

2021-2022 General Update Course

Section Four

Law & Rules Updates



FOR DISCUSSION

1. Tamela, a full broker, takes the 12-hour Broker-in-Charge course. After successfully completing the course, she completes a Request for BIC Eligible Status and/or BIC Designation (Form 2.25) and submits it to the Commission. However, she received a Letter of Inquiry from the Commission and is currently under investigation.
2. Will the Commission grant Tamela BIC Eligible status if there is a pending investigation? Yes / No _____
3. Kim has been a broker in NC for 17 years and has never provided an email address to the Commission. When he renews his license in June 2022, Kim discovers an email address is required. He's reluctant to provide an email address, because he doesn't want the address to be published.
4. What are Kim's options? _____
5. TRUE or FALSE? A BIC must complete the Basic Trust Account Procedures Course within 120 days of assuming responsibility for a trust account.

LEARNING OBJECTIVES

By the end of this section, you should be able to describe updates to License Law and Commission rules that were effective on July 1, 2021.

OVERVIEW

The Commission revised several rules with an effective date of July 1, 2021, in Chapter 58A. Some rule changes were discussed during the Racial Equity section of this course. The remaining rule changes are summarized here. The rule revisions are reprinted at the end of this section. Also, all revised rules can be viewed on the Commission's website.

BEST PRACTICE: Brokers can subscribe to the Commission’s mailing list to receive notice of rule-making [here](#).

COMMISSION RULE CHANGES EFFECTIVE JULY 1, 2021

Rule 58A .0110: Broker-In-Charge

Rule 58A .0110(g)(1) and (7)

Rule 58A .0110(g)(1) and (7) were amended by the Commission and became effective on July 1, 2021. The Commission removed the term *employee* and added the term *affiliated* to the rule language. Therefore, this amendment clarified the difference between a broker being affiliated with versus employed by a firm and/or company.

A BIC has the authority to determine the type of employment relationship a real estate broker will have with their firm and/or company. The BIC should indicate in their written office policies whether or not a real estate broker would be classified as an *employee* or *independent contractor*.

Regardless of the employment term(s) used to describe the working relationship, a BIC is responsible for supervising affiliated brokers.



Who is responsible for the supervision of affiliated brokers?

A BIC is responsible for the supervision of affiliated brokers. This responsibility exists even if the real estate broker is considered *affiliated* with the firm and/or company and not employed. As mentioned previously, the BIC should clarify the type of working relationship the broker has with the firm and/or company in the written employment agreement.

58A .0110(g)(1) and (7) were amended on July 1, 2021, to add language clarifying that the BIC is responsible for supervising brokers who are *affiliated* with the office.



Stan is the BIC of Homez Realty. When he hires new brokers, he reviews the employment agreement with them during new broker orientation. The employment agreement dictates that the brokers are *independent contractors* but they must obtain prior authorization from the BIC before placing advertisements and affiliating with other firms. Additionally, this agreement specifies that Homez Realty will distribute a 1099-Miscellaneous Income form to all affiliated brokers electronically.

Is Stan responsible under License Law and Commission rules for the brokers at the company since they are categorized as independent contractors?

Rule 58A .0110 (g)(9)

The Commission amended Rule 58A .0110(g)(9) on July 1, 2021, to clarify when a BIC must take the Basic Trust Account Procedures Course. Rule 58A .0110(g)(9) specifies that a designated BIC shall:

- complete the Commission’s Basic Trust Account Procedures Course within 120 days of *assuming* responsibility for a trust account, and
- not be required to complete the course *more than once in three years*.



If a BIC assumes responsibility for a trust account, must that BIC take any special education?

Yes!

As of July 1, 2021, Rule 58A .0110(g)(9) dictates that a designated BIC shall “complete the Commission’s Basic Trust Account Procedures Course within 120 days of assuming responsibility for a trust account in accordance with G.S. 93A-6(g).”

