person arising out of a single accident or transaction, and property damage liability insurance having limits of at least One Hundred Thousand Dollars (\$100,000) arising out of a single accident. All policies of insurance to be maintained by Contractor shall contain an endorsement naming Zellerman as additional insured and shall not be subject to cancellation, except on ten (10) days written notice to Zellerman at the address given above.

### **Liability Insurance**

Each Agent shall maintain general liability insurance for \$500,000 per occurrence combined bodily injury and property damage liability. The Firm may offer Agents the option of obtaining this coverage

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through a policy held by the Firm, with the annual premium being billed to the Agent in the regular monthly billing. Alternative, the Agent may obtain the required liability insurance independently. All policies of insurance to be maintained by the Agent shall contain an endorsement naming as additional insured and shall not be subject to cancellation, except on the ten (10) days written notice to the Firm.

## **BROKERAGE PROCEDURES**

### **Compliance with BRRETA AND RESPA**

BRRETA is the Georgia law, which defines the relationship between members of the public and Brokers and their Agents. It is extremely important to understand we are complying with the provisions of BRRETA. The Firm makes available printed copies of the Georgia Real Estate Commission Rules & Regulations. The Firm will comply with the RESPA provisions in Title 12, Chapter 27, Real Estate Settlement Procedures.

All Agents are required to stay abreast of all changes in the Real Estate License Law and Firm policy changes. Even though these changes will be addressed at office sales meetings and Firm gatherings, it is expected that all Agents will be aware of their responsibilities at all times.

### **Agency Disclosure**

The Regulations of the Georgia Real Estate Commission provide that:

An Agent shall make or cause to be made a written disclosure to both Buyer and Seller (or lessor or lessee as the case may be) revealing the party or parties for whom that licensee's firm is acting as Agent and from whom that licensee's firm will receive any valuable consideration for its efforts as Agent in the transaction. This disclosure must be made at the time of or before an offer to purchase, to sell, to lease or to exchange real estate is made. (See Brokerage Engagement [Dual] in GAR forms).

When acting in the capacity of a selling Agent, Agents must disclose to both Buyer and Seller (or lessor and lessee) for whom the Agent is acting as Agent and from whom the Firm will receive any valuable consideration for its efforts. It is our Firm's policy that our Agents inform their customers, during their first meeting, of their agency relationship. All licensed real estate Agents are obligated, by law, to treat clients and customers honestly and fairly, and the following is required:

- 1) Present all offers to the owner promptly.
- 2) Respond honestly and accurately to questions concerning the property.
- 3) Disclose material facts the Agent knows or should know about the property.
- 4) Offer the property without regard to race, creed, sex, religion, or national origin.

A real estate Agent representing the owner or acting as transaction Agent can:

- 1) Provide the customer with information about available properties and sources of financing
- 2) Show your available properties and describe their attributes and amenities.
- 3) Assist in submitting an offer to purchase of lease.
- 4) Assist in locating a lender, insurance agency, inspectors, etc.

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5) Provide assistance in transition to Atlanta with schools, shopping, bank, recreational, sporting, and cultural facilities information. You must act in a professional, ethical, honest and fair manner in all aspects of the transaction

You may, if you feel it necessary, obtain professional advice from other sources.

As an Agent licensed to do business with this Firm, you must act in compliance with the Firm's policies. Agents of a real estate firm must represent the owner of any property listed for sale or lease with that firm. Agents must also represent the owner of any property listed in any multiple listing services to which their Firm belongs unless the owner has (in writing) released them from that obligation before their offering the property to a prospective purchaser. On properties not listed for sale or lease with the firm, the firm, not the individual Agent, may elect to represent the prospective purchaser or lessee. The purchaser may elect to be a customer rather than a client.

If you have any questions regarding the roles and responsibilities of real estate Agents, please do not hesitate to ask.

### **Agents Dealing with their Own Property**

An Agent must give the Firm written notice that the Agent or members of Agent's immediate family intends to buy or sell property in his or her own name or members of Agent's immediate family. See the Office Manager for the form letter to comply with GREC substantive Regulation 520-1-15. All Agents must list their property with the Firm.

- 1) The closing must be processed through the Firm in the usual fashion.
- 2) Signs placed on the property must identify the Firm as Broker. The Agent's full name as shown on the Agent's license must also appear.
- 3) If the property is a 1 to 4 family residence, it is required to be listed in FMLS and MLS.
- 4) The sale will be subject to the usual transaction and FMLS fees.
- 5) Broker must hold escrow funds in the Firm's Escrow account.

The Firm is not in the business of managing rental property on behalf of landlords; therefore, no Agent is authorized to perform any rental management duties on behalf of the Firm. In the event that an Agent desires to perform these functions for their personal portfolio or for others, the Agent must not do so in their Firm affiliation, but rather must activate a Principal Broker License in a separate rental management Firm and maintain those escrow accounts and other related procedures as required by the Georgia Real Estate Commission.

### **Secretaries and Assistants**

Our Agents may employ two different types of helpers, unlicensed and licensed.

- Unlicensed Assistant or Secretary

This person has no real estate license, or has an inactive license, which must remain inactive. This person and the Firm's supervising Agent must enter into the Firm's standard "unlicensed agreement" and comply with requirements listed. This agreement must be turned into the membership office and

placed in the supervising Agent's personnel file. An unlicensed assistant or secretary cannot handle Agents' business while a supervising Agent is out of town.

This agreement will also specify an agreed upon amount of compensation and will provide that the wages (W-2) paid will not be dependent upon nor related to the amount of commission that the supervising Agent receives. The Firm assesses additional fees to supervising Agents for an unlicensed assistant or secretary.

- **Licensed Assistant**

This person must have an active real estate license, which must be placed with the Firm. This person will enter into the Firm's Independent Contractor Agreement and receive all the support and services of the Firm. A licensed Assistant's Addendum will be entered into by all the parties, providing for the supervising Agent to be billed regarding the licensed assistance's salary, Error and Omissions insurance fees, and any personal expenses. The Firm's Agent will agree in the addendum to be responsible for the billing. This addendum will provide that: a) this person will receive a commission only from the Firm as provided for in the Commission Report and will receive a 1099 from the Firm or: b) that this person will be paid by the supervising Agent an established amount as wages and will be provided a W-2 by the supervising Agent. This agreement will also provide that if wages are paid, they will be neither dependent upon nor related to the amount of commission that the supervising Agent received.

The assistant is not paid a commission in his/her own name. Licensed assistants will use the supervising Agent's name on signs, listing agreements, sales contracts, and advertising. The licensed assistant shall not use his or her own name. In the event a licensed assistant desires to sign documents and receive commissions, he or she must first terminate the Licensed Assistant Agreement and enter into an independent Contractor Agreement, which sets for the guidelines and covenants as a "full" Agent with the Firm.

