

COMPLIANCE AUDIT FORM

COMPLIANCE EXAMINATION REPORT

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
 DIVISION OF PROFESSIONAL REGULATION
 REAL ESTATE PROFESSIONS

Reference Number

Examination Date:

Time:

On Site Off Site

Business Name:

License:

d/b/a:

Telephone:

Address:

E-Mail:

County:

Managing Broker:

Since:

License #

Office Manager:

Since:

License #

Primary Escrow
Records Manager:

Since:

License #

How many licensees does the broker sponsor? Subject office:

Does the broker operate a branch office?

Are all branch offices properly licensed?

If yes, how many branch offices?

Comments:

OFFICE

Part	Statutory Reference	Description	Examiner's Findings
I-1	5-45 (d) 1450.150	Does the broker maintain a definite place of business? Comment:	
I-2	5-45 (d) 1450.150	Is there an identification sign conspicuously displayed on the outside of the broker's place of business? Comment:	
I-3	20-20 (a)(13)	Does the broker use a trade name or an Insignia (logo) of membership of any real estate organization of which he/she is not a member? Franchise Affiliation: Membership:	
I-4	5-45 (d) 20-20 (a)(4)	Is the real estate office located in a separate and distinct area, away from any retail or financial business establishment? Comment:	
I-5	5-26 (c) 5-27 (d)	Are all current licenses readily available to the public at the sponsoring place of business? Comment:	
I-5	5-15 20-20 (a)(6) 20-22	Are all licensees (and company) properly licensed? Comment:	

LICENSEES, AGENTS & ASSISTANTS

The examiner should review three (3) employment agreements.

Part	Statutory Reference	Description	Employment Agreement		
			1	2	3
II-1	10-20 (c) 1450.160	Does the broker have a written agreement with every sponsored licensee? Comment:			
II-2	1450.160	Does the written agreement include the licensee's duties, supervision guidelines, commission agreement, and a termination agreement? Comment:			
II-3	1450.160	Is the agreement dated and signed by the licensee and the broker? Comment:			

The examiner should review the activities of licensed assistants.

Part	Statutory Reference	Description	Examiner's Findings
II-4		Does the broker, or any of his/her sponsored licensees, utilize the services of a licensed assistant(s)? Comment:	
II-5	10-20 (d)	The Act requires that every sponsoring broker must have a written employment agreement with each licensed personal assistant who assists a licensee who is sponsored by the sponsoring broker. Does the sponsoring broker have a written agreement with each licensed assistant? Comment:	
II-6	10-5 (c) 1450.165 (g)	Are all licensed assistants compensated by the sponsoring broker only? Comment:	

The examiner should review the activities of unlicensed assistants.

Part	Statutory Reference	Description	Examiner's Findings
II-7	1450.165 (b) 1450.165 (c)	The Rules give specific details as to what an unlicensed assistant can and cannot do. Are the broker, the sponsored licensee(s), and the unlicensed assistant(s), in compliance with the Act and Rules? Comment:	

The examiner should review documentation for sponsored licensees forming their own corporation for indirect payment.

Part	Statutory Reference	Description	Examiner's Findings
II-8		Have any of the sponsored licensees formed their own corporation for indirect payment? Comment:	
II-9	10-20 (e)	Is the licensee the sole owner/shareholder of the corporation? Comment:	
II-10	1450.170 (a)	Did the licensee inform the Real Estate Licensing Section of the Division of Professional Regulation, and submit a copy of the certificate (Articles of Incorporation) issued by the Secretary of State? Comment:	
II-11	1450.170 (b)	The corporation may not be licensed under the Act and shall not be used by the licensee to perform any real estate activities, nor hold itself out to the public. The corporation may not sponsor, employ, nor associate itself with any other licensees. The licensee cannot advertise under the corporation name. Are the sponsored licensees and the Broker in compliance with the Act and Rules? Comment:	

COMPANY LICENSURE

Does the broker or company operate under an assumed name (d/b/a)? If no, skip to Part III-4.

Part	Statutory Reference	Description	Examiner's Findings
III-1	1450.90 (a)	If the broker is acting as a sole proprietor, did he/she register the assumed business name in each county in which the assumed business name is used? Comment:	
III-2	1450.90 (a)	If corporation, partnership, or limited liability company, did the company register its assumed business name with the State of Illinois, Secretary of State's Office? Comment:	
III-3	1450.90 (b)	Did the broker submit a copy the filing or certificate to the Real Estate Licensing Section of the Division of Professional Regulation? Comment:	

The examiner should list the names of all Corporate Officers, General Partners, Managers and Members.

Title	Name	License Number

COMMENT:

Complete this Part only if the company is a Corporation.