This rule requires brokers who have opened a new trust account and/or assumed responsibility for a trust account to take the Basic Trust Account Procedures Course. The course must be taken within 120 days of opening the account or assuming responsibility. The Commission’s Basic Trust Account Procedures Course provides instruction on the laws, rules and trust account guidelines as

they pertain to trust accounting. The 4-hour self-paced, distance course is offered only by the Commission.

To register for the course, go to the [Commission's learning site](#).

About the Trust Account Course

- Taught by the Commission with NCREC auditors
- 4 hour self-paced online course
- \$45 cost
- 4 hours of elective credit

**REGISTER ONLINE at:
LEARN.ncrec.gov**



Rule 58A
.0110(g)(9)



4



What if the BIC took the Basic Trust Account Procedures Course within the last three years?

Rule 58A .0110(g)(9) specifies that a BIC must take the Basic Trust Account Procedures Course within 120 days of **assuming** a trust account. This subsection further indicates that a BIC is **not** required to complete the course more than once in a three year period. Although the BIC is not required to complete the course again, the Commission does not prohibit them from taking the course again for additional information.



Bob took the Basic Trust Account Procedures Course on August 2, 2021. Bob later became the new BIC of ABC Realty on June 16, 2022, and assumed responsibilities for the trust account.

Does Bob need to take the Basic Trust Account Procedures Course? YES/NO

Rule 58A .0110(g)(10)

Subsection (g)(10) was added to Rule 58A .0110 as of July 1, 2021, as follows:

(g) A designated BIC shall:

(10) supervise all unlicensed individuals employed at the office and ensure that unlicensed individuals comply with G.S. 93A-2(c)(6).

Per Rule 58A. 0110(g)(10), a BIC is responsible for ensuring that unlicensed assistants employed by the firm are not practicing illegal brokerage and are only engaging in permitted activities as specified by statute and office policies.

What is N.C.G.S. 93A-2?

N.C.G.S. 93A-2 is the law that dictates when a real estate broker license is required in North Carolina.

G.S. 93A-2(a) defines a **real estate broker** as one who:

- (1) lists, sells, buys, auctions, leases, rents, sells leases, offers to do any of the foregoing, or otherwise negotiates the purchase, sale or exchange of real estate or improvements thereon [LLBEANS],
- (2) for others,
- (3) for compensation, valuable consideration, or the promise thereof.

Thus, “brokerage” is:

- (1) listing, selling, buying, auctioning, leasing, renting, or offering to do any of the foregoing, or otherwise negotiating the purchase, sale or exchange of real estate or improvements thereon,
- (2) for others,
- (3) for compensation or consideration.

Exceptions to N.C.G.S. 93A-2

93A-2(c) provides exceptions to the licensing requirement. For the sake of this discussion, we'll focus on the exceptions set forth in 93A-2(c)(6).

N.C.G.S. 93A-2(c)(6) focuses on salaried employees hired by licensed brokers engaging in property management.

N.S.G.S. 93A-2(c)(6) states that the provisions of G.S. 93A-1 and G.S. 93A-2 do not apply to and do not include:

Any salaried person employed by a licensed real estate broker, for and on behalf of the owner of any real estate or the improvements thereon, which the licensed broker has contracted to manage for the owner, if the salaried employee's employment is limited to:

- exhibiting units on the real estate to prospective tenants;
- providing the prospective tenants with information about the lease of the units;
- accepting applications for lease of the units;
- completing and executing preprinted form leases; and
- accepting security deposits and rental payments for the units only when the deposits and rental payments are made payable to the owner or the broker employed by the owner.

The salaried employee shall not negotiate the amount of security deposits or rental payments and shall not negotiate leases or any rental agreements on behalf of the owner or broker. However, in a vacation rental transaction as defined by G.S. 42A-4(6), the employee may offer a prospective tenant a rental price and term from a schedule setting forth prices and terms and the conditions and limitations under which they may be offered. The schedule shall be written and provided by the employee's employing broker with the written authority of the landlord.

When a licensed broker hires a W-2 employee in property management, the law provides an unlicensed assistant some flexibility to engage in tasks that would generally require a real estate license.

