



Courtside *Newsletter*

Real Estate Teams: CalBRE Cracks Down; Benefits of Team Work



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Real estate teams have long been held under the California Bureau of Real Estate's ("CalBRE") microscope, as well as both lauded and lamented by those in the industry. This month's *Courtside Newsletter* will explore why real estate teams are back in the hot seat, and why joining a team has been such a heated debate.

CALBRE CRACKDOWN

In March, CalBRE issued a Licensee Alert entitled "Supplemental Disciplinary Advisory to Real Estate Salespersons Who Mislead Consumers into Falsely Believing that They are Brokers—and a Concurrent Caution to the '[Ir]responsible' Brokers Who Permit or Support Such Practices." This supplement is a follow up to a similarly-named September 2015 release, and Real Estate Commissioner Wayne Bell appears none too happy to be repeating himself. Both releases can be found on CalBRE's website (www.calbre.ca.gov), and both warn against real estate salespersons acting or advertising themselves in a manner that suggests they are the broker. This applies to salespersons advertising themselves as "independent" and, more recently, to those using fictitious business names and team names that might mislead the public. In the March 2017 advisory, CalBRE uses the example of "Doe Real Estate," whose advertisements lead the public to believe that Salesperson Doe is the broker or brokerage. Such insinuations are unlawful, on both the part of the salesperson and the broker who is responsible for supervising his or her salespersons (including their advertisements). CalBRE states that it will take "appropriate disciplinary action (including the imposition of significant fines and—where appropriate—the revocation of licensure)" against salespersons and brokers found to be participating in these activities. Ultimately, "If a salesperson wants to act and advertise as an independent or freelance real estate licensee in California, he or she must become a real estate broker. There are no exceptions."

The Law

California Business & Professions Code § 10159.5, et seq. is the governing law for the use of fictitious business names (FBNs) by real estate professionals. A salesperson may obtain a FBN with permission from his or her broker, and the FBN is subject to the broker's control. The broker also has a duty to supervise the salespersons using the FBN. Per B&P § 10159.5(d), all advertising and solicitation materials, including "business cards, print or electronic media and for sale signage" must include the responsible broker's identity "in a manner equally as prominent as the fictitious business name" (emphasis added). Since such guidelines are explicitly stated in the law, one can see why Commissioner Bell would be aggrieved at having to repeat himself in the most recent CalBRE advisory.

While a FBN and team name are not the same under the law, and are often confused, they do have similar requirements. A team name does not need a license by CalBRE as a fictitious business name (but may still need to be filed with the county) if:

- The name is used by two or more real estate licensees.
- The words "Team," "Group," or "Associates" is used together with a surname of one of the licensees.
- The name does not include terms that imply or suggest the existence of an entity independent of the responsible broker.
- Any first point of contact materials, "For Sale" signs, websites, and ads include:
 - Salesperson's first and last name
 - Salesperson's CalBRE license number
 - Responsible broker's identity (company name), which is as prominent as the "team name"
 - The Responsible broker's identity is optional so long as the company name is provided

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Again, there is express language regarding identifying oneself as under a broker's supervision, and including the broker's identity prominently.

CalBRE's advisory continues to be timely as many real estate professionals try to distinguish themselves from the rest via advertising. However commendable that is, though, it is important to do so legally and ethically. It is not only a legal dilemma, but misleading the public to make them believe one is acting as or without a broker could also be seen as an ethical issue. This could lead to further problems for REALTOR® members who are bound by the National Association of REALTORS® Code of Ethics.

THE GREAT DEBATE: ARE TEAMS WORTHWHILE?

With what seems like a lot of rigmarole surrounding teams and team names, the question arises: are they worth it? As with most things, arguments can be made both in favor of and against joining a real estate team. According to Jill Penman, leader of the Jill Penman Group in Florida, it was "in the construct of a team where [she] found the real education [she] needed...to manage the complexities and realities of being a Realtor® today." Conversely, Charlie Peterson with RealtyTrust Residential in Tennessee doesn't believe that the concept of teams was "birthed by asking how [Realtors] can best serve [their] clients, nor has it flourished and produced better agents under its popularity." Let's jump into some of the pros and cons for agents looking to join a team.

Joining a Team: Pros

- Jump-start a real estate career as a new agent
- On-the-job training—learn the ins and outs of the field while getting paid to do so
- Division and specialization of labor
 - You don't have to do everything yourself
 - Focus on areas you excel in
- Collaboration of efforts and ideas
- Networking/expanding your circle of influence
- Possibility of generating more leads, leading to more business and more money
- Accountability to the rest of the team, keeping you focused and driven
- Different perspectives from marketing to problem solving
- Time off (i.e. you can go on vacation, knowing someone else will cover you)
- Shared business expenses

Joining a Team: Cons

- "Specialization" can be limiting,
 - You may not understand all aspects of a real estate transaction as a result
- There may be little to no actual advancement for new agents
- Lack of autonomy
 - You may not get the assignments or leads you want and, as a result, you may not get to choose the direction of your career
- Inability to build a personal brand or work in a manner you would prefer
- Teams are not often as well-run as they purport to be
- Teams may be confusing to their clients when the point of contact is constantly shifting and changing,
 - This could lead to a poor agent-client relationship
- Not all team members will be "good" agents, and some may even be unreliable
- Clashing personality types
- Commission splitting with other agents on the team
- Minimum requirements you must meet

Ultimately, joining a team is a personal decision that revolves around how you best work and function. Furthermore, the specific team you join must suit your needs. While you may be an entrepreneurial spirit, chomping at the bit to start prospecting and selling homes, you may still need some guidance and mentorship that a team may offer, at least for the first few years. However, if you choose a team that doesn't respect and nurture your self-starting attitude, you may find yourself stifled and hating your job. Clearly, neither joining a team nor vetting a potential team is a decision to be made lightly.



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