

AGENT | REGULATIONS

Real estate regulators crack down on individual agent, team branding

California Real Estate Commission warns agents pretending to be brokers

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Key Takeaways

- State agency cautions agents not to represent themselves as "independent" and reminds brokers to supervise agent advertising.

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California's real estate regulator appears to be getting fed up with agents who mislead consumers into believing they are brokers — and with the brokers that support the practice — and it's not alone.

What constitutes misleading consumers? It could be as simple as an agent using a fictitious business name ending in "Real Estate" or an agent branding him- or herself as an "independent" real estate professional.

In March, the California Bureau of Real Estate (CalBRE) issued [a licensee alert](#) warning that agents who violate these laws — and brokers who let their agents engage in such activities — risk significant fines, license revocations and even criminal prosecution.

Other states are also contending with the gray area of agent branding, and this latest advisory indicates that the issue will continue to be a regulatory focus in the Golden State and beyond.

This year, a [South Carolina bill banning](#) the use of "real estate," "realty" and related terms in agent team names went into effect, while a [bill](#) that makes many real estate signs prominently featuring agents (rather than the brokerage) illegal in Michigan [was signed by the governor in January](#).

In general these regulations are designed to protect consumers from getting duped into thinking agents or teams are brokerages, but other stakeholders [say these types of rules represent a nationwide push by traditional brokerages](#) to curb the growth of teams and argue that they stifle the personal touch that an agent's individual branding can convey.

Massachusetts-based broker-owner Gary Rogers, however, expressed his understanding of such legal boundaries: "I do see a lot of illegal signs promoting a team brand and little and sometimes zero mention of the office they work for," he commented in a [related real estate industry Facebook thread](#).

"Sometimes there's only one agent on that team, which cracks me up."

What's the context for California?

The alert from CalBRE was "supplemental" — it was preceded by a [similar September 2015 alert](#) penned by California Real Estate Commissioner Wayne Bell.

The second alert was also authored by Bell, along with Special Investigator Mark Tutera, and made clear that the



Wayne Bell

“CalBRE has taken notice of the use by some real estate salespersons of names and designations (and attendant Internet and marketing materials) that suggest to the public — and mislead consumers into falsely believing — that such salespersons are real estate brokers,” the alert said.

They explained that under California’s two-tiered licensing system, “real estate salespersons cannot provide — or advertise that they can provide — real estate services independently of their responsible brokers.” Salespersons must also be affiliated with and “reasonably supervised by ... a responsible broker in order to engage in real estate licensed activities in California. The law provides no exceptions.”

Supervision includes broker review of the advertising used by the broker’s agents, they added.

Where agents can go wrong

CalBRE specifically outlined two unlawful scenarios the agency said it had seen repeatedly. The first is that an agent, say John Doe, uses a fictitious business name such as “Doe Real Estate” that would lead consumers to incorrectly believe that the business is run by a real estate broker.

“Doe advertises using that business name, and the advertisements are connected to, or accompanied by, a webpage and other materials that extol the virtues of Doe Real Estate,” CalBRE said.

“The public would not think that Doe is a salesperson who must be supervised by another, and would most certainly conclude that Doe Real Estate is a real estate broker or brokerage. And the above practices are unlawful.”

Secondly, many agents continue to brand and identify themselves as “independent” real estate practitioners and practice and advertise as such, the agency said.

Unless those agents are operating as teams and in compliance with state laws governing teams, representing themselves as independent is also unlawful, the agency added.

Teams must disclose the name of the responsible broker, and the team name must include the surname and license number of at least one of the licensee members of the team and use the terms “team”, “group” or associates,” [according to CalBRE](#).

Team names cannot include terms that would lead consumers to believe that the team offers brokerage services independent of a broker, including terms such as “real estate broker,” “real estate brokerage,” “broker,” or “brokerage.”

Industry reactions across states

A [petition](#) against the [Michigan bill](#), which requires the brokerage name to appear as 100 percent of the size of an agent’s name on any and all advertising, has gained over 1,000 signatures.

“This law actually decreases competition by putting more emphasis on the broker and less on the agent,” Jackson, Michigan-based Realtor Tim Creech [commented on the petition](#).

“All agents are 1099 self employed and creating brand and image is critical in building our personal identity. This law is unfair and serves no purpose other than creating larger companies controlling business and hurting small business.”

Shaun Simpson, a Realtor from the Midwest, [noted on a Facebook thread](#) that Ohio also has an [equal prominence rule](#), but in practice, the regulation isn’t clear cut.

“It is very difficult to define and many violate it,” Simpson wrote. “With DBAs (doing business as) and the like as well as logos, not many have a good understanding. I think equal is difficult for signage and it ends [up] making the signs look more confusing.”

In Tennessee, a [bill revised in January requires that all advertising](#) clearly show the brokerage’s firm name and telephone number.

Nashville-based Kathryn Royster of Houselens indicated that the disruption such laws bring to agents’ business is temporary. “It caused some significant but one-time headaches for a number of our customers who had to redo their business cards, signs, etc.,” she [noted](#).