Trust Fund Accounting and Handling

CONTINUING EDUCATION COURSE
(BY CORRESPONDENCE)

FOR CALIFORNIA REAL ESTATE LICENSE RENEWAL

(3 Hours Credit)

Trust Funds Requirement

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To Comply with this Requirement, YOU MUST COMPLETE the Section Quizzes offered at the end of each Course Section before you can take the Course Final Exam.

There are 3 Quiz Sections to be completed for this Course "Trust Funds," As Follows:

- Quiz Section #1 is to be taken after reading pages 1 through 5
- Quiz Section #2 is to be taken after reading pages 6 through 17
- Quiz Section #3 is to be taken after reading pages 18 through 21

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Trust Fund Accounting and Handling

* Please Note: The Written Assignment is not the "Mandatory Quizzes" The mandatory quizzes are separate and may be found in the loose papers Paper Clipped together, which came in the package that came with this booklet. Unless you are reading online PDF book, then you will, or may take them online via the Internet by login to the Examination System.

TRUST FUND ACCOUNTING AND HANDLING

INTRODUCTION

Having a real estate license entails many responsibilities related to the public trust. One of the most important of these responsibilities is the handling of money which a real estate licensee receives in his or her role as an agent for others. Such money held in trust by the licensee must, by law, be kept in a trust fund, separate from other money. Final #1-a

Q-1 #1-B The real estate licensee is never allowed to mix the money held in trust with his or her own funds (called "commingling") or to convert such funds to his or her own use (called "conversion"). There are strict laws and regulations governing the handling of such trust funds to ensure commingling and conversion do not occur. Indeed, among the most important laws and regulations governing real estate licensees are those prohibiting commingling or conversion of funds held in trust by the licensee. Not surprisingly, these are among the laws and regulations most often violated by real estate licensees, resulting in disciplinary actions by the Bureau of Real Estate and, occasionally, criminal prosecution.

Because some real estate licensees have trouble understanding how trust funds should be handled, the California legislature in 1993 passed, and the Governor signed, AB 1902 requiring all real estate licensees to take a continuing education course on the subject of trust funds. This course describes, in detail, the reasons for trust funds and the correct bookkeeping methods for recording and accounting for trust funds.

BACKGROUND

#2-b Final

Q-1 #2-A Real estate licensees receive trust funds in the normal course of doing business. They receive these funds in trust, that is, on behalf of others, thus creating a fiduciary responsibility to the funds' owners. Brokers and salespersons must handle, control, and account for these trust funds according to established laws and regulations. Violating the laws and regulations governing trust funds can result in unfavorable business consequences and can be cause for revocation or suspension of a real estate license, not to mention the possibility of criminal sanctions and of being held financially liable for damages incurred by clients.

This course discusses the legal requirements as set forth in the Real Estate Law and the Regulations of the Real Estate Commissioner for receiving and handling trust funds in real estate transactions. Among the topics covered in this book are:

- requirements for maintaining a trust fund bank account;
- precautions a licensee should take to ensure integrity of the account; and
- trust fund record keeping requirements as explained in the Business and Professions Code and the Commissioner's Regulations.

For illustration and discussion, the examples in this course involve real property sales and property management trust account transactions. Also subject to the same laws and regulations, other types of real estate activities involving trust funds may also have to comply with additional legal and regulatory requirements. While these other types of transactions may require records significantly different from those illustrated, the record keeping fundamentals discussed still apply.

Final #3-C

WHAT TRUST FUNDS ARE AND ARE NOT

Because trust funds must be handled in a special way, a real estate licensee must be able to tell the difference between trust funds and non-trust funds.

Q-1 #3-B

Trust funds are defined by the California Bureau of Real Estate as "money or other things of value that are received by a broker or salesperson on behalf of a principal or any other person, and which are held for the benefit of others in the performance of any acts for which a real estate license is required." In other words, trust funds may be cash or non-cash items. Trust funds include such things as cash, a check applied as a deposit for an acquisition (whether made payable to the real estate licensee or to an escrow or title company), a personal note made payable to the seller, or even a pink slip to an automobile which is given as a deposit.

The information in this course pertains to real estate trust funds received by licensees. Non-trust funds, as a rule, are not subject to the Real Estate Law and Commissioner's Regulations as long as they are not mixed with trust funds. There are certain circumstances, however, in which the Bureau of Real Estate does have the authority to review dealings involving non-trust funds. Examples of non-trust funds are commissions from real estate, rents and deposits from licensee-owned real estate, and general operating funds.

Advance fees, fees received from a principal for a listing or offer to sell or lease property issued primarily for promoting the sale or lease of real estate or business opportunities may be deposited into a trust fund account. Section 10146 of the Business and Professions Code states that such funds are trust funds, not funds of the agent. Amounts may be withdrawn only when actually expended for the benefit of the principal or five days after the verified accounts have been mailed to the principal. Each principal must be furnished a copy of such accountings at the end of each calendar quarter and when the contract has been completely performed by the licensee.