As an example, the salaried, unlicensed assistant of a broker may legally show a property that the broker has listed for lease to prospective tenants. This is permissible in property management due to the exception in N.S.G.S. 93A-2(c)(6). However, an unlicensed assistant may NOT show a property listed for sale, because it does not fall under the exception in G.S. 93A-2(c)(6).

The following chart specifies the permitted activities related to *property management* that a salaried unlicensed assistant may perform.

IMPORTANT NOTE: Only W-2 employees of a property management licensed broker will qualify for the G.S. 93A-2(c)(6) exception.

Permitted Activities Related to Property Management

Unlicensed, salaried assistants MAY:	ONLY licensed brokers MAY:
Act as a courier at the direction of a broker	Solicit or negotiate management contract from prospective clients
Coordinate or confirm appointments between brokers and other persons	Prepare information to be placed in promotional material or advertisements for properties for sale or lease
Schedule appointments for showing properties listed for rent	Discuss or explain management agreements, leases, or other similar matters with persons outside the firm
Show rental properties managed by the broker to prospective tenants	Negotiate the amount of rent, deposits, or other lease provisions in connection with properties listed for rent by the firm
Complete and execute preprinted form leases for rental property managed by the firm	Determine the deductions from a tenant security deposit
Answer basic questions from prospective tenants and others about listed properties if the broker has provided the information in promotional materials	Hold themselves out as licensed brokers
Receive and forward phone calls, texts, and emails to the employing broker or other licensees in a firm	
Submit listings and changes to an MLS provider, but only if the listing or change is based upon data supplied by a broker	
Assist a broker in inspecting rental properties	
Research and obtain copies of documents in the public domain, such as the Registers of Deeds, Clerks of the Court, or tax offices	
Obtain keys for listed properties	
Record and deposit trust monies under the close supervision of the office broker-in-charge (BIC)	
Type in lease forms with information provided by brokers	
Check license renewal records and other personnel information pertaining to brokers at the direction of the BIC	
Prepare checks and otherwise act as bookkeeper for the firm's operating account under the close supervision of the BIC	
Place "For Rent" signs on property at the direction of the broker	
Order and supervise routine and minor repairs at the direction of a broker	

What about sales transactions?

A broker may choose to hire an unlicensed assistant to assist them with office or administrative tasks in sales transactions. In such cases, the unlicensed assistant may NOT perform or engage in activities that require a real estate license. A broker must ensure unlicensed assistants perform *only* permitted tasks.

In sales transactions, an unlicensed assistant may:

- receive and forward phone calls and electronic messages to brokers;
- submit listings and changes to a multiple listing service, but only if the listing data or changes are compiled and provided by a broker;
- secure copies of public records from public repositories (i.e. register of deeds office, county tax office, etc.);
- place for sale signs and lock boxes on the property at the direction of a broker;
- act as a courier to deliver or pick up documents;
- provide basic factual information on listed property that might commonly appear in advertisements in a newspaper, real estate publication or internet website;
- schedule appointments for showing property listed for sale;
- communicate with brokers, property owners, prospects, inspectors, etc. to coordinate or confirm appointments;
- type offers, contracts and leases from drafts of preprinted forms completed by a broker;
- record and deposit earnest money deposits and other trust monies, and otherwise maintain records of trust account receipts and disbursements, under the close supervision of the office broker-in-charge, who is legally responsible for handling trust funds and maintaining trust accounts;
- assist a broker in assembling documents for closing; and
- compute commission checks for affiliated brokers and act as a bookkeeper for the firm's bank operating accounts.

A broker may be held liable for the actions of their unlicensed assistant if the unlicensed assistant engages in unpermitted activities. It is important for brokers to monitor the activities of their unlicensed assistants to prevent the unlicensed assistant from:

- showing properties for sale to prospective buyers;
- answering questions from prospective buyers and others about listed properties;
- offering opinions as to the seller's or landlord's intentions about a listed property;
- soliciting listings from prospective clients;
- preparing information to be placed in promotional material or advertisements for properties for sale;

- discussing or explaining listings, offers, agency agreements, or other similar matters with persons outside the firm; and
- negotiating the amount of earnest money deposits, due diligence fees, or other contract provisions in connection with properties listed for sale by the firm.