## **FMLS**

As a condition of membership in the First Multiple Listing Service (FMLS) all listings must be entered into their databases. In addition, Zellerman agents are bound by their rules and regulations regarding timely entry of new listings, changes, sales notifications, professional conduct, etc.

The Firm must enter all listings that have a listing term of ninety (90) days or more and are residential dwellings of not more than four units. The multi list listings, revisions, and all changes in status are entered by the Office Manager and not by the Agent. Pre-sales in a subdivision do not need to be listed.

Zellerman will not process listings for periods of less than ninety (90) days without the express, written approval of the Broker.

## **Security of Listed Property**

### **SUPRA Key Card and Lock Boxes**

The electronic lock box card and lock box system is provided as a marketing tool. The primary security feature of the system is the memory of entry established when the electronic lock box card is used. You

will be made aware of this feature when you acquire your electronic lock box card from SUPRA. It is important to keep the card in your possession at all times, keep your secret code number in a place that is not on or near your card, do not lend your card to another person, and immediately notify SUPRA if the card is lost or stolen. Do not allow anyone access to your lock box. Do not deliver the key to the home to use as entry in your absence.

### Property Security

Many properties have security systems. Do not publish code numbers on flyers, or as part of the listing information in data entry forms. Place code information on a small card and insert it into the key holder in the lock box.

Do not allow a potential purchaser to have a key to the home and this is true even if purchaser has a binding contract. Encourage homeowners to store small items of particular value, whether monetary or sentimental, in safety deposit boxes or concealed in secret locations in the home.

Ask listing clients to write down the name and Firm affiliation for Agents who call to show the property. Periodically incorporate that list into your own records for follow-up and security purposes. The firm shall not be held liable for any missing/stolen/or damaged items from a client's property. Agents please advise clients of this and to properly secure all valuable property.

### No Extraneous Use of Facilities

It is contrary to Firm's policy to permit our Agents to utilize any of our offices or equipment for any purpose other than real estate Brokerage activity directly related to the generation of listings and sales for the Firm. No Agent may conduct or use our facilities in performing activities as a mortgage officer, loan originator, property manager, an appraiser, a homebuilder, or for any other business undertaking. Neither may they be used for social, religious, or civic purposes.

### Individual Trust Accounts

The Firm's Broker is responsible for the integrity of trust accounts, which are opened by individual Agents operating under our Brokerage license. All such accounts must be approved by the Firm's Brokers. Consequently, it is only on rare occasions that approval is given. In order to open an individual trust account, a special form must be obtained from the bank in order to properly designate the account as a trust account; thereby assuring proper protection for trust funds placed in that account.

To further avoid any possible seizure of the funds as individual property of the licensee, the trust account should be opened under an Employer Identification Number and not under the licensee's social security number. The Firm's Broker must approve of the opening of the trust account and the commission must be notified on a special form obtainable from the commission.

In the event that the Firm approves a trust account, the licensee who owns the account shall provide to the Firm's Broker on a monthly basis a written reconciliation of the funds (O.C.G.A. 43-40-20 [a]).

## **Doing Business in Corporate Form**

There are certain legal requirements, which must be met before the Firm can issue checks to our sales persons doing business as corporations. Official Code of Georgia § 43-40-25 (17) will not allow the Firm to pay a commission to anyone who does not have a license. Official Code of Georgia § 43-40-10(c) provides that a salesperson's license can be issued to a corporation, which designates a qualifying salesperson. That particular sales person shall be the only licensee of the corporation. The qualifying salesperson shall be responsible for assuring that the rules and regulations of the Georgia Real Estate Commission and of the Firm are met. In addition, the Agents shall be responsible for claims for legal fees, damages, expenses, and other costs of the corporation. The corporate form will not protect the individual salesperson from garnishment or levy. The license of a corporation must be assigned to the Firm. The license sales person, corporation, or qualifying salesperson may not engage in the Brokerage business except on behalf of the Firm. An application form may be obtained from the Georgia Real Estate Commission. The IRS will not allow the Firm to pay an individual who does not have a social security number nor to pay to a corporation, which does not have a federal identification number. In order to pay a corporation, its salesperson's license must be placed with the Firm and its federal identification number must be furnished.

## **Out of State Activity**

Agents doing business out of State. There are two alternatives. First, an Agent desiring to do business in another state should determine if the authorities in the other state have similar provisions as in the referred to Georgia Code § 43-40-9(e)2. If the state does have such agreement, obtain a copy and consult with the Firm's Broker about the matter. Note: Any agreement with the Broker from the other state will, no doubt, incorporate a division of commission

## **Out of State Licensees Doing Business in Georgia**

Briefly stated, pursuant to O.C.G.A. 43-40-9(e)(2) an out of state Broker can enter into a written agreement with the Firm. Then, that licensee may do real estate business in Georgia. The procedure, which must be followed, is quite detailed and extensive. Interested Agents should carefully study the above referred to code section.

## **Stigmatized Properties**

Neither Broker nor Agent can be held liable for failure to disclose in any real estate transaction that the property:

- Is or was occupied by a person who was infected with a virus or disease which has been determined as being highly unlikely to be transmitted through the occupancy of the property.
- Was the site of a homicide or other felony or a suicide.

The owner and Agent must answer truthfully to the best of their own knowledge any question concerning a) or b) above. If asked and the Agent knows the answer, the question must be answered truthfully except, however, if asked about AIDS. The Agent must respond by stating that the Agent "is unable to answer such a question." See O.C.G.A. §. 44-1-6.

## **Availability of Signs and Lock Boxes**

The Firm maintains a stock of yard signs; these are the only signs authorized to be used. These signs may be customized for each Agent by use of a sign rider at the Agent's sole expense. Commercial signs and subdivision entry signs must be approved by the Firm and must use the correct logo and colors. Information regarding this may be obtained from the management staff.

Agents have one choice for lock boxes to put on their listings. All Agents must purchase their own lock boxes to use on their listings. In this case, Agents are responsible for reading the lock boxes and/or accessing Km/Web to download names and phone numbers of Agents showing the property, and then following up with those Agents and reporting the results to the Seller.

## **Advertising**

All printed material, copy for television, or computed display must be approved before it is printed or distributed. All advertisement must be submitted for approval.

The use of advertising media is the total responsibility of the Agent and costs for such advertising must not be charged to the Firm. Any such invoice for these charges will be returned to the media as an unauthorized charge with instruction to collect from the Agent. A charge for handling this sort of situation will be placed on the Agent's next bill if this is the case.

Zellerman will furnish the contractor, a logo, or logo CD for advertising purposes. All advertising must comply with the Georgia Real Estate Commissions rules and regulations and must be done with the approval of the Firm. Under no circumstances can the Firm's name be displayed by contractor in any other typeface or arrangement than that of the Firm's authorized trademark logo. The Firm's Broker before printing must approve all advertising of any kind. Please fax, email, hand delivered, or mail the proof to the office for approval before printing.