WHAT IS REQUIRED IN HANDLING TYPICAL TRUST FUND TRANSACTIONS

The real estate licensee bears a fiduciary responsibility to the owner(s) of the

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trust fund(s). This means that the funds belong to others and are entrusted to the care and handling of the licensee. This is a legal obligation on the licensee, one of the reasons why a real estate license is required of those who represent others in real estate transactions. Various and specific obligations come with the fiduciary responsibility attached to the licensee. For example, the licensee is required to handle the funds according to the law and use them only for purposes authorized by the funds' owners. In addition, the licensee must keep an exact, comprehensive, and up-to-date accounting of the funds.

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A characteristic trust fund transaction begins with the real estate licensee receiving trust funds from a principal in conjunction with the buying or leasing of real property. Compliance with Section 10145 of the Business and Professions Code requires that the broker place funds accepted on behalf of another into either (1) the hands of the owner of the funds, (2) a neutral escrow depository, or (3) a trust fund account in the name of the broker, or in a fictitious name if the broker is the holder of a license bearing such fictitious name, as trustee at a bank or other financial institution not later than three business days following receipt of the funds by the broker or by the broker's salesperson.

As granted under Commissioner's Regulation 2832, there are specific conditions that permit an exception to this rule. Specifically, when a check is received from a potential buyer or renter (the "offeror") in connection with an offer to buy or lease real property, the deposit check may be held uncashed by the licensee until the offer is accepted if the following conditions are met:

1. As set by its terms, the check is not negotiable by the licensee, or if the offeror has given written instructions that the check shall not be deposited or cashed until acceptance of the offer; and

2. The owner ("offeree") is apprised that the check is being so held, before or at the time the offer is tendered.

Once the owner's offer is accepted, the licensee may continue to hold the check and not deposit it only if the licensee receives written permission from the offeree to do so.

According to Business and Professions Code Section 10145, a real estate salesperson who accepts trust funds on behalf of the broker under whom he or she is licensed must transfer the funds to the broker forthwith, or if the broker instructs, place the funds into the hands of the broker's principal or into a neutral escrow depository or deposit the funds into the broker's trust fund bank account.

As applied in Business and Professions Code Section 10145, a neutral escrow depository means an escrow business conducted by a person licensed under Division 6 (commencing with Section 17000) of the Financial Code.

Note that throughout the course of the transaction, any funds received by the real estate licensee have been received in trust and do not belong to the licensee. Rather, such funds are received in the licensee's role as agent and must be held in accordance with instructions given by the true owner or owners of the funds.

Who Are the Owner(s) of the Trust Funds?

Which of the parties in a transaction owns the trust funds and is empowered to receive them? This is a question a real estate broker must answer, since these funds can be disposed of only upon the authorization of the owner of the trust fund. The person allowed to receive the funds may or may not be the person who initially gave the funds to the broker or the salesperson.

In some cases, the party entitled to the funds will shift under certain circumstances in the transaction. For example, in a transaction involving an offer to buy or lease real property or a business opportunity, the party entitled to the funds received from the offeror (prospective buyer or lessor) will depend upon whether or not the offer has been accepted by the offeree (seller or landlord).

Before an offer is accepted, the funds received from the offeror belong to that person and must be handled according to his or her instructions. If the funds are deposited in a trust fund bank account, they must be maintained there for the benefit of the offeror until acceptance of the offer. Or, as discussed in the preceding section, if the offeror wishes, a deposit check may be held uncashed by the broker as long as he or she authorizes the broker, in writing, to do so and the offeree is informed before or at the time the offer is presented for acceptance that the check is being so held.

Upon acceptance of the offer, however, the handling of the funds shall conform to instructions from the offeror and the offeree as follows:

1. An offeror's check held uncashed by the broker before acceptance of the offer may continue to be held uncashed after the acceptance of the offer, only upon express written authorization from the offeree. (Commissioner's Regulation 2832 (d)).

2. The offeror's check may be given to the offeree only if the offeror and offeree mandate it in writing. (Commissioner's Regulation 2832 (d)).

HOW TO MANAGE TRUST FUND BANK ACCOUNTS

General Information

If trust funds are obtained by a licensee and they are not forwarded directly to the broker's principal or placed in a neutral escrow depository, and if the broker does not have authorization to hold such funds uncashed, then they must be deposited to the broker's trust fund bank account (Business and Professions Code Section 10145). The trust fund account must be in the name of the broker, or in a fictitious name if the broker is the holder of a license bearing such fictitious name, as trustee.

Except as noted in our discussion of interest-bearing accounts, the trust account cannot be an interest-bearing account for which prior written notice can by law or regulation be required by the financial institution as a condition to withdraw the funds.

WITHDRAWALS FROM TRUST FUNDS

In accordance with Commissioner's Regulation 2834, a withdrawal can be made from the trust account only when the signature of one or more of the following persons is obtained:

- a salesperson licensed to the broker;
- a person licensed as a broker who has entered into a written agreement pursuant to Section 2726 with the broker; or
- an unlicensed employee of the broker with fidelity bond coverage at least equal to the maximum amount of the trust funds to which the employee has access at any time.

