



CPD COURSES

Northern Beaches
Sales & Prop Mgmt
Wed 14th Aug

Ballina
Sales & Prop Mgmt or
Strata
Mon 19th Aug

Sydney
Strata
Wed 21st Aug

Gosford
Sales & Prop Mgmt
Thu 22nd Aug

Sydney
Sales or Prop Mgmt
Fri 23rd Aug

Sydney
Comm & Retail Leasing
Wed 28th Aug

Baulkham Hills
Sales or Prop Mgmt
Thu 3rd Oct

Baulkham Hills
Comm & Retail Leasing
Fri 4th Oct

Three Simple Rules

It doesn't matter how many times we discuss the importance of our Agency Agreements, and we have been discussing this in all of our training sessions over the past ten years at every licensing course and almost every CPD session, we are still getting questions posed to us about them. Schedule 1 of the Property, Stock and Business Agents Regulation, 2003 sets out the General Rules of Conduct for a Real Estate Agent. Rule 8 specifies:

"An agent must not act as an agent or represent himself or herself as acting as an agent on behalf of a person without written authority."

Your Agency Agreement is your authority to act as agent for your clients, it sets out your role as an agent and is the document that secures your commission.

It is interesting that there is so much confusion out there regarding Agency Agreements, because the law is very clear on the matter. In fact it is one of the few areas where there is no grey - it is black and white. Section 55 of the Property, Stock and Business Agents Act 2002 states that you are not entitled to commission as an agent without a valid agency agreement in place. Section 55 also states that the agreement must satisfy three points:

- a. must be in writing and signed by or on behalf of the vendor and the licensee
- b. must comply with the regulations, and
- c. must be served upon the vendor within 48 hours of signing the agreement.

There have been a number of cases that have gone before the Tribunals and Courts concerned with section 55 and its three requirements. In almost every case it is noted that the Courts and Tribunals do not have any discretion with regard to section 55. If the agreement does not comply with the requirements, the Tribunals and Courts have to declare that the agreement is invalid and the agent is not entitled to commission. The important point to note is that the agreement does not have to be deficient in all three areas for it to be classed as invalid - if it fails in only one of the three requirements, the agreement will be found to be invalid and you will not be entitled to your commission.

**CPD
2 HOUR
BREAKFAST
SEMINARS**

Full 12 points!!

Bankstown
Sales/Prop Mgmt
Thu 15th Aug

Campbelltown
Sales/Prop Mgmt
Tue 20th Aug

Penrith
Sales/Prop Mgmt
Thu 22nd Aug

Parramatta
Sales/Prop Mgmt
Tue 27th Aug

Sydney
Strata
Tue 17th Sep

Wollongong
Sales/Prop Mgmt
Wed 18th Sep

Sydney
Business Broking
Fri 20th Sep

Gosford
Sales/Prop Mgmt
Wed 2nd Oct

Let's break it down and look at two examples where an agent has lost their commission because they did have an agency agreement but it did not comply with Section 55 in some way.

Must comply with Regulations:

It is not enough to assume that your template Agency Agreement is compliant with the Regulations as per point b of section 55. It may well be, however, the onus is also on you to ensure you complete the document wholly and completely.

If we look at one example, the Property, Stock and Business Agents Regulation specify that there must be a sales inspection report prepared in the sale of property and that the report must make up part of the agency agreement. Today, many agents are using agreements that are combined agency agreements and sales inspection reports. The Tribunals appear not to have an issue with this practice as long as the document is completed in its entirety.

In a case between a vendor and a business broker in 2011, the tribunal found that the practice of combining the agreements was fine, however the agent in this case had not completed the entire agreement as per the regulations specific to inspection reports. The regulations specify a list of items that must be addressed within the inspection report and in this case the agent had not addressed item (e) A description of items to be included, item (f) any terms and conditions known to the agent or item (h) the agent's estimate of selling price. As such it was found that they had not complied with section 55, and were not entitled to commission.

Must be served within 48 hours:

In Pratt v Arwon Realty (not the whole citation) (2011), the vendors attempted to find a number of reasons why the Agent was not entitled or should not be entitled to their commission after the agent had successfully sold their business for them. At the end of the case it was decided that simply because the vendors were not served with a copy of the agency agreement, commission was not payable to the agent. When reading the decision you may be shocked to see that the vendor did in fact receive a copy, they had retained the "yellow" copy or carbon copy when the document had been sent to them for signage.

"The Tribunal accepts that the agent received the agreement signed by Mr Pratt by mail and that the yellow copy had been removed. Retention of a copy by the applicants does not constitute any of the methods of service contemplated. Also service is required to be effected "by the licensee".



