

## Do your advertisements put you at risk?

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With Facebook resembling an MLS data feed, it's time to revisit your advertising protocol. The Real Estate Commission's rules are clear: **An advertisement by an associate broker [or] salesperson . . . shall contain the business name and telephone number of the employing broker.** Those who violated this simple regulation are subject to prosecution that can lead to license suspension (not anticipated for a first offense) and/or fines (very likely to be imposed).

What about modern media that enables one to click a link that leads to a more detailed advertisement? Need the link be accompanied by the name and telephone number of the employing broker? The answer lies in the rule. **Every advertisement by a salesperson or associate broker needs to include the name and telephone number of the employing broker.** So the question becomes: Is the hyperlink an advertisement? My *Merriam-Webster* defines advertisement as "something that is shown or presented to the public to help sell a product or make an announcement." For our purposes, the services you provide as a real estate licensee are the equivalent of a product. If the link that is to be clicked includes your name and the fact that you are providing real estate services, then my conclusion is that it is an advertisement. Without clicking, I realize that whoever published the link is selling real estate services or real estate and I can determine a name from the link. My conclusion is those who publish such links are at risk of prosecution. My advice to brokers is that should you allow such advertisements, you are at risk of prosecution for violating your responsibility to oversee the licensed activity of your associate brokers and salespersons.

If the link to click gives no clue as to the product or services to be sold or the identity of the provider, it might be difficult to argue that the link alone is an advertisement. When clicked, it will presumably lead to a pitch selling a service offered by a named person in which case the name and telephone number of the broker must appear.

When a salesperson advertises, must he/she include a middle initial? May they use a nickname? Again, the answer lies within the rule. The rule allows brokers, associate brokers and salespersons who wish to use and advertise nicknames (given name is John, but the licensee uses Jack; the given name is Margaret, but the licensee uses Peggy) to do so provided the nickname is included on the licensure or renewal application. A licensee who wishes, mid-year, to adopt a nickname should inform the Commission at that time rather than await the biennial renewal. I am unaware of licensees being prosecuted because they failed to use a middle initial though it is indicated on the license.

As for the relative size of the broker's name and telephone number vis-à-vis the agent's, the broker's information must be of equal size or larger.

It may be that the Commission will visit internet advertising, but for the present the rules as described remain in place. Those who place risky ads may eventually see “disciplinary history exists” under your name in the Commonwealth’s licensed verification website.

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