All advertisements, including advertisements of property owned by the Firm's Agents must contain the Agent's full name, first and last, so that the communication center can identify our Agent when a call is received from an ad. All advertisements must also display the Firm's name, phone number, and include the Firm's logo.

An advertisement respecting a commission bonus must clearly reflect that the bonus is payable to the Broker and not directly to the selling licensee.

No contractor can advertise any discount or rebate program. No advertising with the word "free" can be used without the express written consent of the Broker.

Advertising a commission rate, or implying a discount, through newspapers, mailings, flyers, or through any media is prohibited.

Agents are responsible to assure that all advertising complies with all state and federal rules and regulations.

## **Regulation "Z"**

The Federal Trade Commission enforces Regulation "Z" which is promulgated by the Board of Governors of the Federal Reserve System. We are concerned with the regulations as far as they're to real estate advertising that might appear in magazines, newspapers, flyers, leaflets, window posters, radio, TV, and other media.

Briefly stated, if any reference is made to any single financial term called a "Triggering Term" by the FTC; then, the advertising must "clearly and conspicuously" show all of the financial terms and the "annual percentage rate" using that term (and spelled out). In addition, if the rate may increase after consummation, that fact must be revealed. A "Triggering Term" is any term that is used to describe the terms of a promissory note used in a real estate transaction, i.e. percentage rate, amount of down payment, amount of monthly payment, length of loan, etc.

## **Personal Safety**

What can you do to keep from becoming a crime victim in the course of your work as an Agent? Here is a list of tips compiled by NAR's Public Affairs Group, from police, and safety experts:

- 1) Be alert. Prevention is the best defense.
  - 2) Trust your instincts. The minute you feel uncomfortable in a situation, get out of it.
  - 3) Do not wear expensive looking jewelry; dress conservatively.
  - 4) Do not hold an open house alone.
  - 5) Do not list your home phone number on your business card, or on your yard sign.
  - 6) Buy or borrow a cellular phone if you must be at a property that does not have a phone.
  - 7) Meet prospects at your office.
  - 8) Never meet a prospect alone based on only a phone call.
  - 9) Insist that prospects be pre-qualified by a mortgage lender before showing them a property. This not only saves you from wasting your time, it also provides extra evidence that the prospect is genuine.
  - 10) Always take your own car when showing a property.
  - 11) Let potential Buyers explore areas of a home on their own, with you following behind.
  - 12) Avoid going into the basement or confined areas with a prospect.
  - 13) Leave word with someone in your office of where and with who your appointments will be.
  - 14) Always meet first time clients at your office
  - 15) Ask clients to show identification when they sign in at your office or sign a guest register at an open house.
  - 16) If you have doubts when meeting a prospect, state that it is Firm's policy to ask for identification.
  - 17) When qualifying prospects, ask many questions and be a good listener. Find out as much about the prospect as possible in advance, such as where they work, what do they do, and how much they earn.
- Examples of key questions:
- Are you working with an Agent?
  - Who other than yourself will be seeing the property?
  - At what number can I call you back to confirm the appointment?
  - Where do you reside?
  - How soon would you like to move?
- 18) Never show property alone at night.
  - 19) Never advertise property as vacant.



- 20) Keep on file at your real estate office in a place accessible by others at the firm a recent photograph; the make, model and license number of your car; your driver's license number; information on whom to contact in cases of emergency; and any medical information that might be important. Report any threatening or suspicious experience to the police right away.
- 21) When out of the office fanning for long periods of time, check in every hour or so with the office or with family members.
- 22) Be smart about which prospects you drive to showings. In some cases, you may want to meet prospects at the property to be viewed. Whenever you leave your car, lock it.
- 23) Develop within your real estate office and your family a coded distress signal. This way, you can call the office or home with a message that would appear harmless to a prospect, but would alert others that something is wrong and you need help.
- 24) You may want to let a prospect know that someone else might be showing up at the property at any time letting the prospect know you might be joined later may discourage a crime.
- 25) If you are suspicious, trust your instincts and keep yourself between the prospect and the door. Direct the prospect to walk ahead of you as you enter each room. The best choice is to stop working immediately at the first sign of abnormal behavior.
- 26) Carry a whistle, mace, pepper gas, or shriek alarm and always keep it with you in an easily accessible place.
- 27) Use the CAS/IMOK agent silent alarm whenever doing real estate business.

Most important of all: Always remember that no sale is worth risking your life.

## **BROKERAGE RULES AND POLICIES**

### **Sellers, Buyers, Disclosed Dual Agency**

The Firm may represent Sellers in the sale of their homes and represent Buyers in the purchase of their homes. The Firm may also practice dual agency. A dual agency relationship will exist only after full disclosure to both parties and obtaining the written, informed consent of all parties. Upon Broker's approval, the Firm may, in a specific transaction, perform ministerial acts for both the Buyer and Seller with no agency relationship with either.

### **Agency Relationships**

The purpose of this section is to establish office policies and procedures relating to our Brokerage relationships with other real estate Brokers, Sellers, landlords, Buyers, and tenants. The following definitions relate to such relationships.

- 1) Agency means every relationship in which a real estate Broker acts for or represents another by the latter express authority in a real estate property transaction.
- 2) Broker means any individual or entity issued a Broker's real estate license by the Georgia Real Estate Commission (includes affiliated licenses except where the context would otherwise indicate).
- 3) Brokerage means the business or occupation of a real estate Broker.
- 4) Brokerage Engagement means an express written contract wherein the client promises to pay the real estate Broker, or agrees that the real estate Broker may receive consideration from another for producing a Seller, Buyer, tenant, or landlord ready, able and willing to sell, buy, or rent the property.
- 5) Brokerage Relationship means the resulting agency formed between the Broker and the client

because of the Brokerage Engagement.

6) Client means a person who has entered into a Brokerage engagement with a real estate Broker.

7) Customer means a person who has not entered into a Brokerage engagement with a Broker but for whom a Broker may perform ministerial acts.

8) Dual Agent means a Broker who has Brokerage relationship with both Seller and Buyer in the same transaction.

9) Limited Agent means a Broker who, acting under the authority of a Brokerage engagement, solicits offers to purchase, sell, lease, or exchange real property without being subject to the control of the client except as to the result of the work.

10) Ministerial Acts means those acts, which a Broker or affiliated licensee performs for a person who does not require discretion or the exercise of the Broker's or affiliated licensee's own judgment.

11) Timely means seasonable; a reasonable time under the particular circumstances.

12) Transaction Broker means a Broker who solicits offers to purchase, sell, lease or exchange real property without having an agency relationship with any party to a transaction.

### **Timely Disclosure of Agency**

When you are acting as the Agent of the Seller or Buyer, you must disclose that relationship at the first meaningful, substantive contact with any other party to a potential transaction.

