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January 29, 2014

Dear Designated Broker:

The Commission has received numerous inquiries about a business operating from another state, offering to pay finder's fees to consumers who locate vacant lots and "ugly" houses for the business to purchase and flip. The business advertises a "training system" where it promises to teach consumers how to locate lots and homes for the business, with the consumer to receive a finder's fee of \$8,700 per lot and \$10,000 per house. However, first the interested consumer must sign an independent contractor agreement with the business and pay \$1,000 or more for access to the business's "training system." After payment, the consumer has access to coaching conference calls, online classes and instructional videos in which the business explains how to locate and assist in the purchase of certain lots and homes.

It is only after the training course is paid for that the consumer learns the finder's fee program may be too good to be true. At that time, the business discloses strict criteria a property must meet before it will make an offer and pay the promised finder's fee. If the business agrees to make an offer on a property, the consumer is required to locate a buyer's agent (licensee) to prepare the contract. The consumer must sign the offer on behalf of the business. Even more troubling, the consumer must use his or her own funds to provide the earnest money for the transaction.

The Commission has not completed a formal investigation of this matter, but from information received from consumers, it appears the business may be encouraging consumers to participate in the unlicensed practice of real estate. Any person who engages in "procuring of prospects" is required to hold an active real estate license, and an unlicensed person who engages in this activity is in violation of the license law. (See Idaho Code 54-2002, as defined by 54-2004(35)(a), (c), and (d) and 54-2004(2).) While the business itself may be considered the buyer for the purposes of the "for sale by owner" exemption for licensure, the consumer who is the "independent contractor" is not exempt. Regrettably, consumers may be misled because the business advertises on its website that a real estate license is not required to participate in this program.

Additionally, as a reminder to our licensees who may encounter this business model or others like it, the Real Estate License Law also prohibits a licensee from paying or sharing commissions with any person who is not licensed to sell real estate. (See Idaho Code 54-2054(2).)

The Commission wants you and your associates to be apprised of this information, in the event you are contacted by a consumer wanting to have a contract written on behalf of this business, so you can ensure that all activities are conducted in accordance with the license law. We appreciate your help to remind your associates of the requirements pertaining to fee splitting and activities requiring a real estate license. Please do not hesitate to contact Enforcement Staff at 208-334-3285 if you have any questions.

Sincerely,

Jeanne Jackson-Heim
Executive Director