Q-1 #5-A

#5-d Final

Whether a licensed salesperson or broker or an unlicensed employee, the broker or broker-officer bears responsibility for the trust account. This means that an individual broker or the broker-officer of a corporate broker licensee is not freed from responsibility or liability as provided by law in handling trust funds in the broker's custody when an arrangement is made under which a person is authorized to make withdrawals from a broker's trust fund account. Moreover, the fact of a salesperson's or an employee's irresponsibility or negligence does not relieve the broker or broker-officer of compliance with the law.

THE PURPOSE OF A TRUST ACCOUNT

A trust account is set up as a means to keep trust funds separate from non-trust funds. Although keeping trust funds in a trust account will not stop a dishonest broker from misusing the funds, keeping the broker's own funds separate from a client's funds provides a better physical and accounting control – that is, better checks and balances – over the trust funds.

One of the important purposes for designating a trust fund depository as a trust account is that the principals' trust funds are safeguarded in situations where legal action is taken against the broker or where the broker becomes incapacitated or dies. Trust funds held in a true trust account cannot be "frozen" pending litigation against the broker or during probate.

Better insurance protection is also provided when trust funds are deposited into a trust account. In an opinion rendered in 1965, the general counsel of the Federal Deposit Insurance Corporation (FDIC) maintained that various owners' funds, which are deposited in a trust account (and designated as custodial) in an insured bank, will be recognized for insurance purposes to the same extent as if the owners' names and interests in the trust account are individually disclosed on the records of the bank. This rule applies specifically to trust accounts that are designated as custodial and the name and interest of each owner of the funds in the account are made known on the depositor's records. While the regulatory requirements are met, each client with funds deposited in a trust account maintained with a federally insured bank is insured by the FDIC up to $100,000, as opposed to just $100,000 for the entire account.

Interest-Bearing Trust Accounts

Under normal conditions, a trust fund bank account may not be interest bearing. There are certain conditions, however, which permit trust funds to be deposited into an interest-bearing account in a bank or savings and loan association upon the request of the trust funds' owner or at the request of the principals to a transaction or series of transactions from whom the broker has received trust funds.

Commissioner's Regulation 2830.1 provides that a real estate broker, when acting as agent for a financial institution as beneficiary of a loan, may deposit and maintain funds from or for the account of an obligor for the future payment of property taxes, assessments, or insurance relating to real property containing only a one to four family residence, in an interest-bearing trust account in a bank or savings and loan association in order to pay interest to the obligor in accordance with Section 2954.8 of the Civil Code if the following requirements are met:

- the account is in the name of the broker as trustee;
- all of the funds in the account are covered by insurance provided by an agency of the federal government;
- all of the funds in the account are funds held in trust by the broker for others;
- the broker discloses to the obligor how interest will be calculated and paid; and
- no interest earned on the trust funds shall benefit, either directly or indirectly, the broker or any person licensed to the broker.

Commingling of Funds is Strictly Prohibited

Except for two very specific instances, which are described on the next page, trust funds may not be commingled with funds belonging to the licensee. Real Estate Law strictly prohibits commingling of funds. Pursuant to Business and Professions Code Section 10176(e), it is regarded as so serious an offense that it is grounds for revoking or suspending a real estate license.

Here are examples of when commingling occurs:

- It is a violation of the law, even if separate records are kept, to deposit personal or company funds into the trust fund bank account.

- Commingling occurs when trust funds are deposited into the licensee's general or personal bank account rather than into the trust fund account. This is also a violation of Business and Professions Code Section 10145. In accordance with Business and Professions Code Section 10177 (d), it is also grounds for suspension or revocation of a real estate license .

Q-2 #1-B

- Income (e.g., commissions or fees) earned by the broker and collectible from the trust account are left in the trust account for more than 25 days after it is earned.

#6-d Final

A familiar example of commingling is depositing rents and security deposits on broker-owned properties into the trust account. As these funds relate to the broker's properties, they are not trust funds and, therefore, may not be deposited into the trust fund bank account. Similarly, even if the broker reimburses the account for such payments, mortgage payments and other payments on broker-owned properties may not be made from the trust account. Managing personal business through the trust fund account is strictly prohibited and is a violation of the Real Estate Law.

There are two specific cases wherein a real estate broker's personal funds may be commingled with funds in the trust account. They are:

Q-2 #2-A

- In order to cover bank charges and fees such as check printing charges, checking account service fees, and service fees on returned checks, a broker is permitted to keep up to $200 of personal funds in a trust account. Trust funds may not be applied to these expenses. However, it is preferred that the broker have the bank debit his or her own personal account for any trust account fees and charges.

#7-D Final

- Earned incomes such as commissions or fees, which are deposited into the broker's trust account, may remain in his or her account for a period up to 25 days. While technically this is commingling, there is no commingling violation as long as the broker disburses the earned income from the trust account within 25 days after it is earned. This is because there are times when it is just not practical to disburse the income as soon as it is received.