Before entering into any Brokerage engagement, a Broker shall:

- Advise the prospective client of the two Brokerage relationships (client or customer) Brokers offers
- Advise the prospective client of any Brokerage relationships held by Broker which would conflict with any interests of the prospective client, and
- Advise the prospective client as to Broker's compensation and whether Broker will share compensation with other Brokers who may represent other parties to the transaction.

An offer of cooperation shall not be made without timely disclosure to the party engaging the Broker.

### **Duties to Customers and Clients as Defined by Brokerage Relationships in Real Estate Transactions Act (BRRETA)**

One of your fundamental duties as an Agent is the duty of loyalty to your client. This duty requires that you act at all times, in accordance with real estate license law, solely for the interest of the client within the scope of business for which you have been engaged. A corollary to this duty is that you must diligently avoid any conflicts of interests that might compromise your loyalty to your client's interests.

1) A Broker/licensee performing under the terms of a Brokerage engagement is a limited Agent, unless otherwise provided in writing. As a limited Agent, the Broker/licensee must exercise ordinary care in performing the Brokerage engagement duties. If there is no Brokerage engagement, it is presumed that the party is a customer. If there is a Brokerage engagement, the party is a client.

2) Whenever a relationship changes, the Agent shall disclose that fact and the nature of the new relationship to all parties to the transaction.

3) When you are engaged by a Seller, you must:

- Perform the terms of the Brokerage engagement with Seller.
- Promote the interests of the Seller by: Seeking a price and terms acceptable to the Seller.
  - Timely presenting all offers to and from the Seller (even when the property is under contract).
  - Disclosing to the Seller material facts of which you have actual knowledge.
  - Advising the Seller to obtain expert advice as to material matters beyond your expertise (matters of law, tax, appraisal, future value, etc.) and,
  - Timely accounting for all money/property in which Seller may have an interest by timely submitting all earnest money, deposits, etc. to the closing administrator.
  - Exercising reasonable skill and care.
  - Complying with all applicable statutes, including fair housing, civil rights, etc.
  - Treating all prospective Buyers honestly. You must timely disclose to Buyers all material adverse facts pertaining to physical condition of the property, which could not be discovered by a reasonably diligent inspection by Buyers.
  - Providing assistance to the Buyers by performing ministerial acts such preparing offers and conveying them to the Seller; locating lend inspectors, attorneys, insurance Agents, surveyors, schools, shopping facilities, places of worship and all such other like or similar services.
- -Showing alternative properties to prospective Buyers.

2) When you are engaged by a Buyer, you must:

- Perform the terms of the Brokerage engagement.
- Promote the interests of the Buyer by:
  - Seeking a property at a price and terms acceptable to the Buyer.
  - Timely presenting all offers to and from the Buyer, even when the Buyer is a party to a contract.
  - Disclosing to the Buyer material facts which the Broker has actual knowledge concerning the property.
  - Advising the Buyer to obtain expert advice as to material matters beyond the Broker's expertise. Timely accounting for all money and property received in which the Buyer may have an interest.
  - Exercise reasonable skill and care. Comply with all applicable statutes including fair housing and civil rights statutes, etc.
  - Treat all prospective Sellers honestly and you must timely disclose to a prospective Seller of property, which will be financed by a loan assumption or a purchase money note, all material adverse facts actually known by you concerning the Buyer's financial ability to perform the terms of the sale and Buyer's intent to occupy the property as a principal residence.
  - Provide assistance to the Seller by performing such ministerial acts as preparing and conveying offers to the Buyer, locating inspectors, attorneys, surveyors, and all such other like or similar services.
  - Not breach any duty by showing properties in which the Buyer is interested in to other prospective Buyers.
  - When you are functioning as a transaction Broker (Buyer and Seller are both clients), you must: Assist both parties in reaching mutually agreeable terms in the purchase and sale of the property.
  - Perform ministerial acts for both Buyer and Seller. Treat both Buyer and Seller honestly. Timely disclose to a prospective Buyer/customer all material adverse facts, actually known pertaining to the physical condition of the property, which could not be

- discovered by a reasonably diligent inspection, by Buyer or Buyer's inspector.
- In the event the transaction is based on a loan assumption or a purchase money note, Broker shall timely disclose to Seller/customer all material adverse facts actually known by Broker concerning Buyer's financial ability to perform the terms of the sale. Disclose to the Buyer and Seller whenever a material relationship becomes known.

### **Agency Agreements/Brokerage Engagements**

At the first meaningful, substantive meeting with a potential client, you must discuss with a Buyer the alternatives of our representation and complete the "Exclusive Buyer Brokerage Agreement" form for clients, or the Customer Acknowledgement form for customers. During a listing presentation to a Seller, the "Exclusive Right to Sell" disclosures are to be reviewed.

#### **Seller Agency (Buyer as Customer, Seller as Client)**

Under a Brokerage Engagement that our Firm has with the Seller and under a Customer Acknowledgement by your Buyer/Customer, you, as our affiliated licensee, would act as the Agent for the Seller only and, consequently, would have the duties enumerated under c ii above. As an example, under the Seller Agency, you could not, without the express permission of the Seller, disclose to the Buyer that the Seller will accept a price less than the listed price. Specifically, as an Agent for the Seller, you are obligated to disclose to the Seller: (a) all offers to purchase the Seller's property; (b) the identity of all potential purchasers; (c) any facts affecting the value of the Property; d) information concerning the ability or willingness of the Buyer to complete the sale or to offer a higher price; (e) the Broker's or your relationship to, or interest in a prospective Buyer; (f) a Buyer's • intention to subdivide or resell the property for a profit; and (g) any other information that might affect the Seller's ability to obtain the highest price and best terms in the sale of his or her property. –

#### **Buyer Agency (Buyer as Client, Seller as Customer).**

Under an Exclusive Buyer Brokerage Agreement that our firm has with the Buyer, you would act as Agent for the Buyer only and, consequently, would have the duties to the Buyer\_ As an example, under Buyer Agency, you could not, without the express permission of the Buyer, disclose to the Seller that the Buyer would pay a price greater than the initial offer. Specifically, as an Agent for the Buyer, you are obligated to disclose to the Buyer such things as: (a) the willingness of the Seller to accept a lower price; (b) any facts relating to the urgency of the Seller's need to dispose of the Property; (c) the Broker's — your relationship to, or interest in, the Seller of the Property for; (e) the length of time the Property has been on the market and any other offers or counteroffers that have been made relating to the Property; and (f) any other information that would affect the Buyer's ability to obtain the Property at the lowest price and on the most favorable terms.