How does this apply to BICs?

The designated BIC is the primary person the Commission will hold responsible for the supervision and management of a firm/company. Therefore, the BIC has the responsibility to supervise affiliated brokers, employees, and others who perform duties on behalf of the brokerage including unlicensed assistants that are employed by the firm/company.

A BIC must communicate regularly with unlicensed assistants and monitor their activities to ensure they are permitted and in compliance with office policies and License Law and Commission rules.

Additionally, it is the BIC's responsibility to ensure that unlicensed assistants have a clear understanding that they are not allowed to engage in activities that require a real estate license. Moreover, a BIC should set the expectation that participation in illegal activities is a violation of License Law and Commission rules.

A BIC should determine whether they will allow affiliated brokers to hire unlicensed assistants. If affiliated brokers are permitted to employ unlicensed assistants, then the BIC should provide guidance in the office policies regarding the activities that can be performed by the assistants.

Also, the BIC should make affiliated brokers aware of their responsibility to supervise unlicensed assistants. Pursuant to N.C.G.S. 93A-6(b), the Commission may suspend or revoke any license issued under the provisions of this Chapter or reprimand or censure any licensee when:

(4) The Broker's unlicensed employee, who is exempt from the provisions of this Chapter under G.S. 93A-2(c)(6), has committed, in the regular course of business, any act which, if committed by the broker, would constitute a violation of G.S. 93A-6(a) for which the broker could be disciplined.

For clarification purposes, an unlicensed assistant may perform a variety of tasks for a firm/company and/or affiliated broker that are administrative in nature. If an unlicensed assistant is employed by the BIC of the firm, the BIC is responsible for supervising the unlicensed assistant to prevent illegal brokerage activity and ensuring they adhere to License Law and Commission rules.

However, if an unlicensed assistant is employed by an affiliated broker, the affiliated broker is responsible for ensuring the assistant adheres to License Law and Commission rules and does not engage in illegal brokerage activity.

General Responsibilities of a BIC

Although the affiliated broker is responsible for supervising their unlicensed assistant, the BIC is still responsible for the firm/company. Rule 58A .0110 states, in relevant part, that a designated BIC shall:

- (3) be responsible for the conduct of advertising by or in the name of the firm at such office,
- (4) maintain the trust or escrow account of the firm and the records pertaining thereto, and
- (5) retaining and maintaining records relating to transactions conducted on behalf of the firm.

In other words, the BIC has the full and final responsible for these items / issues within the office.



What if an affiliated broker permits their unlicensed assistant to create an advertisement for one of company's listed properties and the advertisement violates a Commission rule? Who will be held responsible - the affiliated broker or the BIC?

Answer: Both. The affiliated broker may be disciplined for allowing an unlicensed assistant to engage in an activity that requires a real estate license based on N.C.G.S. 93A-6(b). The BIC may be disciplined for the advertisement itself based on Commission rule 58A .0110.

If an unlicensed assistant does engage in activities that:

- are illegal,
- violate License Law and Commission rules, and/or
- violate state and federal laws

the BIC and/or affiliated broker may be held liable for the conduct of the unlicensed assistant.

To reduce risk and ensure unlicensed assistants are not participating in brokerage activities, a prudent BIC will implement training programs and provide educational resources for the unlicensed assistants employed by the firm and/or affiliated brokers. These training programs and resources should provide the unlicensed assistants with information that explains the obligations they must adhere to (e.g. fair housing,

handling of trust money, and/or ADA compliance, etc.) while performing duties on behalf of the firm/company and/or affiliated broker.