  For example, a property management association may find it too troublesome to collect its management fee every time a rent check is received and deposited to the trust account. It should be noted, however, that earned income must be deposited first into the trust fund account before any income can be taken out of the trust bank account. Moreover, under no circumstances may a broker's personal liabilities be paid from the trust fund bank account. This holds true even if such payments are a draw against commissions or other earned income. The broker must issue a trust account check to himself or herself for the total amount of the income earned, adequately documenting such payment, and then he or she must pay any personal dues from the proceeds of that check.

Note that when the right of a broker to receive a portion of trust funds is disputed by the broker's principal, the disputed portion may not be withdrawn until the dispute is finally settled.

CONSEQUENCES OF COMMINGLING OR CONVERSION

Q-2 #3-A

The Commissioner may, upon the verified complaint in writing of any person, investigate the actions of any licensee and may temporarily suspend or permanently revoke a real estate license at any time where the licensee performs acts of commingling or conversion.

In the event the Commissioner conducts an audit which uncovers commingling or conversion of trust funds in excess $10,000, the court may enter an order restraining the licensee from carrying out further such acts or from further exercising license privileges until a hearing can be held. After the hearing, a receiver may be appointed over the assets of the licensee. The receiver may exercise all of the powers of the licensee or its officers, directors, partners, or trustees.

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An aggrieved party may also file an action in civil court.

Under Section 10185 of the Business and Professions Code, any person, including officers, directors, agents or employees of corporations, who willfully violates the Code, including its prohibitions against commingling and conversion, is guilty of a misdemeanor punishable by a fine not exceeding $10,000, or by imprisonment in the county jail not exceeding six months, or by both a fine and imprisonment.

WHAT A BROKER NEEDS TO KNOW ABOUT TRUST FUND LIABILITY

Trust fund liability arises in two ways: when funds are received from a principal or when funds are received for the benefit of a principal. Obviously, trust fund liability decreases when funds are disbursed in accordance with that principal's instructions.

In the case of a trust account with multiple beneficiaries, the total trust fund liability is commensurate with the aggregate positive balances due to all the beneficiaries of the trust account at the time. Deductions for beneficiary accounts with negative balances are not subtracted from other accounts when computing the total trust fund liability.

Trust fund balances are governed by strict regulations and must equal the broker's aggregate trust fund liability. The consequence of reducing the trust the individual trust fund bank account record required under Commissioner's Regulation 2831.

MAINTAINING A RECORD OF TRUST FUNDS RECEIVED BUT NOT DEPOSITED TO THE TRUST FUND BANK ACCOUNT

A record must be maintained that keeps track of funds which are received by a licensee, but not deposited to a trust fund bank account using the Record of All Trust Funds Received – Not Placed In Broker's Trust Account (RE Form RE 4524). This record must exhibit the following information:

- the date the funds were received;
- the form of payment (e.g., check, note, etc.);
- the amount of funds that were received;
- the identity of the person to whom funds were forwarded;
- a description of the property;
- the disposition of funds (to escrow, principal, trust account, or returned); and
- the date of disposition.

You may refer to a previous section, "What is Required in Handling Typical Trust Fund Transactions," for the circumstances under which a broker is permitted to hold checks. Trust fund receipts are recorded chronologically, according to the date the funds were received, and the disposition of the funds is recorded on the same line where the corresponding receipt is recorded.

The Record of All Trust Funds Received – Not Placed In Broker's Trust Account (RE Form 4524), is the required account record for the licensee to maintain. The transaction folders commonly provided by a licensee for each real estate sales transaction showing the receipt and disposition of checks not deposited cannot be a substitute, in any form, for this record.

MAINTAINING A SEPARATE RECORD FOR EACH PROPERTY MANAGED

The Separate Record For Each Property Managed (RE Form 4525) is used to record trust fund account deposits and disbursements pertaining to each property managed for others. When this form is used, RE 4523 will not be maintained for the same transactions. This form is useful when the licensee wants to spell out some detailed information about a specific property being managed.

The total of all RE 4525 and RE 4523 balances must equal the daily balance shown on RE 4522, on any given date. Any difference must be reconciled.

Illustrations of the recording process using these columnar records can be found toward the back of this part of your course.

NON-COLUMNAR RECORDS

#9-b

The columnar accounting record form, as prescribed by Commissioner's Regulations 2831 and 2831.1, is not the only acceptable accounting system available to a licensee. Non-columnar records, however, must be in accordance with generally accepted accounting practices. The accounting records may be either manually produced or computerized, and they must be maintained in a format that will readily enable tracing and reconciliation. The following are examples of accounting methods which serve this purpose:

- **A journal** – A journal may be used to sequentially record the details of all trust fund transactions.
- **A cash ledger** – A cash ledger may be used to show the trust fund bank account balance as it is affected by the transactions recorded on the journals. The ledger is posted in the form of debits and credits. (In some cases the cash ledger may be combined with the journals.)
- **A beneficiary ledger** – A beneficiary ledger, in chronological sequence, details the transactions affecting each of the owner's accounts, as well as the balance of the trust fund account.

