

In This Issue

- What people don't know!

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About Pam Strickland

Pam is a Real Estate Broker from Santa Barbara with over 42 years' experience in Real Estate and Mortgage Lending.

Past-President, CAMB (California Association of Mortgage Brokers). Selected Mortgage Broker of the Year in 1992 by the CAMB and in 1993 by the NAMB (National Association of Mortgage Brokers).

Past Member, SAFE MLO National Test Maintenance Committee.

Past Member, California Mortgage Review Committee for the SAFE Act Mortgage Test.

Past Member, National Legal Review Committee for the SAFE Act Mortgage Test.

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Any recommendations contained in this message are based on Pam's many years of personal experience and research in the Real Estate industry and must not be considered legal advice. Please consult with appropriate legal counsel for further clarification.

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Welcome to 2023.  
May your year be  
healthy, happy  
and prosperous!



## What people don't know!

For over three decades I have been helping California Department of Real Estate brokers and corporations survive DRE audits and investigations. The last year has been extremely frustrating for me due to the fact that so many brokers don't know what they don't know. In this newsletter I am going to tell you TRUE stories of conversations with brokers who were called for an audit by the DRE and their incredible lack of knowledge about our industry. I swear I'm not making these up (yes, the truth can be stranger than fiction).

**Scenario 1:** Broker is called by the DRE and the auditor asks the broker how many trust accounts he has (since the broker is engaged in Property Management and manages over 500 properties). Broker answers that he has no trust accounts since he "isn't in real estate." I subsequently tell the broker that, yes, he must have all rents and security deposits held in trust accounts and ask him how he's had his license for 40 years, taken continuing education classes every four years (with the mandatory trust accounting class each time) and never understood the concept of the need for a trust account. He repeated that they were talking about real estate and he is in property management so those classes meant nothing to him.

**MORAL:** *The real estate law and license applies to listings/sales, property management, loans, loan servicing and escrow activities and the rules for trust accounting apply to all across the board. If you handle third-party monies you must have a trust account.*

**Scenario 2:** Broker is called by the DRE and the auditor asks if he is engaged in Property Management and the broker says no, only listings and sales. When the auditor states that his website lists property management activities and properties for lease, the broker replies that some of his salespeople do property management and he has nothing to do with it. Several licenses were lost after this audit.

**MORAL:** *A salesperson cannot engage in property management activities on their own. These activities must be controlled by the broker, in the broker's or corporation's name, and with the broker signing on the trust account.*

**Scenario 3:** Broker is asked to provide Salesperson/Broker Agreements (including supervision and compensation) for all licensees under the corporate license. Broker states that there are no agreements because the only people under his license are his wife, his son and his daughter-in-law. Citation for failure to have agreements.

**MORAL:** *Regardless of any familial relationship, all salespersons or broker-associates must have an agreement with the broker of record.*

**Scenario 4:** Broker states to the DRE auditor that she has multiple trust accounts. When the DRE auditor asks for the signature cards for the trust accounts to prove that they are, in fact, set up as trust accounts, the signature cards prove that they are NOT trust accounts due to the accounts being established in a bank that does not even offer such accounts.

**MORAL:** *If your signature card does not say "Trust Account" and your bank statement does not say "Trust Account" you don't have a trust account. If you are using the wrong bank, you don't have a trust account since many don't even offer them. (HINT: The following banks do not offer real estate broker trust*

accounts: Union Bank, U.S. Bank, Chase Bank, and Bank of America, just to name a few.)

**Scenario 5:** Mortgage Loan Broker is audited and asked to provide copies of the Business Activity Report that is to be filed with the DRE every year by March 31. Broker states that he files the NMLS reports, but no DRE reports. Wrong answer.

**MORAL:** *If you are engaging in mortgage loan activities, there are reports to be filed with the DRE in addition to the reports that are filed with the NMLS.*

**Scenario 6:** Broker who performs Broker-Controlled Escrows is cited for not filing the correct dba that includes the words “a non-independent broker escrow” and not filing the annual Escrow Activity Report with the DRE within 60 days of the end of the calendar year.

**MORAL:** *If you are conducting broker-controlled escrows make sure you are aware of all of the rules and regulations of same, including reporting.*

**Scenario 7:** New broker submits paperwork to the DRE to license an LLC. His lawyer AND CPA told him that this was the way to go. DRE returns the application, since an LLC cannot be licensed by the DRE. Cost the broker time and money to learn this the hard way.

**MORAL:** *Only a corporation or a sole proprietor can be licensed by the DRE.*

## Compliance Consulting

For a thorough evaluation of your company's compliance with the multitude of regulations that pertain to the real estate industry, Pam is available for private, confidential remote consulting. She can also help you prepare for and get through a DRE audit or office survey and make sure you know what reports you and your company are required to file. For more information, see her website at [www.pamstrickland.com](http://www.pamstrickland.com).

To arrange your consultation, send an e-mail message to Pam at [pam@pamstrickland.com](mailto:pam@pamstrickland.com).