Turner, the BIC of XYZ Realty, permits affiliated brokers to hire unlicensed assistants. John, an affiliated broker, hires Melissa as his unlicensed assistant. John tells Melissa to create and publish an advertisement for a property he has listed in Meadow Ridge. He instructs Melissa to use catch phrases that would appeal to a trendy professional. Melissa publishes the following advertisement:

1 bedroom, 1 ½ bathroom loft in downtown Meadow Ridge. This loft is perfect for an individual with no kids. It is within close proximity to walking trails for the physically fit, upscale boutique shops, restaurants, bars, and St. Paul Cathedral for Sunday worship.

Turner did not review the advertisement before it was published.

Is it possible that Turner is in violation of Commission rules? Explain your answer.

Rule 58A .0110(l)

Rule 58A .0110(l) was adopted on July 1, 2021. This subsection states:

A broker shall not be granted BIC Eligible Status or designated as BIC of a firm if there is a pending Commission investigation against the broker.



Can a broker be granted BIC Eligible Status and/or BIC Designation while subject to a pending investigation?

No!

A hold will be placed on the *Request for BIC Eligible Status and/or BIC Designation* in the brokers' license record for any pending investigation. Once the investigation is complete, Regulatory Affairs will instruct Commission staff on how to process the application.

Rule 58A .0114: Residential Property and Owners' Association Disclosure Statement

Prior to July 1, 2021, the Residential Property Owners' Association and Disclosure Statement, question 27 stated:

Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) which affect the property?

Effective July 1, 2021, the Residential Property Owners' Association and Disclosure Statement, question 25 states:

Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) *located on or which otherwise affect the property?*

Prior to this change a seller who knew there were hazardous materials ON THE PROPERTY but did not believe that would affect the property could answer the question "No." Now they must disclose the mere existence of such materials on the property.

Rule 58A .0120: Prohibited Acts

Rule 58A .0120, is a new rule that was adopted by the Commission on July 1, 2021. Subsections (a)-(c) are discussed below. Subsection (d) of this rule includes racial equity language and was discussed in the racial equity section of this course. Let's discuss subsections (a)-(c) of the rule.

Rule 58A .0120, subsection (a).

A broker shall not require or demand of any escrow agent or attorney that a broker's commission be split with or paid to another person or entity.

Prior to July 1, 2021, it was becoming common in the brokerage industry for brokers to expect escrow agents and/or attorneys to split commission checks to multiple brokers, firms, vendors, and/or unlicensed individuals. This created a problem for the closing attorneys, who must verify every recipient is properly licensed in North Carolina or possibly in other states as well. Attorneys also became responsible for sending out IRS form 1099s for each recipient, requiring them to collect information about each

recipient. When closing attorneys limited the number of payments they were willing to be responsible for making, brokers threatened to steer clients to other closing attorneys who would split the commission as many times as required to secure the brokers' referrals.

However, effective July 1, 2021, Rule 58A .0120(a) prohibits a broker from **requiring** or **demanding** an escrow agent and/or attorney to split commission checks among multiple parties outside the customary practice of splitting between the listing and selling firms. The rule does not prohibit a broker from asking that the commission checks to be split further; however, the escrow agent and/or attorney cannot be threatened by the broker with steering clients away if they decline. It is always in the best interests of the parties to receive the best legal advice and services available, regardless of whether that service is the most convenient for the broker.

For instance, if a broker requests an escrow agent and/or attorney to disburse and split the commission and the escrow agent and/or attorney denies the request, the broker cannot **demand** that they comply with the request. Further, the broker cannot **threaten** the escrow agent and/or attorney by stating that they will not use their services if the request is denied.

A broker who participates in such conduct may be in violation of Rule 58A .0120(a) and may be in breach of their fiduciary duties to their client. The escrow agent and/or attorney is hired by the client/consumer. The escrow agent and/or attorney does not owe a duty of obedience to the broker.