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CERTIFICATE OF REGISTRATION COURSES

Penrith

(Dist Ed + 1 day tutorial)

Fri 16th Aug

Sydney

Mon 19th – Wed 21st Aug

Ballina

(Dist Ed + 1 day tutorial)

Tue 20th Aug

Newcastle

(Dist Ed + 1 day tutorial)

Fri 23th Aug

Hurstville

(Dist Ed + Weekend)

Sat 31st Aug–Sun 1st Sep

Wagga Wagga

(Dist Ed + 1 day tutorial)

Wed 4th Sep

FINANCE AND MORTGAGE BROKING COURSES

Cert IV in Finance & Mortgage Broking Sydney

Mon 9th - Wed 11th Sep

Dip of Finance & Mort Broking Mgmt

Upgrade for existing Cert IV holders

Sydney

Thu 12th - Fri 13th Sep

The message is simple, follow the three rules to keep or claim your commission:

1. Agency agreement in writing and signed;
2. Agency Agreement to comply with the regulations; and
3. Serve your agency agreement on time and in the correct manner.

Please get these processes correct, as all your hard work needs to be rewarded in ensuring that you get paid at the end of all of your transactions.

Til next time,

Wishing you every success in your business ventures,

Rosy Sullivan

Staff Profile

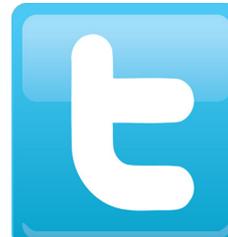
Anthony Sullivan

Marketing and Compliance Manager



Anthony has been with the College now for just over a year. After 34 years of teaching science and religion in the catholic education system, he decided that he needed a new challenge in his life.....and didn't he find a good one in joining the College !! Not only has Anthony brought a fresh approach to the marketing at the College, he has embraced the technological and social media aspect of communicating with our students.

As a teacher, Anthony is extraordinarily patient, which is a skill he continues to use daily with the ACP team as we all need assistance with our computers, programs, social media, mobile phones.....and the list goes on. Anthony has completed training in apple computing, attending many, many, many computing conferences and worked with year 7 school students in using their new school issued laptops as an education tool, not just for games, Facebook and fun. It is also fantastic to see that there are an increasing number of past students from Anthony's teaching days that are becoming students of the College when they see what Anthony is now doing.



Anthony brings a wealth of experience in compliance to the College in terms of his past roles in management (assistant school principal for a year), over 15 years as a year co-ordinator and 3 years as a science co-ordinator. His ability to get people to understand the need for compliance and a specific method of implementing a procedure, in a very quiet manner, supports the College in continuing its high level of customer service. He has also coached and managed so many sporting teams it is too difficult to list them all, but mostly in the areas of rugby league, rugby union, cricket and basketball. He takes from his sporting experiences, the ability to motivate those around him to greater achievements. In addition to managing and coaching teams within the school environment, Anthony was also involved with Manly Junior Cricket Association for over 20 years as a committee member and held the role of secretary for a number of years – which must have been a long time because they presented him with a gold watch when he retired from the role. Throughout this time with the Club, he coached junior representative teams for about 15 years. He also managed the Manly Warringah District Cricket Club's Green Shield team for a number of years.

Anthony is a quiet force in the College – which is good compared with the other noisy people that surround him on a daily basis. He is always there to assist the other team members and give them support to learn new skills. His ability to co-ordinate an activity within the College is done with such ease – much like the way he used to organise his school trips to Japan every second year and the corresponding return trip from the Japanese school in the alternate years. Over the years, his 9 trips to Japan with school students gave him a love for travel and many experiences that he will never forget.

Anthony's love of the beach matches his love for the Manly Sea Eagles – which is positive in an office where we have at least 7 strong Sea Eagles supporters. He never lets the opportunity pass to inform the College team of yet another Manly Sea Eagles win or to post this on his Facebook.



Is it Time You Upgraded to Your Licence?

ACoP runs a Fast Track program which, in conjunction with Recognition of Prior Learning (RPL) assessment, will enable you to complete your Real Estate Licence qualification in 5 days with take home assessments.

We will also assist you with completion and submission of your licence application to NSW Fair Trading free of charge.

Free Assessment

Send us your resume & copies of any qualification transcripts you may have for a free and confidential preliminary RPL assessment.

Next Courses:

Baulkham Hills: Monday August 26th - Friday August 30th

Sydney CBD: Monday September 30th - Friday October 4th