

2023 Calendar

Georgia Instructor
Training Workshop
(GIT)
October 16-17, 2023
Atlanta, GA
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Commingling



Commingling of trust funds is a clear violation of the [Georgia Real Estate License Law, Rules and Regulation](#)s. The examples below are summaries of actual investigative cases of the Georgia Real Estate Commission. For further clarification of the License Law and definitions, refer to the AMK section and terminology sections on the following page.

- 1) On March 10, 2022, a Salesperson handling rental properties received a security deposit of \$900 via CashApp. Because CashApp deposited the funds in the Salesperson's personal bank account, it commingled said funds with his/her own funds. The bank account was not a federally insured designated Trust Account registered with the Commission. The Salesperson failed to remit those funds to his/her Broker in a timely manner. In addition, he/she failed to disclose his/her brokerage relationship in the lease document.
- 2) On November 10, 2022, a Qualifying Broker representing a buyer deposited \$500.00 earnest money into the Firm's escrow account with Main Bank. On December 31, 2022 the Broker deposited an additional \$1,600.00 earnest money into the Firm's escrow account with Main Bank. The Broker failed to amend the sales contract to indicate the payment of earnest money was delayed. When the transaction failed to close on March 25, 2023, the Broker issued a check from the Firm's escrow account for \$2,100 earnest money plus \$106.50 court fees as the disbursement of earnest money to the seller. Because the \$106.50 should have been paid from the Broker's operating account, the Broker commingled said funds.
- 3) A Salesperson accepted a \$1,000 Money Order from a tenant as rent and deposited those funds in a personal bank account commingling the funds. The bank account was not a federally insured designated Trust Account registered with the Commission. The Salesperson failed to submit the funds to his/her Broker.

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Job Opportunities at the Georgia Real Estate Commission

[Investigator](#) Click for More Information

[Information Specialist](#) Click for More Information

August 2023 Meeting - Commission Actions Taken

Cases Sent to the Attorney General for Review and Disposition by Consent Order or by Hearing	0
Cease & Desist Orders Issued	0
Citations Issued	5
Letter of Findings Issued	0
Consent Orders Entered Into	0
Final Orders of Revocation of Licensure	1
Cases Closed for Insufficient Evidence or No Apparent Violation	4
Licensing Cases - Applicant has a Criminal Conviction - License Issued	3
Licensing Cases - Applicant has a Criminal Conviction - License Denied	0
Total	13

Commingling ...

In each case, the Licensee was ordered to pay a fine and reimburse the Commission for its administrative, investigative, and legal costs and expenses. The Licensee was also required to complete a specific Continuing Education course approved by the Commission. If the Licensee did not comply with the requirement in the time period specified in the Citation, it would be cause for further sanctions, suspension, or possible revocation of the License. In some cases the Broker as well as the Salesperson or Associate Broker were disciplined as the Broker is responsible for and is required to provide continuing training for all Licensees affiliated with the Firm.

Situations addressing new digital funding or electronic processing applications should be specifically identified and policies provided and implemented to protect the public (clients and customers) as well as the Broker and the Licensee.

Each Licensee, as an Independent Contractor, must sign an Affiliation agreement with the Broker. Within that agreement, the Licensee must accept and agree to comply with the Firm Office Brokerage Policies which should clearly stipulate the handling of all trust monies.

AMK Absolutely Must Know Section

[O.C.G.A. License Law – Georgia \(state.ga.us\) § 43-40-25](https://state.ga.us) Unfair Trade

Practices -Violations

- (b) (3) Failing to account for and remit any money coming into the Licensee's possession which belongs to others;
- (b) (4) Commingling the money or other property of the Licensee's principals with the

[Rule 520-1-.08. \(1\) Managing Trust Accounts and Trust Funds](#)

- (b) A Licensee shall place all cash, checks, or other items of value received by the Licensee in a brokerage capacity into the custody of the Broker holding the Licensee's License as soon after receipt as is practicably possible.
- (c) A Licensee shall place all cash, checks, or other items of value received by the Licensee when the Licensee is acting in the capacity of principal in the sale of interests in real estate owned by such Licensee and all security deposits received on property owned by the Licensee into the custody of the Broker holding the Licensee's license or in a trust account approved by that broker as soon after receipt as is practicably possible.
- (d) Unless otherwise agreed to in writing by the party or parties at interest, the Broker holding such cash or checks shall promptly deposit said funds in a federally insured account designated by the financial institution as a trust account and registered with the Commission and shall make appropriate arrangement for the safekeeping of any items of value received other than cash or checks.



Focus on Terminology: "Commingle "

Commingling is a term that refers to a situation that is a violation of the Georgia License Law, Rules, and Regulations. It refers to the mishandling of trust funds.

- If trust funds are combined with personal funds, it is commingling.
- The Broker, or any Licensee, cannot put money in a personal account and write a check to deposit in the Trust Account; that would be commingling with his own funds.

In Addition:

Whenever anything of value is provided to a Licensee as trust money, such as earnest money or a security deposit, it must be given to the Broker in the same form.

SUBMIT

Comments
&
Suggestions

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