#### **Dual Agency (Buyer as Client, Seller as Client).**

Our Firm and affiliated licensees may act as a dual Agent only with written consent of both the Buyer and Seller. Dual Agency does not have to be accepted and may be declined when the client is "listed" (delete the dual agency provisions from the listing) or when all parties to the transaction are identified (refer one client to another Firm). Informed consent shall be presumed when the Seller has signed as "Exclusive Right to Sell Brokerage Agreement" and the Buyer has signed the "Exclusive Buyer

Brokerage Agreement." However, if the Broker and/or affiliated licensees have a material relationship with either client or, if such relationship exists, and additional disclosure of the nature of such relationship must be made. A material relationship means one actually known of a personal, familiar or business nature between the Broker and affiliated licensees and a client which would impair the ability of Brokers to exercise fair judgment relative to another client. In any Dual Agency transaction in which you have an actually known material relationship with either client, that relationship must be disclosed to all parties.

In a Designated Agency transaction, the Firm assigns different licensees to represent the Seller and Buyer. Neither you nor the other licensee may disclose information made confidential by request, except that information allowed or required to be disclosed. (Such as material defects and financial ability [see C3, 4 & 5]).

### **Transaction Broker (Seller as a "Customer" and Buyer as "Customer")**

This type of transaction technically does not involved an "agency" relationship, i.e. there is no Brokerage engagement or representation of either the Buyer or Seller. Proper notification to all parties of the roles and relationships that exists in the transaction is required and both parties must sign the Customer Acknowledgment. For example, 1) a transaction in which a FSBO was unlisted (Customer) and you sell that home to Buyer-Customer, or 2) a co-op listed property in which you rejected sub agency and sell that listed property to your Buyer-Customer. In both of these cases, our role would be as a non-Agent transaction Broker.

### **Seller's and Buyer's Responsibility**

The above duties of our Finn and Affiliated Licensees in any real estate transaction do not relieve a Seller or Buyer from the responsibility to protect their own interest. You should encourage both Seller and Buyer to read carefully all agreement to ensure that they adequately express both Seller's and Buyer's understanding of the transaction. You must disclose to both Buyer and Seller that neither the Finn nor our Affiliated Licensees are qualified in legal matters, tax consequences or like professions and that a competent attorney, tax accountant or other professional should be consulted with, there are concerns in these and other specialized areas.

### **Duty of Disclosure**

You have a duty to disclose to Clients and Customers alike any known material adverse fact concerning the property and in certain instance the financial capability of the Buyer. You have a duty to treat all persons honestly; this responsibility does not depend on the existence of an Agency relationship. See disclosure responsibilities to Seller and Buyers under § C3, four, and five.

### **Duty of Confidentiality**

An Agent is obligated to safeguard his clients' confidences and secrets. A real estate Broker, therefore, must keep confidential any information that might weaken his client's bargaining position • if it were revealed. This duty of confidentiality plainly does not include any obligation to withhold from a Buyer known material adverse facts concerning the condition of the Property of withhold information concerning the Buyer's financial ability to complete the transaction contemplated. These confidentiality

duties also apply when you are functioning as a Transaction Broker.

### **Agency Declaration as to Buyers**

After explanation of the representation alternatives, the licensees are to have the Buyer select either "Customer" status or "Client" status. The "Exclusive Buyer Brokerage Agreement" document is for the purpose of electing "Client" status and contains the BREETA required disclosure for agency and dual agency and must be read, understood and signed by the Buyer. If the Buyer will not sign the "Exclusive Buyer Brokerage Agreement" then the licensee MUST have the Buyer sign the "Customer Acknowledgement" to specifically choose Customer status.

### **As to Sellers**

As part of the listing presentation, review the exclusive right to sell listing agreement and its disclosure provisions. These disclosures comply with BRRETA relative to informed consent to dual agency, although other disclosures must be made at the time of the offer. Your Responsibilities when Representing a Buyer:

- 1) You may represent a Buyer as his or her Agent provided the Buyer has read, understood and signed the Exclusive Buyer Brokerage Agreement. After completing the Exclusive Buyer Brokerage Agreement form, you must give a copy to the Buyer. You may then proceed to show properties under the following guidelines:
  - Before you preview and/or show each listing, check the listing status and co-op offer of cooperation and the commission split arrangement. Upon any contact with the Listing Agent/Broker and/or Owner, you must declare your with the Buyer and concurrently establish the basis of cooperation and commission split. A statement that you are representing the Buyer and that you are not a Subagent of the Listing Agent or Owner must be made upon any contact with the Listing Agent or Seller.
  - Ask the Listing Agent to acknowledge the above declaration and the basis of cooperation and commission sharing that is to apply in this proposed transaction.
- 2) Prior to showing to, or previewing one of our Firm's, listings with a Buyer/Client, remind the Buyer/Client of the Dual Agency role you will be playing in this contemplated transaction. Review with the Buyer the Dual Agency Exhibit, which provides that you will be assigned to represent the Buyer/Client, and our Firm's listing Agent will be assigned to represent the Seller/Client.
- 3) When writing an offer to purchase, use the GAR approved Purchase and Sale Agreement (F20) with the appropriate agency election in § 11A. Several scenarios are possible (note that it is our Firm policy never to accept sub agency).
  - Your Buyer/Client offers to buy a property NOT listed with our Firm. Check box for "Broker IS representing the Buyer in § 11 A (4).
  - Your Buyer/Client offers to buy a property listed by another licensee within our Firm. Check box for Broker IS representing Seller in § 11A (3) and check box for Broker IS representing Buyer in § 11A (5) and fill in the names of the Firm's licensees as appropriate in § 11A (5 b).
  - Your Buyer/Client offers to buy a property listed with you. Check box for Broker IS

- representing Seller in § 11A (4) and check box for dual agency in §11 A (5).
  - Your Buyer/Customer offers to buy an unlisted FSBO; check box for Broker NOT representing Seller in §11A (3) and check box for Broker IS NOT representing Buyer in § 11A (4) and have both the Buyer and Seller sign Customer Acknowledgements.
- 4) Our Firm's affiliated licensees must represent the Buyer (complete the Exclusive Buyer Brokerage Agreement) in the following instances:
- When our licensee is buying a listed property for his or hers own account. It is deemed impossible for our licensee to place the Seller's interest above their own; in this type of transaction, the licensee must disclose their licensee status, disclaim any agency responsibility to the Seller, disclose that you are representing the Buyer (yourself), recommend that Seller seek legal and estimate of value counseling and advise that the licensee is purchasing as an investor and may resell the property for a gain. All the foregoing should be accomplished at the first meeting with a listing Agent or owner.
  - When assisting friends, dose business Agents and/or relatives in buying/selling property, i.e., material relationship.
  - When representing your Seller in the purchase of a replacement home; since your Seller has entrusted you in completing the sale and closing of the Seller's home (i.e., his Agent), it's only logical and you list him in a Buyer/Client relationship in the purchase of the new home (if would be very difficult to shift from Client (in the listing/selling of the Seller's home) to Customer (in the purchase of the replacement home).

If a question or concern arises, consult with the Broker or Sales Manager before proceeding.