Part	Statutory Reference	Description	Examiner's Findings
III-4	20-20 (a)(5)	Does the person or entity that acts an Illinois corporation maintain an Illinois charter (corporate status), issued by the Illinois Secretary of State? Comment:	
III-5	5-15 (b)	Are all corporate officers, who actively participate in real estate activities, licensed as real estate brokers? Comment: <i>Note: Licensed Salespersons shall not be Officers of the Corporation.</i>	
III-6	1450.85 (c)(3)	Have all unlicensed officers submitted an affidavit of non-participation to the Real Estate Licensing Section of the Division of Professional Regulation? Comment:	

Complete this Part only if the company is a Partnership, or Limited Liability Partnership (LLP).

Part	Statutory Reference	Description	Examiner's Findings
III-7	20-20 (a)(5)	Did the persons, who act as a partnership, or an Illinois limited liability partnership (LLP), receive an Illinois letter of approval, issued by the State of Illinois, Secretary of State? Comment:	
III-8	5-15 (c)	Are all general partners licensed as real estate brokers? Comment: <i>Note: Licensed salespersons shall not be general partners of the partnership.</i>	
III-9	1450.85 (f)(3)	Have all unlicensed general partners submitted an affidavit of non-participation to the Real Estate Licensing Section of the Division of Professional Regulation? Comment:	

Complete this Part only if the company is a Limited Liability Company (LLC).

Part	Statutory Reference	Description	Examiner's Findings
III-10	20-20 (a)(5)	Does the person or entity that acts a limited liability company (LLC) maintain an Illinois organization (status), issued by the Illinois Secretary of State? Comment:	
III-11	5-15 (d)	Are all managers (or every member in a member managed LLC) licensed as real estate brokers? Comment: Note: Licensed salespersons shall not be managers of the limited liability company (LLC).	
III-12	1450.85 (d)(3)	Have all unlicensed members submitted an affidavit of non-participation to the Real Estate Licensing Section of the Division of Professional Regulation? Comment:	

Ownership: The examiner should list the names of all shareholders and/or anyone with an ownership interest.

Name	Percentage of Ownership	License Number

Part	Statutory Reference	Description	Examiner's Findings
III-13	5-15 (e)	A licensed real estate corporation, limited liability company, and/or partnership, may have an individual salesperson or leasing agent, or group of salespersons or leasing agents, own or directly or indirectly control, no more than 49% of the shares of stock or other ownership. Is the company in compliance? Comment:	

BROKERAGE AGREEMENTS & CONTRACTS

The examiner should review four (4) listing, buyer/broker, property management and/or lease agreements. If no agreements are available for review, provide explanation then skip to Part IV-12. COMMENT:

Part	Statutory Reference	Description	Brokerage Agreement			
			1	2	3	4
		Indicate type of agreement that is the subject of review.				
IV-1	1450.195 (a)	Are all exclusive brokerage agreements in writing? Comment:				
IV-1a	15-35	Did the licensee provide written notice to the consumer advising of the name or names of his or her designated agent or agents? Comment:				
IV-1b	15-15 (b)	If the licensee has made contemporaneous offer(s) or contract(s) to purchase or lease the same property, did the licensee provide written disclosure to all clients? Was the client referred to another designated agent upon the client's request? Comment:				
IV-2	1450.195 (b) 1450.195 (c)	Does the brokerage agreement include the broker and seller's name, list or rental price, identification of the property, an agreed amount of compensation (commission/fee), and duties of the broker? Comment:				

IV-3	1450.195 (d)	Does the brokerage agreement include a defined date of termination with no condition for an automatic extension? Comment:				
IV-4	1450.195 (b) 1450.195 (c)	Is the brokerage agreement dated and signed by the seller or property owner and the broker? Comment:				
IV-5	1450.195 (h)	Does the brokerage agreement include the required anti-discrimination clause? Comment:				
IV-6	1450.195 (g)	If the listing agreement provides that, in the event of a default by a buyer, the broker's commission or fees will be paid out of the earnest money first, with the remainder of the earnest money (if any) paid to the seller... Does said provision appear in the listing agreement in letters (print) larger than those generally used in the listing agreement? Comment:				
IV-8	1450.200 (b)	If there has been a price change on a listing, did the broker receive written consent from the property owner(s) to alter the list (asking) price? Comment:				
IV-10	1450.195 (i)	If a brokerage agreement provides for a protection period subsequent to its termination date, does it also provide that no commission or fee will be due and owing pursuant to the terms of the brokerage agreement if, during the protection period, a valid, written brokerage agreement is entered into with another licensed real estate broker? Comment:				
IV-11	10-27 1450.190	If a licensee had any interest, direct or indirect, in the property that is the subject of the transaction, did the licensee disclose, in writing, his or her status to all parties in the transaction? Comment:				
IV-11a		Has the residential real property disclosure report been completed? Comment:				
IV-11b		Has the lead-based paint disclosure been completed? Comment:				
IV-11c		List all other disclosure statements utilized by this licensee.				

