

FRAUD ALERT! – The Commission has heard recently about some experiences similar to this one:

Brokerage has a property listed. A foreign investor from Canada contacts an agent in the listing office and writes a \$399,000 cash offer without having seen the property. The contract specifies \$5,000 earnest money, and Seller accepts the offer.

Broker receives a check in the mail for the \$5,000 earnest money. The check is in the amount of \$155,000, however, and it arrives in a plain white envelope with no return address. The check is written on a Canadian law firm's account and includes a person's name at the firm for contact purposes.

Broker deposits the check, and it appears to "clear" in just a couple of days. Everything looks great for a fast and easy cash closing!

A few days later, the buyer, or the buyer's purported accountant, contacts Broker and demands that the "excess" earnest money be wired to another account.

Broker calls the contact person at the law firm and learns there is no one there by that name.

You can probably guess the rest of the story! About 3-4 weeks later, the bank sends out a notice that the check was not good funds.

Fortunately for our broker, he trusted his instincts and didn't send any money back to the buyer. If he had, he would have been responsible for the funds he disbursed that were drawn on the bogus check.

To read more about this type of fraud and see copies of some of the actual documents used by scammers:

<http://www.realtown.com/john/groups/real-estate-experts/view/26134/1>

Of course, there are legitimate foreign investors – and bona fide clients who buy property sight unseen – but it's important to be extremely careful. Don't hesitate to contact IREC or law enforcement if something smells fishy.

RED FLAGS:

- You never meet a buyer, or a buyer never sees the property; all contacts are by e-mail or phone.
- You receive an earnest money check – sometimes a certified check -- for a much greater amount than the earnest money specified in the contract.
- You are asked to return some or all of a large earnest money deposit within a few days after you receive it.
- You are threatened with dire consequences from a foreign government if you don't comply with a buyer's request to return "excess" funds.
- The whole transaction sounds too good to be true.

LAW BOOKS have been mailed! The 2010 Real Estate License Law & Rule books were mailed to all licensees a couple of weeks ago. The books include the 2010 license law and rule changes and the Commission's Guidelines, including new Guideline #13 on Advertising and a revised Guideline #10 on Fee Splitting.

For those of you with "mature" eyes, we apologize for the size of the text in the law book – due to a printing glitch, it's a tad smaller than we had requested. The Commission regrets the error.

UNLICENSED PRACTICE COMPLAINTS -

The Commission has received a dramatic increase in complaints of out-of-state brokers listing and marketing Idaho commercial properties without an Idaho license.

Over the last several months, IREC has pursued nearly 20 separate cases of unlicensed practice involving approximately 100 respondents. Many of these cases have concluded, and the unlicensed respondents have stipulated to substantial civil penalty fines, while other investigations are still in progress. In addition, some Idaho licensees who co-listed Idaho property with unlicensed persons have been disciplined.

NOTE: It typically takes several months or more to conclude a case after a complaint is received. Also, the Commission is not allowed to discuss ongoing investigations with licensees or members of the public. If a written complaint was filed, however, staff may discuss the status of a case with the complainant only.

Test yourself – are the following statements "true" or "false"?

1. An Idaho license is not necessary to list an Idaho property as long as the out-of-state broker does not physically enter the state.
2. If an out-of-state broker has an Idaho broker's license, his sales associates are allowed to operate in Idaho under the broker's Idaho license without being licensed in Idaho themselves.
3. If an out-of-state broker "co-lists" an Idaho property with an Idaho broker, he can avoid the licensing requirement.
4. Participating in a regional MLS that crosses state lines means it's okay for an unlicensed out-of-state broker to list an Idaho property on the MLS.
5. Listing Idaho commercial properties does not require an Idaho real estate license because a commercial property is typically marketed on a nationwide basis.
6. IREC has jurisdiction over leasing activity at this time.

If you answered "false" to all of the above, you are correct!! These are ALL common misconceptions about Idaho's license law. Per Idaho Code 54-2058(1), if a property is located in Idaho, an Idaho real estate license is required to perform any brokerage activities.

The license law used to include leasing and rental activity as licensed brokerage activity. However, in 1981, the legislature changed the law to remove that language. There has been some recent discussion about seeking a law change to return leasing to the list of activities requiring an Idaho real estate license. We'll keep you posted! If you have any questions about unlicensed practice, please give the Enforcement Department a call.

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Questions about the Idaho Real Estate Commission: info@irec.idaho.gov

[The Idaho Real Estate Commission](#)