

PERMISSIBLE AND PROHIBITED ACTIONS OF UNLICENSED ASSISTANTS AND SUPPORT STAFF

Unlicensed assistants and support staff are valuable employees in a real estate office. However, given the licensure requirements imposed by law, N.J.S.A. 45:15-1 and 15-3, there are parameters to the activities in which unlicensed persons may lawfully engage. The REC has reviewed an earlier publication of the “Dos and Don’ts” of unlicensed assistants and support staff and believes these guidelines bear repeating to enable licensees and unlicensed individuals to avoid potential violations. **Please note that the following lists do not define every permitted or prohibited activity but are intended to offer reasonable guidelines for licensees to follow:**

An unlicensed assistant or secretary **CAN:**

- *Answer phones and forward calls.**
- *Process and submit listings and changes to a MLS system.**
- *Follow-up on loan applications after contracts have been fully executed.**
- *Set up file procedures, track and secure documents, etc.**
- *Have keys made for company listings at the direction of a licensee.**
- *Write ads for approval of a licensee, place ads as directed.**
- *Keep records of, and deposit payments of earnest money, security deposits and rent.**
- *Type contract forms for approval of a licensee.**
- *Monitor files and report findings to a licensee.**
- *Compute commission checks.**
- *Place signs on properties.**
- *Order items or inspections as directed by a licensee.**
- *Prepare flyers and promotional material for approval by a licensee.**
- *Act as a courier for delivering documents or picking up keys etc. (Licensee is responsible for delivery of contracts or closing materials).**
- *Schedule appointments with the seller or seller’s agent in order for a licensee to show listed property.**

An Unlicensed assistant or secretary **CANNOT:**

- *Make cold calls by telephone or in person to potential listers, purchasers, tenants, or landlords.**
- *In the absence of a licensee, host open houses, booths at home shows, malls or fairs, or distribute promotional literature at such locations.**
- *Prepare promotional material or ads without the review and approval of a licensee.**
- *Show property.**
- *Answer any questions on listings, title, financing or closings from either the public or other licensees.**
- *Discuss or explain a contract, listing, lease agreement or other real estate document with anyone outside the firm.**
- *Work as a licensee/secretary in one firm and do real estate related activities with that firm, while licensed with another firm.**
- *Negotiate or agree to any commission, commission split, management fee or referral fee on behalf of a licensee.**
- *In addition, the compensation of a personal assistant or secretary should not be based on the success of their activity, i.e. a percentage of commission, but should be directly related to the duties the non-licensee is performing. If a licensee is using another licensee to act as their personal assistant/secretary, both should be aware that they are employees or independent contractors of their broker and compensation must be paid by the broker.**
- *All licensees are cautioned to research and adhere to Federal and State Income Tax and Employment requirements.**
- *Make telephone calls for the purpose of collecting or attempting to collect late rent payments.**

Finally, **inspections**: Because it is highly likely that during the course of an inspection questions will be raised by the prospective purchaser and/or the owner of the property which only a licensee would be qualified to answer, it has been determined that an unlicensed individual should not be present during such inspections in the absence of a licensee. However, if for **security/safety** reasons a licensed individual requests their assistant accompany them to an inspection, there would clearly be no impropriety.

It remains the position of the Commission that unlicensed individuals should not answer any questions on listings, even if the questions only inquire about objective information contained in preprinted material about the property. It is helpful to recall that unlicensed persons may not host open houses in the absence of a licensee.