Q-2 #4-b

For a licensee to use non-columnar records and be in compliance with generally accepted accounting practices, there must be one set of journals, cash ledger, and beneficiary records for each trust fund bank account.

The Journal

A journal is defined as a daily chronological record of trust fund receipts and disbursements. Both the trust fund receipts and the disbursements may be recorded in a single journal. If a licensee prefers, he or she may keep a separate journal for receipts and for disbursements. In any case, to meet minimum requirements for record keeping, a journal must:

1. document all trust fund transactions in chronological sequence;
2. contain adequate information to label the transaction, such as:
   - the date of the transaction;
   - the amount of funds received or disbursed;
   - the name of, or reference to, the payee or payor;
   - the check number or reference to another source document of the transaction; and
   - the identification of the beneficiary account affected by the transaction;

3. match up with the ledgers. For example, the journal should show the same figures that are registered, individually or in total, in the cash ledger and in the beneficiary ledgers (see below for further discussion of these types of ledgers).The items in the journals must be the basis for posting transactions on the ledgers and arriving at the account balances; and

4. systematically, show the total receipts and total disbursements. This means at least once a month.

The Cash Ledger

The cash ledger is usually presented in a summary format. Ordinarily, it displays the increases and decreases (debits and credits) that occur at regular intervals in the trust fund bank account and the resulting account balance. The cash ledger can be included in the journals or it can be a separate accounting record, such as a general ledger account. If the licensee chooses to maintain a separate record, the entries must be based on the business dealings recorded in the journals.

The amounts posted on the ledger must be those shown in the journals. Final

#10-b

The Beneficiary Ledger

Q-2 #5-A

The licensee must keep a separate beneficiary ledger for each individual beneficiary or separate transaction or series of transactions. The details of all receipts and disbursements related to the beneficiary's trust fund account, and the resulting account balance, are posted in a chronological sequence in the beneficiary ledger. This ledger is important ~~since it is a~~ mirror of the licensee's liability to a particular trust fund account owner. Similar to the procedure for cash ledgers, the data in all these ledgers must be based on items recorded in the journals. 5

Recording Process

Following specific accounting procedures makes it that much easier to maintain complete, up-to-date, and accurate trust fund records. As the licensee develops a record keeping routine of his or her own, the following procedures may be beneficial to consider:

- Record all the transactions in the trust fund bank account on a daily basis and in the independent beneficiary records.
- Be consistent when entering the trust fund receipts and disbursements. Rely on the same forms and documentation each time a receipt or disbursement is registered. For example, always record trust fund receipts on the form, "Real Estate Contract and Receipt for Deposit," and always base the recording of trust fund disbursements on the

checks issued from the trust account.

- Each time an entry is made, compute the trust fund account balances on all pertinent records.
- On a monthly basis, check the records to verify that transactions are accurately recorded on both the bank account record and the appropriate subsidiary records.
- If more than one trust fund bank account is held, keep a separate set of accurately marked columnar records (cash record and beneficiary record) for each account.

RECONCILING BALANCES OF ACCOUNTING RECORDS

WHY RECONCILE?

The trust fund bank account record, the separate beneficiary or transaction record, and the bank statement are all interconnected. Therefore, any item entered on the bank account record must have an identical entry on a separate transaction or beneficiary record. Similarly, any entry or transaction shown on the bank statement must be shown on the bank account record. This pertains to the columnar form of recording as well as to other types of records in accordance with generally accepted accounting practices.

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If the licensee reconciles the records monthly, he or she can substantiate their exactness. The reconciliation of accounting records is the process of comparing two or more sets of records to ascertain whether their balances match. Reconciliation will uncover whether or not the records are correct.

For the purposes of maintaining trust fund records, two reconciliations need to be made at the end of each month:

1. a reconciliation of the bank account record with the separate beneficiary or transaction records; and
2. a reconciliation of the bank account record with the bank statement.

RECONCILING THE BANK ACCOUNT RECORD WITH THE SEPARATE BENEFICIARY OR TRANSACTION RECORDS

Reconciling the bank account record with the separate beneficiary or transaction record is required by Commissioner's Regulation 2831.2. This reconciliation will verify that all entries on the bank account record were registered on the separate beneficiary or transaction records. The sum total of all beneficiary record balances should match the balance on the bank account record. Any difference between the balances should be found and the records should be fixed to reflect the correct bank and liabilities balances.

Except in those months when there is no business activity in the trust

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account, it is a requirement of the Commissioner's Regulation 2831.2 that this reconciliation of accounting records take place on a monthly basis and that the licensee keep a record of each reconciliation. This record of reconciliation should identify:

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- the bank account name and number;
- the date of the reconciliation;
- the account number or name of the principals or beneficiaries or transactions; and
- the trust fund liabilities of the broker to each of the principals, beneficiaries, or transactions.

