

Know what your agents are up to online

Eight risk-management techniques for brokers and managers to help you stay on the right side of Article 12 and Texas law.

by Marcie Roggow

Do you know what your agents are doing? They're taking advantage of every online tool available to market themselves, their listings, and their brokerage. However, in their eagerness to get clients and close transactions, they sometimes take actions that inadvertently violate Article 12 of the Code of Ethics or state law, or just reflect poorly on your company. Here are eight ways to ensure your agents' online activities don't harm their businesses and your brokerage.

Google your agents

Brokers have to know what their agents are doing on the Internet. Set up Google Alerts to check on your agents—what they're posting on Facebook, on blogs, on their Web sites. Google Alerts are e-mail updates of the latest relevant Google results based on your query (Google.com/Alerts). Also, perform a search or set up alerts to track an agent *before* you sponsor her. So, if an agent is involved in a lawsuit, has made inappropriate posts on someone's Facebook page, or has been the subject of an online discussion regarding her poor business practices, you'll know before her problems become your problems.

Test your agents' electronic communications

Every e-mail or text from your agents must say their name, company name, and "licensed REALTOR®/broker/salesperson in Texas." And it's up to you to confirm that they're conforming to the rules. This sounds cumbersome, but it's a must! Have all your agents send you an e-mail so that you can determine if they're in compliance. If an agent e-mails clients from his laptop, smartphone, and tablet, make sure you see an e-mail from each of those devices—and don't forget about text messages.

Know where your listings are

I had a broker in a recent class who said that all of her listings need to go everywhere to generate as many leads as possible. That's fine, I told her, if you can manage those listing posts and prevent problems. For example, Craigslist had issues with not including the brokers' names with listings. Do you want to be responsible for that? It's a fine line between satisfying sellers who want their listings everywhere and managing those listing posts. You need to have a system to monitor where the listings are going and what information is being posted or updated. Remember, these listings are the brokerage's, not the agent's.

The company name has to be on all advertisements of properties or offering of real estate services—that's Texas law and Article 12 of the Code of Ethics. Social media makes it so easy to share information across several sites, but also so easy to violate this rule. For example, I post a new listing and share it through Trulia. That listing comes over to my Facebook page as being shared from Trulia.com, not MariceRoggowRealty.com.

Check blogs for opinions affecting your company

Are your agents blogging about real estate? Probably. They're sharing their opinions about real estate markets, the economy, their neighborhood, and maybe specific properties—and that's what a blog is, a forum for the writer's opinions. But when that agent posts something in his blog that affects the company or his clients, those comments become something that you, as the broker or manager, have to worry about. Recently, I was teaching a class in Texas, and an agent told me that she blogged about units in a certain downtown high-rise where she had listed condos. I asked if she had permission from the owners to do that, and she was surprised that she should need to ask.

Make sure your agents know what can be shared and what's confidential

Sharing of confidential information—about your company, clients, properties—is not allowed without proper consent. Agents who post pictures to Facebook of their clients standing with their families, including small children, in front of their new home, including the address, without getting permission to do so ... well, I don't know what they're thinking. Actions like this need the written consent of the client, with appropriate notice of how the image or information is being used.

And what about posting of the details of an offer or sale? You live and work in a *non-disclosure* state. If something's not posted in the county offices, why do you think you have the right to post it? Confidentiality is the most often breached of all of the fiduciary duties, and it's usually because the agent wants to boast a bit about the deal.

Many agents also don't understand that when a seller gives permission for photos of his house to be posted, that permission extends only to the brokerage listing his home for sale. That means that buyers or cooperating brokers can't just snap a picture—or worse, copy one without permission from the Web—and use it however they please. When your agents take a listing, have them ask the sellers what their policy is regarding buyers and other agents taking photos. Post this policy in the house and in the listing information.

Encourage the use of Web-based transaction-management systems

All electronic communication pertaining to a real estate transaction in Texas must be kept for four years and must be readily searchable. This rule applies to paper forms as well as texts, e-mails, and posts. So where are your agents storing all the e-mails, texts, and instant messages from buyers, sellers, and cooperating agents for their real estate transactions? This is an area where a Web-based transaction-management system can save the day. Select one and use it.

Get lists of agents' domain names

Article 12 states that you cannot register a domain name that does not “present a true picture” in your advertising, marketing, and other representations. Yet, agents register domains that use the names of subdivisions, for example. It may seem like a huge undertaking, but you need to get a list of the domain names registered by your agents. This is the only way to ensure that there aren't any violations that could result in problems for your brokerage.

Take the example I used earlier about the agent who blogged about downtown condos. She'd registered domain names for units in the building, even though she didn't own any of the units and hadn't gotten permission from the owners. She was not presenting a true picture in her marketing—she didn't even have listings in some of the buildings.

Also, Article 12 prohibits you from registering a domain name so that someone else can't have it. For example, an agent can't register the name of a competing brokerage or agent—or something similar to the name—to hamper that agent's or brokerage's marketing efforts.

Present a true picture with your pictures

Many real estate agents have shown incredible talent with programs like Photoshop, making listings look like whole new houses! And that's not cool. Your agents need to present a true picture in the pictures they post. They shouldn't be removing utility lines, adjusting the color of the house, adding greener grass to the lawn, or filling up drought-affected lakes.

Remember, your agents are taking advantage of many online resources to help their businesses and your brokerage. It's in your best interest to make sure they're using these tools within the bounds of the Code of Ethics and Texas law.

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INSERT QR CODE WITH FOLLOWING SIDECOPY: Scan this code to view Article 12 of the Code of Ethics

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Marcie Roggow will present a “When Article 12 and Web 2.0 collide” at the 2011 Texas REALTORS® Convention.