## **FORMS AND THEIR USE**

### **Firms' Forms and their Use**

- 1) Exclusive Buyer Brokerage Agreement: This form is to be completed at their first substantive meeting by every Buyer/Client. The second page contains disclosures and explanations of the roles of the parties. State law prohibits Broker from representing Buyer as client without first entering into a written agreement with Buyer under O.C.G.A. § 10-6A-1 et. Seq.

In the event the Buyer elects to be represented as a client, the Exclusive Buyer Agreement from must be completed (in which the Buyer and Broker agree to the terms of the Brokerage engagement).

- 2) Customer Acknowledgement: This form is in actuality a non-agency form and is either to be used in cases in which the Seller or the Buyer or both are customers. This form must be signed and included with the file any time that the Firm represents the Seller or the Buyer or both as a Customer.

- 3) Agency Selection: §11A in the Purchase and Sales Agreement must be filled out with the appropriate boxes checked to describe the Broker representation of both the Seller and the Buyer.

## **Sales Contracts**

The Georgia Real Estate Commission requires that the Firm maintain a complete copy of all contracts in which we are acting as a Broker. This requirement is interpreted to include the contract itself and all exhibits, amendments, extensions, inspection amendments, inspection reports, offer, counteroffers, move in/move out agreements, notices stipulations, Seller disclosure statements, notifications, agency exhibits, and all other documents which reflect the "meeting of the minds." Copies must be given to Broker or Office Manager for processing as soon as possible.

All listing contracts (open or exclusive), all sales contracts (those with earnest money and those without earnest money) together with all additions thereto must be delivered to Broker or Office Manager within one business day after the Binding Agreement date. Official code of Georgia annotated, § 43-40-25(3) and (23) as well as Georgia Real Estate Commission Regulation 520-1.06(2) require that such contract be promptly delivered to the Broker. The multi-list companies all require that they be timely notified when a listing goes under contract.

It is important that the contract information be expeditiously entered into the multi-list service to avoid the possibility of a licensee of another Brokerage visiting one of our listings only to find that that the property is under contract. If that sort of thing occurs, our professional reputation is markedly diminished.

## **Earnest Money**

The proper disposition of Earnest Money is a critical aspect of the conduct of our business. A detailed computer ledger report is maintained of all escrow accounts. There is no designated amount of earnest money that must be deposited with a contract.

- 1) Necessity for check: If the contract provides that the Firm is holding the earnest money and the earnest money is not in our possession, turn the contract in to the Office Manager with a note that the earnest money has not been received. Do not represent to the Seller that earnest money is on deposit before the actual receipt of the same, but do deliver the contract to the Office Manager for processing.
- 2) Offer pending: If an offer is pending, which has not yet materialized into a binding contract, the earnest money must be immediately delivered to the Broker or Office Manager along with the Earnest Money Deposit form. When you obtain a binding contract, you must give it to the Office Manager for processing and advise him/her that you are holding the earnest money check. If you receive an additional earnest money check, inform the Broker or Office Manager about this. If the contract indicates that there will be additional earnest money, provided later, you will be responsible to see that the additional funds are timely delivered. If the contract does not materialize, inform the Office Manager. Retrieve the check from her, and return it to the issuer of the check. Under no circumstances are to fail to turn in contracts and earnest money when the contracts indicates that the Firm is to hold the earnest money.
- 3) Held by another. If the contract provides that another Broker, a Seller, or a builder is to receive the earnest money, our Agent shall obtain a copy of such escrow check to turn in to our Office Manager for processing.



- 4) Time to Deposit: Various contracts provide that the earnest money be deposited within five (5) days. Our Agents must have the earnest money in hand to be turned in within one (1) day of the binding agreement date. The five (5) day period is to allow time for the earnest money to be turned in, processed by the Office Manager and taken to the bank for deposit. If the earnest money is not turned in to the Office Manager within the five (5) day period and there is no special circumstances written in the special stipulations of the contract concerning the deposit of earnest money, the associate will be responsible for obtaining an amendment, signed by all parties, stating when the earnest money was deposited.
- 5) Agreement to holdup deposit. The Firm will not delay depositing an earnest money
- 6) Returned by Bank. In the event that our bank for insufficient funds or other good reasons returns an earnest money check to us, we notify all parties in writing. We will not redeposit a returned check. There will be a \$50 Returned Item Fee assessed to the Agent's account. This fee will appear on the Agent's next statement. We require certified funds to replace the original check. In some instances, the Seller may elect to declare the contract void, or the Seller may proceed upon the fund being properly replaced.
- 7) No personal property. No cash or personal property will be accepted as earnest money.
- 8) Only certified checks, cashier checks, or money orders will be deposited as earnest money into our trust account and be available for immediate disbursement. A personal check will be held ten (10) business days. If drawn on a local bank or fifteen (15) business days if drawn on an out of town bank before it will clear for disbursement. This may result in a delay of payment of all of the commissions at time of closing.
- 9) From one Contractor to Another. The amount of the earnest money that we hold is entered into our database. A separate and specific file is created for each contract. From time to time and for various reasons, a purchaser may wish to change the purchase from the property currently under contract to another property. In order
- 10) Termination and Release Agreement. All parties must properly execute the Termination and Release Agreement. It must be submitted through the Office Manager along with the contract on the new property. We will then void the old contract, open a new file in our database for the contract on the newly chosen property, and transfer the earnest money to that new file. If one of the parties, the Seller, refuses to execute a Termination and Release Agreement on the first contract, we cannot transfer the money to a new contract
- 11) Wire Transfer. The Firm will not accept wire transfers into the Firm's escrow account.
- 12) Releases Disbursal of earnest money is the responsibility of the Broker who will make a determination as to the recipients in accordance with provisions of the license law. In this regard, Agents should not commit the Broker to any decision as to the disposition of the earnest money being held except that it will be applied to the amount owed by the purchaser when the sale closes or to quote the provisions of the license law in the event the sale does not close. It is required to obtain a Termination and Release Agreement in cases in which the earnest money is being disbursed for reasons other than a closing; the principal Broker must approve all

exceptions to this. The secretary will place a copy of all paper relative to disbursal in the canceled file and make a notation as to how disbursal was made.

- 13) Upon Failure of Contract to Close. If a Termination and Release Agreement is signed by all parties and submitted, we release the funds with no problem.

If a contract is contingent upon obtaining a loan and a legitimate Declination of Loan letter which reflects that the purchases made a good faith effort to obtain the loan is received, we will release the funds.

If the contract has expired and the parties cannot agree on the distribution of the earnest money, we may distribute the funds under the Earnest Money paragraph of the contract or, we may interplead the funds into a court of law.

If during the course of handling the earnest money, one of the parties sues the other party or the Firm, we will hold the funds and disburse as directed by the Judge.

If we are not holding earnest money, the Agent must turn in a fully signed Termination and Release Agreement to the Office Manager so that we can mark the contract void and remove it from our computer date. If we are the listing Broker and holding no earnest money and the contract was expired, advise the Office Manager, and, if the listing has not expired and the listing is no longer desired, obtain an FMLS and MLS release agreement and deliver it to the Office Manager with the required funds. Otherwise, the listing may be extended for an additional period of time equal to the number of days the property was under contract and off the market.