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Final

Reconciling the Bank Account Record With the Bank Statement

Although reconciling bank account records with the separate beneficiary or transaction records is required by the Commissioner's Regulations, this is not the case with reconciling the bank account record with the bank statement. Nonetheless, this reconciliation process makes good business sense and should be considered a fundamental part of any reliable accounting system. If the licensee or the bank makes any recording inaccuracies, these mistakes will be disclosed by reconciling the bank account record with the bank statement. There is more of a guarantee that the bank account record balance is accurate if it matches the balance on the bank statement as adjusted for outstanding checks, deposits in transit, and other transactions not yet included in the bank statement.

Some Ideas for Reconciling Records

The elaborate procedures on how to carry out the reconciliations will not be explained here. What follows, however, are a few general ideas:

1. Prior to performing the reconciliations, the licensee should record all the transactions up to the cut-off date in both the bank account record and the separate beneficiary or transaction records.
2. Be careful to use the same cut-off date when calculating the account balances for the two records (beneficiary or transaction) and the bank statement.
3. When reconciling the bank account record, compute the adjusted bank balance both from the bank statement and from the bank account record. (Bureau of Real Estate audits of trust accounts have disclosed a common mistake made by licensees when computing the adjusted bank balance. It is a mistake to calculate the balance solely on the bank statement but not on the bank account record. Even though the licensee may know the correct account balances, he or she may not be aware that the records are lacking or faulty.)

4. Always maintain good documentation of the reconciliations. Keep a record of the two reconciliations performed at the end of each month along with the ancillary schedules.
5. Find any variance between the three sets of accounting records in a precise and quick manner. The explanation for a difference can include any of the following errors:
    - not recording a transaction;
    - recording an incorrect figure;
    - erroneous calculations of entries used to arrive at account balances;
    - missing beneficiary records; and
    - bank errors.

DOCUMENTATION REQUIREMENTS

TRANSACTIONS AND RELATED DOCUMENTS

In accordance with the requirements of the Bureau of Real Estate, the licensee must keep all of the documents that were prepared or acquired, which were associated with any real estate transaction handled. This is in addition to the accounting records which the licensee is obligated to maintain. The tables found at the end of this part of your course are examples for study. They are not all inclusive, but they list many of the different types of dealings normally handled by a licensee and the corresponding documents which are required to substantiate that type of transaction:

The Commissioner's Regulations and Real Estate Law mandate some additional requirements associated with the administration of real estate transaction documents. These other requirements pertaining to the preparation and management of transaction documents are explained in the following sections.

GIVE A COPY OF THE CONTRACT TO THE SIGNATORY

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Final

In accordance with Business and Professions Code Section 10142, a licensee is required to provide the person signing a contract or an agreement with a copy of that document. The licensee must give a copy of the contract or agreement to the person signing it at the time the signature is obtained. This applies to any agreement delegating or contracting the licensee to render any acts for which a real estate license is required or when the licensee obtains the signature of any person to any contract connected with such services or transaction. Examples of such documents include:

- listing agreements
- real estate purchase contracts
- receipts for deposit forms

- addendums to contracts
- property management agreements

BROKER SUPERVISION AND WHEN AUTHORITY MAY BE DELEGATED

Pursuant to Commissioner's Regulation 2725 relating to any business dealing for which a real estate license is required that may have a material effect upon the rights or obligations of a party to the transaction, a broker is required to exercise reasonable supervision over the activities of his or her salespersons. Reasonable supervision includes the establishment of policies, rules, and necessary procedures and systems.

The form and extent of such policies, rules, procedures, and systems must take into consideration the number of salespersons employed and the number and locations of branch offices. In any event, the broker may not relinquish overall responsibility for supervision of the acts of licensed salespersons but may delegate authority to any licensed real estate broker who has a written agreement with the broker with respect to the delegation of authority.

WHAT TO EXPECT IN AN AUDIT OR EXAMINATION

Handling trust fund accounts poses important responsibilities for licensees. For this reason, the Commissioner regularly examines licensee's records as part of an ongoing, statewide program. During an audit, and as deemed necessary, licensees are made aware of trust fund handling and record keeping requirements. If irregularities in the handling of a trust fund are disclosed during the course of an audit or examination, disciplinary action will be initiated. Specifically, if actual trust fund imbalances are revealed or if money handling procedures are such that money could potentially be lost, even if a loss has not yet occurred, appropriate disciplinary proceedings will be initiated including a possible license suspension or revocation. Final #14-c

Q-3 #4-A Pursuant to Section 10148 of the Business and Professions Code, the licensee pays the Commissioner's reasonable cost for the audit which led to this disciplinary action and a subsequent audit to determine if the trust fund violation(s) have been corrected.

