



Comm'l Classroom: Are you in compliance? - by Ed Smith

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This column is offered to help educate agents new to commercial and investment brokerage and serve as a review of basics for existing practitioners.

Are you in compliance?

Having taught thousands of students, I frequently get to see their business cards and am impressed by their titles: Director, vice-president, managing partner, etc.

Recently, I have been adding ethics training to some of my courses, using the NAR Code of Ethics as reference. I found the following under Article 12: "Realtors shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing and other representations...Making sure their status as a real estate professional is readily apparent..."

Even though this refers to Realtors, we are talking ethics, which applies to all real estate agents everywhere.

Under Standards of Practice 12 -13 it further states: "The obligation to present a true picture in advertising, marketing, and representations allows Realtors to use and display only professional designations, certifications, and other credentials to which they are legitimately entitled."

I got to thinking about these titles I frequently see. They are technically for corporate officers of a firm. Could all these agents be owners or officers of real estate firms?

Doing some research. I found many real estate agents are granted titles by their brokerage firm. Examples include president, executive vice president, senior vice president, vice president, managing director, director, partner etc. The idea is to enhance an individual's stature as an effective salesperson. This is misrepresentation, and would be an ethics violation.

A title of "vice-president or director of retail services" could be interpreted by a consumer that this person has extensive experience in leasing and the sale of retail properties. In fact, they may be a relatively new agent who is only an independent contractor with the brokerage firm. This could also create liability for both the agent and the broker.

In New York the Department of State issued an opinion indicating that granting titles to gain marketing advantages was a false and misleading use of the titles and a violation of Article 12A of the License Law. The only titles allowed in NY are licensed real estate salesperson, licensed associate broker and licensed real estate broker.

NY Real Property Law, Section 441-c, allows the Department of State to revoke, suspend, fine or reprimand a real estate broker or salesperson if that licensee is found to have: Violated any provision of Article 12-A of the Real Property Law.

In our profession our reputation is everything, we must be ethical and do the right thing. Are you and your firm in compliance? If you have inadvertently been using an inappropriate title now is the time to correct it.

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