

Georgia License Law

CASE STUDY

Directions: Please read the case study and list as many GREC License Law and Rules Violations as you see. Do not assume anything; if the case study doesn't say it then it didn't happen.

ABC Homeowner Association Inc., ("ABC") is currently under a community association management brokerage agreement with Broker A, it expires on December 31, 2019 and automatically renews for another year if not terminated at least 30 days prior to the expiration date. ABC has 28 condominium units and their annual assessment per owner is \$2,400.

ABC is dissatisfied with Broker A's services and called Broker B on October 5, 2019 and asked for a written quote for management services to begin no later than December 1, 2019.

It took Broker B about three days to call ABC back since Broker B was still trying to organize the office after moving to a new location on October 1, 2019.

ABC entered into a management agreement with Broker B effective December 1, 2019. Broker B assigned the ABC account to Rita, a recent hire with three years' experience working for a community association management company. Rita has completed the CAM Pre-License Course, but has not yet passed the State CAM Licensing Test. Rita is currently taking the Salesperson Pre-License Course. In addition, Rita owns a home and lives in ABC Community and Rita's Mom provided the business referral to Broker B. Broker B asked the payroll department to process a \$250 referral fee commission to Rita's Mom.

ABC gave notice to Broker A on December 1, 2019 that they wished to terminate the management agreement on December 31, 2019 per the management agreement. As of February 14, 2020, Broker B has yet to receive any of ABC's files. However, on December 7, 2019, Broker B did receive a check made out to Broker B for ABC reserve funds totaling \$59K. Since the ABC was not opened yet, Broker B deposited the reserve funds into Broker B's operating Account.

On December 14, 2019 Broker B opened an interest bearing operating bank account, as a trust account, in the name of ABC HOA, Inc. with the association's Federal ID Number. On December 15, 2019 Broker B transferred the funds from Broker B's operating account to the association's new trust account.

On December 17, 2019, the ABC Board of Directors asked Rita for a copy of the signed management agreement and Rita put the request on her to do list.

On December 21, 2019 Rita received a written request from an owner requesting an assigned parking space close to their unit due to a medical condition that impairs walking. Rita responded by indicating that the Declaration did not allow for assigned parking.

Rita also managed a rental home owned by her and her husband. The security deposit is maintained in their joint savings account.

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CASE STUDY Violation List

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As used in this part, the term: ABC's request for a quote must be in writing

Broker B may not start managing on 12/1/19 without Broker B's approval – Broker A is still under contract until 12/31/19.

Broker A did not provide a copy of the signed management agreement to ABC

Broker B did not notify the GREC of their new address within 30 days

Rita must be hold a CAM or Salesperson license before she can manage ABC Community

Even if Rita was properly licensed, Broker B did not provide a written affiliation contract to her

Broker A did not provide ABC's files within 30 days

Broker B failed to notify the GREC of the newly opened trust account

Broker B opened a Trust Account using the Association's FIN, which was not required since it was in the association's name and their FIN.

Broker B opened a trust account for ABC using an incorrect legal name for ABC

Broker B commingled ABC Reserve Funds with Broker B's operating funds.

Broker B deposited ABC's reserve funds into their operating account – a separate reserve bank account would have been better

Broker B cannot pay an unlicensed person a referral fee commission

Broker B, via Rita may have violated Federal and GA Fair Housing Law

If properly licensed, Rita would be required to hold the security deposit in a trust account held by a licensed firm

If a trust fund had been used correctly by Broker B, who gets the interest?