Q-3 #5-B Also pursuant to section 10148 of the Business and Professions Code, a licensed real estate broker must preserve, for three years, copies of all listings, deposit receipts, canceled checks, trust account records, and any other documents administered by or acquired by the licensee associated with any business dealing for which a real estate broker license is required. This three-year period runs from the date of the transaction closing or from the date of the listing if the transaction is not concluded. #8-C Final After notice by the Commissioner, such books, accounts, and records must be made available for examination and inspection by the Commissioner or his designated representative during regular business hours and will, upon appearance of sufficient grounds, be susceptible to an audit without further notice. In accordance with the Commissioner's Regulations, an audit may not be harassing in nature.

Under the Commissioner's Regulation 2729, a real estate broker may use electronic image storage media to retain and store copies of the documents executed by him or her or obtained when certain requirements pertaining to the records and storage media are met.

RECORDING TRANSACTIONS

To illustrate the record keeping demands described in this course, what follows is a sample columnar accounting record for a trust fund bank account involving typical real estate transactions occurring over a 30-day period. Here is a brief overview of the example offered below: a real estate broker, Janet Jones, owns and operates a small one-woman real estate office specializing in residential sales and property management. Ms. Jones has one trust fund bank account that she manages.

The simulated record offered here is for the trust account activity for Jones' office for the month of April, 2007. Even though Jones' accounting system uses columnar records, the licensee may use other types of records as long as they meet generally accepted accounting standards of practice. (See the section in this course, "Maintaining Accounting Records" for discussion.)

The following tables are for illustrative purposes only. We have purposely kept the amounts small so that the calculations will not distract the reader.

2007 TRANSACTIONS

April 1 Jones opened a trust account with Home Savings Bank. She deposited $100 of her own money to cover bank service fees and charges.

April 1 Jones enters into agreements to manage the following five rental properties:

	Address	Owner's Name	Number of Units
a.	1234 Lake Dr. Mytown, CA	T. Byrd	1
b.	310 Bailey St. Mytown, CA	F. Capra	4
c.	1543 Chaney Ave. Mytown, CA	N. Kerry	4
d.	3263-3265 Philbin Way Mytown, CA	C. Laemmle	2
e.	5000 Lake Blvd. Mytown, CA	J. Stuart	1

April 2 Received a $2,000 check payable to broker from Mr. and Mrs. Robert Green as a deposit for their offer to buy a house at 300 River Road, Mytown, owned by Mr. and Mrs. Nick DePalma. The buyers' offer instructed the broker to hold the check uncashed until their offer was accepted by the DePalmas.

NOTICE: Keep these questions, but mark your answers on the accompanying quiz answer form and return to:
REAL ESTATE LICENSE SERVICES, 5059 NEWPORT AVENUE #209, San Diego, California 92107

15 Hours Combined Quizzes

On, April 1, 2011 the Bureau of Real Estate began enforcement of new regulations regarding how real estate licensees must do their continuing education courses to renew their licenses.

In accordance with those new regulations, the student must do mandatory quizzes prior to taking the final exam(s). Please note that your score on the mandatory quizzes will not determine in any way if you pass or fail your course. Only the final will determine if you pass or fail the course.

After you answer your quizzes, please mail your answers to us. After we receive them, you may take your final exam. If you want the answers to the quizzes, you must send a self-addressed stamped envelope. The quiz answers will not be sent to you unless you send a self-addressed stamped envelope with one ounce First-Class postage attached.

To expedite the completion of your final exams and courses, you may complete your quizzes online by logging in with your email address and password to www.RELSTONEexams.com

Trust Funds

Review for Section #1

For the course Trust Funds, Quiz Section #1 is to be taken after reading pages 1-5.

1. When a real estate licensee mixes the funds of a principal with his own money, conversion occurs.
   a. True b. False

2. Because real estate licensees receive funds on behalf of others a fiduciary responsibilities is created.
   a. True b. False

3. Trust funds by definition must include money
   a. True b. False

4. An agent's personal bank account is acceptable for temporarily depositing trust funds.
   a. True b. False

5. An unlicensed employee with fidelity bond coverage may make withdrawals from a real estate broker's trust fund account
   a. True b. False

Review for Section #2

For the course Trust Funds, Quiz Section #2 is to be taken after reading pages 6-17.

1. Earned commissions must be withdrawn from a trust fund account within seven days in order to avoid commingling.
   a. True b. False

2. A broker may keep up to $200 of his own funds in his trust account to cover bank fees and other bank charges.
   a. True b. False

3. In California, commingling may result in a license suspension or revocation.
   a. True b. False

4. Non-columnar records are not in compliance with the Commissioner's Regulations.
   a. True b. False

5. A beneficiary ledger is kept in chronological order.
   a. True b. False

Review for Section #3

For the course Trust Funds, Quiz Section #3 is to be taken after reading pages 18-21.