PENDING SALES CONTRACTS

The examiner should review three (3) pending sales contracts. If no contracts are available for review, provide explanation then skip to Part V-1.

COMMENTS:

Part	Statutory Reference	Description	Sales Contract		
			1	2	3
IV-12	1450.200 (d)	Do the forms used by licensee intended to become binding real estate contracts clearly state this in the heading in large bold type? Comment:			
IV-13	1450.200 (b)	Have all changes to the contract been initialed by all parties to the transaction? Comment:			
IV-14	10-27 1450.190	If a licensee had any interest, direct or indirect, in the property that is the subject of the transaction, did the licensee disclose, in writing, his or her status to all parties in the transaction? Comment:			

ADVERTISING

The examiner should review three (3) types of the broker's advertising (i.e. newspaper classified ad, flyers, MLS property information sheet, etc.)

Part	Statutory Reference	Description	Advertisement		
			1	2	3
V-1	10-30 (a) 20-20(a)(9)&(10)	Is all advertising accurate and truthful? Comment:			
V-2	10-30 (d)	Does the sponsoring broker's business name, including the franchise name (if any franchise affiliation), appear in all advertising? Comment:			
V-3	10-30 (c)(1)	Do property data forms disclose the status of the licensee that has or may have any interest, direct or indirect, in the real estate? Comment:			
V-4		Does the licensee utilize Internet advertising? Comment:			
V-5	10-30 (a) 1450.145	Is Internet advertising accurate and truthful? Comment:			
V-6	10-30 (a) 1450.145	Does the sponsoring broker's business name, including the franchise name (if any franchise affiliation), appear in all Internet advertising? Comment:			
V-7	10-35 (a)	If the licensee intends to sell or share consumer information gathered from or through the Internet or other electronic communication media, does the licensee disclose that intention to consumers in a timely and readily apparent manner? Comment:			

GUARANTEED SALES PLAN

The examiner should review the guaranteed sales plan and, if applicable, one guaranteed sales plan resulting in the purchase of seller's property.

Part	Statutory Reference	Description	Guaranteed Sales Plan	
			Plan	Purchase
V-8	20-20 (a)(29)	Does the broker offer a guaranteed sales plan? Type of document(s) reviewed:		
V-9	20-20 (a)(29)(A)	Does the licensee enter into a sales plan by written contract with the seller prior to entering into a brokerage agreement? Comment:		
V-10	20-20 (a)(29)(B)	Does the licensee provide details and conditions of the plan in writing to the party to whom the plan is offered? Comment:		
V-11	20-20 (a)(29)(C)	Does the licensee provide to the party to whom the plan is offered evidence of sufficient financial resources to satisfy the licensee's commitment to purchase? Comment:		
V-12	20-20 (a)(29)(D)	The licensee offering a guaranteed sales plan shall undertake to market the property of the seller subject to the plan in the same manner in which the broker would market any other property, unless the agreement with the seller provides otherwise. Does the agreement contain such a provision? Comment:		
V-13	20-20 (a)(29)(E)	The licensee cannot purchase the seller's property until the brokerage agreement has ended according to its terms or is otherwise terminated. Did the licensee comply? Comment:		

DUAL AGENCY

The examiner should review three (3) transactions in which the broker (or a broker's agent) acted as a dual agent.

Part	Statutory Reference	Description	Dual Agency		
			1	2	3
VI-1		Does the broker act, or allow his agents to act, as a dual agent?			

A licensee may act as a dual agent only with the informed written consent of all clients. Informed written consent requires that the licensee provide his/her client with a document that includes specific language pertaining to dual agency, and the client signs said document. The specific language is defined in Section 15-45 (a). In addition, the licensee must obtain written confirmation from his/her clients of the prior consent for the licensee to act as a dual agent.

VI-2	15-45 (a)	Did the licensee obtain prior informed written consent from the seller(s)? Comment:			
VI-3	15-45 (a)	Did the licensee obtain prior informed written consent from the buyer(s)? Comment:			
VI-4	15-45 (c)	Did the licensee obtain informed written confirmation, from all of the seller(s) and buyer(s), of their prior consent for the licensee to act as a dual agent? Comment:			
VI-5	1450.215	A licensee may not serve as a dual agent in any transaction to which he or she or an entity in which he or she has an ownership interest is a party to the transaction. Did the licensee serve as a dual agent wherein the licensee is a party to the transaction? Comment:			

ESCROW

The examiner should review the broker's escrow record keeping system.

