

Clarification of Rule 6.17 Narrative in the “Broker-Owned Properties Managed by the Broker” Article in the Spring 2023 Quarterly Newsletter Issued on 04/13/2023

On 04/13/2023, the Division published its Spring, 2023 Quarterly Newsletter which included a staff article labeled, “Broker-Owned Properties Managed by the Broker”. This article addressed certain trends noticed in audits conducted on brokers managing their own properties. Additionally, the article provided an overview and highlight of the sections of license law that brokers need to consider when managing their own properties including:

- Rule 5.11 – Money Belonging to Others for Non-Real Estate Brokerage Services
- Rule 6.5 – Brokerage Relationship Disclosures in Writing
- Rule 6.17 – Duty to Disclose Conflict of Interest and License Status
- Rule 7.1 – Standard Forms

The Division wanted to provide additional clarification regarding what was written under the Rule 6.17 – Duty to Disclose Conflict of Interest and License Status section. Under that section, it states in part,

“Without exception, a disclosure needs to be made in writing that the broker is both an owner of the property and a licensed broker. *Often, disclosures within the lease will state that the landlord is a licensed broker, and this is not sufficient.* A broker can be a landlord and not an owner, therefore, a licensed broker who is also an owner needs to disclose both the true conflict of interest (ownership) and their license status. Some brokers have added this language onto the BDT, which is sufficient and ensures timely disclosure.”

To clarify this point, it does not state that disclosure within the lease is not sufficient. *It states that disclosing that the “landlord” is a licensed broker is not sufficient.* To be clear, license status and conflict of interest disclosures within the lease are *sufficient*. However, the broker should ensure that their disclosures state that *they are an owner of the property and a licensed real estate broker in Colorado* and avoid using words that could be misinterpreted or misunderstood by the tenant, such as “landlord”. By avoiding terms such as “landlord”, and drafting your disclosures in a more transparent manner, you make the disclosure clear to your tenant(s) that *you* are an owner of the property and that *you* are a licensed real estate broker in Colorado.