1. California real estate licensees must always make monthly reconciliations of accounting records.
   a. True b. False

2. The reconciliation of a trust fund account should include the date of reconciliation; the name of principals, beneficiaries, or transactions; and trust fund liabilities to each principal, beneficiary, or transaction.
   a. True b. False

3. A California real estate licensee must give a copy of any contract to the person signing it before the end of the business day on which the contract is signed.
   a. True b. False

4. If a California real estate licensee is subject to an audit and the audit leads to disciplinary action, the licensee is responsible for paying for the audit.
   a. True b. False

5. Listings, deposit receipts, cancelled checks, trust records, and similar documents be kept for inspection for at least five years.
   a. True b. False

NOTICE: These questions must be returned with your answer sheet.
REAL ESTATE LICENSE SERVICES, 5059 NEWPORT AVENUE #209, San Diego, California 92107

15 Hours Combined Exams

FINAL EXAM ANSWER FORM INSTRUCTIONS
The Final Exam Answer Form is the blue answer card marked "SCANTRON FORM 90311-RELS." Before beginning your final exam, fill in your name and student file number on the line marked "NAME" on both sides of the form. Write the date on the "DATE" line and beginning time as the "HOUR".

The Final Exam Answer Form has room for 50 questions on each side. Answer 1 thru 15 multiple-choice questions. As you answer the questions on the final exam, make sure that you mark your answers in the appropriate row for each question number.

USE A NO. 2 PENCIL ONLY. Using a pencil other than a No. 2 may cause the computer to incorrectly score your final exam. For each answer, choose the best answer and fill in the appropriate box (A-D) on the Answer Form. Fill in the box completely and dark. For example, if your answer on question 11 was "B" you would do the following:

11. [A] ■ [C] [D]

THIS IS AN "OPEN BOOK" EXAMINATION. THE TEXTBOOK MAY BE USED DURING THE EXAM.

Trust Funds

1. When a real estate licensee mixes the funds of a principal with his own money, which of the following has occurred?
p.1
a. comingling b. interchanging c. conversion d. subrogating

2. Because real estate licensees receive funds on behalf of others, which of the following responsibilities is created?
p.1
a. personal b. fiduciary c. business d. sanguine

3. Which of the following is a correct statement about trust funds as defined by the California Department of Real Estate?
p.2
a. Trust funds by definition must include money.
b. Trust funds include commissions from real estate transactions
c. Trust funds may be cash or non-cash items.
d. Trust funds include a licensee's general operating funds

4. Which of the following is not acceptable for depositing trust funds?
p.3
a. with a neutral escrow depository
b. with the principal or owner of the funds
c. with an agent's personal funds at a bank
d. in a trust fund account at a bank

5. All of the following may make withdrawals from a trust fund account EXCEPT:
p.5
a. a salesperson licensed to the broker
b. anyone under a written broker-salesperson agreement
c. an unlicensed employee with fidelity bond coverage
d. the broker's spouse

6. How long may earned commissions remain in a broker's trust fund account before commingling occurs?
p.7
a. at least 7 days b. 14 days c. 21 days d. more than 25 days

7. Under California law, how much of his own funds can a broker keep in his trust account to cover bank fees and other bank charges?
p.7
a. not more than $25 b. $50 c. $100 d. up to $200

8. In California, how long must listings, deposit receipts, cancelled checks, trust records, and similar documents be kept for inspection?
p.21
a. one year b. two years c. three years d. five years

9. Which of the following is a correct statement about using non-columnar records as an accounting system in California?
p.16
a. Non-columnar records are not in compliance with the Commissioner's Regulations.
b. Non-columnar records must contain one set of journals, cash ledger, and beneficiary records for each trust fund account.
c. Non-columnar records are in compliance with the Commissioner's Regulations if they contain a single journal, cash ledger, and record of beneficiaries for all trust fund accounts under a broker's supervision.
d. Non-columnar records are not required to follow generally accepted accounting practices as long as they meet the Commissioner's Regulations.

10. A beneficiary ledger is kept in what order?
p.17
a. alphabetical order by beneficiary.
b. chronological order by date.
c. numerical order by amount.
d. any order the licensee finds useful.

11. When is it not necessary for California real estate licensees to make a monthly reconciliation of accounting records?
p.19
a. in months where there is no business activity.
b. when the office is closed for more than a month.
c. when they are on vacation for more than a month.
d. There is no exception; the reconciliation of accounting records must take place on a monthly basis.

12. The reconciliation of a trust fund account should include which of the following?
p.19
a. the date of reconciliation.
b. the name of principals, beneficiaries, or transactions.
c. trust fund liabilities to each principal, beneficiary, or transaction.
d. all the above

13. When must a California real estate licensee give a copy of any contract to the person signing it?
p.20
a. at the time the signature is obtained
b. before the end of the business day on which the contract is signed
c. within three business days
d. within a reasonable amount of time

14. If a California real estate licensee is subject to an audit and the audit leads to disciplinary action, who is responsible for paying for the audit?
p.21
a. the Commissioner.
b. the licensee's Broker.
c. the licensee.
d. There is no charge or fee associated with an audit.

15. Which of the following may take place as a result of commingling?
p.18
a. license suspension
b. license revocation
c. a civil suit
d. all the above