#### **Telephone Solicitations (O.C.G.4. §46-527)**

A telecommunications law went into effect on January 1, 1999, that limits somewhat the ability of realtors to solicit new business over the telephone. The legislation (referenced as O.C.G.A. §46-5-27) telephone solicitations from calling residential telephone subscribers who have registered with the Georgia Public Service Commission. The subscriber's residential telephone number is placed in a database maintained by the Georgia Public Service Commission for a fee of \$5.00 per residential number. The list of telephone numbers, called the "Georgia No Call List" is updated quarterly and is provided to subscribers by the Public Service Commission.

It is the responsibility of each Agent to check the No-Call List before calling any homeowner to see if their name is on the list. The list is updated quarterly.

Any telephone call construed as encouraging the recipient to purchase the Agent's services is likely prohibited by this statute. Some examples include the following:

- 1) random call to homeowners to see if they are interested in selling their property.
- 2) Calls to residential customers to say that the Agent has a Buyer interested in the area and to ask if the homeowner is interested in selling his/her home or if he knows of anyone in the area that may be interested in selling their property, and

3) calls to owners of property that is "FOR SALE BY OWNER" to inquire about listing the property. To bring one of the realtor's clients to view the property, or to merely view the property. If the purpose of the call is to encourage a Seller to list his/her property with a Broker, to obtain the agreement of the Seller to pay a real estate commission, or to otherwise use the services of a Broker, such calls cannot be made to anyone whose name is on the Georgia No-Call list.

The statute provides for penalties for violations to the statute including proceedings brought by the state for cease and desist orders and/or fines of up to \$2,000.00 for each knowing violation. It is Firm's policy to require that all Agents check the No-Call list before making any calls as referenced in the above paragraph.

It is Firm's policy for Agents making solicitations calls to keep a file containing all telephone solicitations with notations in the file for each call indicating if the telephone number was checked before calling.

It is Firm's policy for Agents making solicitation calls to identify themselves to the homeowner stating their name and the name of their Firm. IT IS ABSOLUTELY FORBIDDEN FOR ANY AGENT TO USE AN OFFICE TELEPHONE FOR SOLICITATIONS WITHOUT CHECKING THE NO-CALL LIST FIRST.

## **Listings**

Listing data entry sheets are required by the multi-list services and are to be filled out in blue ink. All of the blanks should be filled in. It is very important to have the owner of the property sign the data entry sheet after completion. Features on the data sheets are to be underlined, not circled. A copy is to be turned in to the Office Manager together with the listing contract. If corrections are to be made, turn in a corrected copy to the Office Manager. The Agent must keep a copy of the listing data entry sheet; owners must initial boxes regarding water and sewer. Listing renewals should be handled by having the owner sign a new listing agreement. Do not have the owner initial changes on the original listing agreement. Use the Zellerman new listing checklist found on the agent back-end and also in FMLS.

## **Listing Agreement**

Agents must use GAR or FMLS (Exclusive Seller Listing Agreement) when listing owner's property for sale. This is important because this GAR and/or FMLS form provides that the listing Broker agrees that the selling Broker will be paid a specific amount of the commission. Agents print out a copy of the FMLS property datasheet and obtain a signed Instructions to closing attorney from the listing agent.

## **Property Representations and Disclosures**

An increasing number of lawsuits are being filed by Buyers claiming that Brokers and the Agents have made false representations — knowingly or unknowingly — that Buyers have justifiably relied on that misrepresentations and that damage resulted to Buyers because of this reliance. In response to these claims, courts are imposing a stricter duty on Brokers and their Agents to discover and disclose material facts to Buyers regardless of whether an agency relationship exists between the Broker and the Buyer. Therefore, the following guidelines are to be followed by our Agents:

- 1) Agent should be alert for "red flags" that suggest the presence of a defect.
- 2) Agents obtain property condition disclosure (Form Sellers Property Disclosure Statement) to be completed and acknowledged by the Seller.
- 3) Agents should suggest the use of experts when specialized analysis may be required.
- 4) Recommendation that an inspection of the property be made by an inspector qualified to do home inspections is required.
- 5) Home warranties are recommended on all resale homes and discussed relative to new homes.
- 6) Agents are to strongly recommend that Buyers complete a final walk through inspection before closing.
- 7) Responses to Buyer's questions, which are "opinion", should be clearly stated as such. If the response is a fact, then describe the source of the fact. Representations are not to be made relative to potential future values.

## **Home Warranty Plans**

The Firm has an affiliation with a home warranty Firm that offers coverage on homes and condominiums after the sale if part of contract. It is our advice to suggest your buyers obtain a warranty on any purchase.

## **Appraisals**

An appraisal is based on a culmination of factors such as replacement cost, economic life, depreciation, comparison of appraisal values as well as sales plus other things while a comparative market analysis only compares the subject property to similar properties listed and sold. Only Agents who are qualified and hold proper designation may make real estate appraisals.

There will be times when the Firm or a specific Agent is requested to appraise property. When this request is received, the individual making the request should be informed that generally we do not make appraisals, but that the Agent, can complete a comparative market analysis (CMA) on the property in question. The CMA is a comparison of the properties in this or a similar area or subdivision to determine a comparative market value. If this information will not suffice, the requesting source should be advised to obtain the services of a professional appraiser.

## **Property Management**

The Firm is not in the business of managing rental property on behalf of landlords; therefore, no Agent is authorized to perform any rental management duties on behalf of the Firm. In the event that an Agent desires to perform these functions for their personal portfolio or for others, the Agent must not

do so in their own name or that of our firm or Agents affiliation with firm, but rather must activate a Principal Broker License in a separate rental management Firm and maintain those escrow accounts and other related procedures as required by the Georgia Real Estate Commission. The Agent must notify the Firm of the existence of the Principal Broker License and the rental management Firm details.

### **Commission Schedule**

Our approved Firm schedule of commission fees is as follows:

Residential New Property 6 to 7+%  
Residential Resale Property 6 to 7+%  
Residential Resale, Corporate 6 to 7+%  
Commercial/Industrial 10+9%  
Vacant Land 10+9%

- Commission level may vary depending on the listing package a seller selects. Agents may only list for a commission level within the package without broker approval.

Any unilateral reduction of commissions from the above schedule or solicitation "give away's" by any Agent (directly or indirectly), or through negotiations, or the assumption of various. I changes, or expenses, must be within the approved guidelines as follows:

- An Agent may make an individual transaction "business decision" to reduce the commission, pay an expense, provide a home warranty, etc.; however, this is not to be construed to mean that commissions may be reduced routinely below the above schedule.
- "Giveaways" promoted in individual Agent's advertisements are, in all cases, to be reviewed/approved by the principal Broker; generally, "give sways" should be very limited in dollar amount and of a nature which the sale of specific property, i.e., a free market analysis or a home warranty.