	Statutory Reference	Description	Examiner's Findings
VII-1	1450.175	Does the broker collect, hold, or maintain escrow money? If no, skip to Part VIII-1.	
VII-1a	1450.175 (K)(2)	If this is a branch office that does not maintain an escrow account but rather transmits all escrow moneys received to the main office, does the branch office timely transmit those funds and maintain records indicating the date of transfer? Comment:	
VII-2	1450.175 (b)	Does the broker maintain and deposit all escrow funds (including security deposits) in a special account, separate and apart from all personal and/or all other business account(s)? Comment:	
VII-2a	1450.175 (d)	Are escrow moneys placed in sponsoring broker's escrow account within the next business day following a transaction? (Obtain examples from closed contracts reviewed) Comment:	
VII-3a	1450.175 (I)(1)	Does the escrow record keeping system include a chronological Journal for each escrow account? Comment:	
VII-3b	1450.175 (I)(1)(A) 1450.175 (I)(1)(B)	Does the Journal include all of the required information for funds received and disbursed? Comment:	
VII-4	1450.175 (I)(1)(C)	Does the Journal include a running balance after each entry? Comment:	
VII-5a	1450.175 (I)(2)	Does the escrow record keeping system include a separate Ledger for each transaction? Comment:	
VII-5b	1450.175 (I)(2)	Does the Ledger include all of the required information? Comment:	

The examiner should review the broker's escrow reconciliation.

Part	Statutory Reference	Description	Examiner's Findings
VII-8	1450.175 (1)(3)	Does the broker reconcile each escrow account within ten (10) days after receipt of the monthly bank statement? Comment:	
VII-9	1450.175 (1)(3)	Does the broker maintain a written work sheet for each reconciliation? Comment:	
VII-10	1450.175 (1)(3)	Does the reconciliation work sheet compare the balances shown on the bank statement to the balance shown on the Journal, and to the total of all of the Ledgers? Comment:	

Escrow Account Information

		Is this an interest bearing account?	
VII-11	1450.175 (b)(1)&(2)	If this is an interest bearing account, does the broker obtain specifications in writing from the principals to the transaction(s) that the deposit be placed in an interest bearing account and indicate the recipient of the interest? Comment:	

Name of Account: _____

Name of Bank: _____

Bank Address: _____

Account Number: _____

Signatory: _____

License #: _____

Signatory: _____

License #: _____

Signatory: _____

License #: _____

Signatory: _____

License #: _____

RECORD KEEPING

VIII-1	1450.180 (a)	Does the broker maintain escrow records; transaction records (listings, sales, property management, lease, buyer representation – including but not limited to closed, cancelled, expired or withdrawn); employment agreements and records reflecting payment of compensation for 5 years? Comment:	
VIII-1a	1450.180 (a)(1)	Does the broker maintain escrow records for the immediate prior 2 year period in the office location? Comment:	
VIII-1b	1450.180 (a)(2)	Does the broker maintain in the office location those transaction records involving any active or pending transaction or representation, or any transaction in which escrow funds or monies belonging to others have been received and not yet disbursed? Comment:	
VIII-2	1450.180 (b)	Are records kept electronically? Comment:	
VIII-3	1450.180 (b)	Are the escrow records backed up monthly? Comment:	
VIII-4	1450.180 (b)	Is the licensee able to produce the monthly reconciliation and worksheet in hard copy? Comment:	
VIII-5	1450.180 (b)	Is the licensee able to produce the monthly journal in hard copy? Comment:	

SUPERVISION

Part	Statutory Reference	Description	Examiner's Findings
IX-1	10-40 1450.130 (a)(1)	Does the managing broker exercise supervision over the activities of licensees and unlicensed assistants working in this office by implementing office policies and procedures established by the sponsoring broker? Comment:	
IX-2	1450.130 (a)(2)	Does this office have a training program for licensees and unlicensed assistants? Comment:	
IX-3	1450.130 (a)(3)	Does the managing broker assist licensees as necessary in real estate transactions? Comment:	
IX-4	1450.130 (a)(4)	Does the managing broker supervise the special (escrow) accounts to ensure compliance with the special (escrow) account provisions of the Act and Rules? Comment:	
IX-5	1450.130 (a)(5)	Does the managing broker supervise all advertising of any service for which a license is required? Comment:	
IX-6	1450.130 (a)(6)	Does the managing broker familiarize sponsored licensees with the requirements of federal and state laws relating to the practice of real estate? Comment:	

ADDITIONAL COMMENTS:

ACKNOWLEDGEMENT

BY SIGNING BELOW, THE BROKER/OFFICE ACKNOWLEDGES RECEIPT OF THIS COMPLIANCE EXAMINATION REPORT

Examiner's Signature: _____ Date: _____

Broker/Office Signature: _____ Date: _____

Name & Title: _____