### **Closing Statements**

Two copies of the settlement statement, together with the commission check, completed Closing and Commission Sheet, FMLS Notice of Closing form (if applicable) must be turned in to the Office Manager for processing by the end of the next business day.

### **Changes on Listings**

Fill out proper paper work for extension or price change (must have Seller's signature). For all other changes consult with the Office Manager or Broker.

Ifs listing has been withdrawn, see the Office Manager (listings will not be withdrawn until checks have been received for the FMLS withdrawal fees). Checks need to be made to Zellerman for \$50.00 (fifty) dollars. The listing services bill the Broker for these fees.

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## **Payment of Commission**

Commission checks from the Finn are issued within five (5) business days following the receipt of the closing proceeds and the closing statement assuming there are no disputes pending. All Commission checks are mailed from our am-processing center to your address on record. It is the Agents sole responsibility to notify the firm in writing if a change of address is needed.

The Agent split percentage (as specified in the Independent Contractor Agreement) of the net commission collected will be remitted to the responsible Agent less the following, if applicable:

- 1) Referral fees and relocation fees.
- 2) Multiple listing fees.
- 3) Transaction fees.
- 4) Errors & Omissions insurance premium.
- 5) Outstanding individual office fees.
- 6) Miscellaneous expenses of the transaction advanced by the Finn.

In the event that the Firm and Agent find it necessary to sue for a commission, all expenses, including court costs and attorney's fees are the obligation of the Agent.

All commissions will be paid upon the clearing of the commission check from the closing attorney. Should a Contractor become involved in arbitration with another Broker for a commission after a sale has been closed, the Contractor agrees to refund the commission Zellerman in the event the arbitration decision requires the Contractor redistribute the commission to another Broker.

## **Check Lists**

### **New Agent's Check Lists**

Please insure that the following are completed during the first day of affiliation:

- 1) Georgia Real Estate Transfer (change application).
- 2) Independent Contractor Agreement.
- 3) Agent's Information form.
- 4) FMLS and Supra Profile/Transfer forms.
- 5) Various Board of Realtors membership applications (if needed)

Please complete the following during your first week:

- 1) Order business cards from agent back-end.
- 2) Review Policy and Procedures manual
- 3) Learn how to use the agent back-end and fully understand all check list and procedures.

### **Check List for Listings**

- 1) Turn in MLS and FMLS Listing Contract signed by Seller(s) within 24 hours of date Seller signed. No changes to the printed FMLS Listing contract will be allowed.
- 2) All residential houses and duplexes MUST be in FMLS.

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3) New homes must be entered in FMLS when sheet rock walls are finished.

4) Agent must have signed Seller's disclosure in folder (some vacant or foreclosure houses may not have a Seller's disclosure). Agents are not allowed to complete this form for the Seller.

- Seller's Net Proceed Sheet
- Utilities Information Sheet
- Initial Wood Infestation Report

Loan Payoff Request signed by Seller(s) (be sure that Seller Social Security number are on the form). Be sure to get Loan Payoff Requests for first and second mortgages and for an Equity Line held on the property.

If house was built before 1978, you MUST give Seller the pamphlet on Lead Based Paint and instruct the Seller as to the obligations (Seller CANNOT sign the Sales Agreement until the Buyer has initialed the Seller's Disclosure that they have received the Lead Based Paint pamphlet)

### **Check List for Contracts**

Fill out the Zellerman Contract Information sheet. A copy of the contract, exhibits, amendments, earnest money check, a copy of the earnest money check (if we are not holding it), commission agreement, and all counter offers should be emailed to your broker.

Zellerman must receive a copy of all contracts with 24 hours of binding agreement date

Contracts must have the following information:

- 1) A completed Contract Information sheet Legal description.
- 2) All blanks on GAR/FMLS form Purchase & Sale Agreement filled in.
- 3) All changes initialed and dated.
- 4) Must be signed by ALL parties, and that includes both Agents when it is a co-op and Acceptance date must be completed.
- 5) Seller's Disclosure must be signed, initialed and dated by all parties.
- 6) If the contract is for a Buyer, we must have the Exclusive Buyer Brokerage Agreement signed by the Buyer (either as a customer or client). If Buyer will not sign the Exclusive Buyer Brokerage Agreement, then put the Buyer's name on an Exclusive Buyer Brokerage Agreement for, date it and make a notation that the Buyer would not sign. Include that with your contract when you turn it in to the office.
- 7) FMLS #.

If a copy of a contract has been sent by fax and it is unreadable, you must get originals for the file folder.

Contracts must be turned in within one (1) business day whether we hold the earnest money or not. If you cannot physically turn in the contract within one (1) business day, then fax a completed Contract Information Sheet (along with the contract) to the office immediately, and mail the contract and earnest money check to the office that same day. EM funds can be deposited directly into our firm's escrow account (see broker for account information).

### **Urgent List (Listings under Contract)**

- 1) Please turn in extension paper work if closing has been extended.
- 2) If no extension is handed in, the listing will expire as of midnight on the expiration date.
- 3) Either we must have a signed extension or we will have to DFT the contract and put the house back on the market if the listing has not expired. If we do not, MLS will fine the Agent.
- 4) Earnest money MUST be turned in ASAP and deposited within five (5) business days of Acceptance Date of Contract (Binding Agreement date).
- 5) If earnest money is to be deposited later, it must be written in the contract and agreed to by ALL parties.
- 6) If earnest money is to be deposited later, please include instructions on the Deposit of Earnest Money from letting the Office Manager know when earnest money is to be deposited.
- 7) All earnest money should be turned in to the Office Manager as soon as you receive it. If you, the Agent, are writing an offer, turn the earnest money in with the contract. However, if there is a delay in getting the contract signed, the earnest money needs to be turned in as soon as possible after the offer date, as indicated by the Georgia Real Estate Commission.
- 8) When you turn in a contract and the earnest money has already been turned in, please attach a note to the file stating that the office already has the earnest money and that the earnest should now be deposited.

### **Check List for Closings**

- 1) Complete the top part of the Zellerman Closing and Commission Sheet.
- 2) Email the closing seller closing sheet and docs to your broker.
- 3) Complete the FMLS Notice of Closing Form (if applicable).
- 4) Make sure all papers are in the appropriate folders as required by the Firm.

### **Check List for DFT (Deal Fell Through)**

- Complete a Fall Through Checklist and give to the Office Manager along with the fully signed Termination and Release Agreement.
- No checks will be cut regarding the disbursement of earnest money without a fully signed Termination and Release Agreement. Checks will be sent to the name and address on the Contract Fall Through Checklist. If you are having a problem and one of more parties will NOT sign T&R, contact the Office Manager and give a written explanation as to why the party will not sign the Termination and Release Form.



Welcome to the Zellerman Team



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