John is an affiliated broker with ABC Realty and is the BIC of the “Houses LLC” team within ABC. John asks Sue, the closing attorney, to disburse the commission check directly to Houses, LLC (rather than ABC Realty). Sue is not comfortable approving this request because she is concerned about having to verify licensure and collect sufficient information and assume the added burden of producing and delivering required tax forms at the end of the year. Sue denies the request. Sue disburses the commission to ABC Realty. The BIC of ABC Realty then disburses funds to John and his team members.

Has John violated Commission Rule 58A .0120(a)?

Rule 58A .0120, subsection (b).

An affiliated broker shall not be paid a commission or referral fee directly by anyone other than their current BIC or the person who served as their BIC at the time of the transaction.

Prior to July 1, 2021, affiliated “full” brokers were permitted to receive their commission or referral fees from anyone other than their BIC as long as doing so did not violate firm/office policies.

Effective July 1, 2021, **all** affiliated brokers - provisional and “full”- must now receive their commission or referral fees from their current BIC or the person who served as their BIC at the time of the real estate transaction. In other words, affiliated brokers are not allowed to receive **any** commission or referral fees from any other individual who is not their BIC or former BIC at the time of the transaction.

Furthermore, a BIC also cannot authorize an affiliated broker to receive a commission or referral fee from anyone else. If a BIC authorizes this conduct and does not pay the affiliated broker directly, they may be found in violation of License Law and Commission rules.

In plain English, an affiliated broker is **no longer allowed** to receive any compensation for brokerage service from any person other than their current or previous BIC.



Blake, a full broker with ABC Realty, assisted Jim with purchasing a home in Zebulon, NC. Tasha is the BIC of ABC Realty. ABC Realty has a rapport with 123 Attorneys, PLLC. Tasha contacts Steve, an attorney with 123 Attorneys, PLLC. Tasha tells Steve to disburse Blake’s commission check directly to him after settlement. Steve disbursed the funds to Blake as Tasha directed.

Has Tasha violated Commission Rule 58A .0120(b)? Explain your answer.

Rule 58A .0120, subsection (c).

A broker shall not coerce, extort, collude, instruct, induce, bribe, or intimidate a service provider in a real estate transaction in order to influence or attempt to influence their findings, report, or decision. Service providers include, but are not limited to, appraisers, attorneys, inspectors, financial lenders, and contractors.

A broker cannot participate in conduct that coerces a service provider to change their report or decision in a real estate transaction even if the broker thinks they are acting in the best interest of their client. If the conduct attempts to influence, threaten, or demand a particular action, it is prohibited under Rule 58A .0120(c).



Steve is an affiliated broker with 123 Homes. He has listed several properties in the Greenwood area that need extensive repairs. Sam, the seller-client, informs Steve to list the properties as a bundle. Sam also directs Steve to call Sean, the home inspector, and request a home inspection for all of the properties. Steve tells Sean to exclude any information in the report that indicates the electrical or plumbing systems need to be replaced because he would like to sell the properties quickly. He assures Sean that his business is growing and promises to recommend him as a home inspector to all of his clients and/or consumers in the future.

Has Steve violated Commission Rule 58A .0120(c)? Explain your answer.

Rule 58A .0503: License Renewal

Commission Rule 58A .0503 dictates the renewal process for licensure.

All real estate licenses issued by the Commission under G.S. 93A, Article 1 shall expire on June 30 following issuance.

Rule 58A .0503(b)

The Commission amended subsection (b) of this rule on July 1, 2021, to indicate that a broker must provide an email address to the Commission upon license renewal.



Is a broker required to renew their license each year?

Yes!

According to Rule 58A .0503(a), any broker desiring renewal of his or her license shall renew on the Commission's website within 45 days prior to license expiration and shall submit a renewal fee of forty-five dollars (\$45.00).



Is a valid email address required for license renewal?

Yes!

Prior to July 1, 2021, Rule 58A .0503(b) required every broker to submit an email address upon renewal. However, if a broker did not have an email address, the Commission did not require the broker to obtain one in order to complete the renewal process.

Effective July 1, 2021, a broker **must** provide an email address to the Commission upon the renewal of their license. The email address the broker provides should be an email address that is regularly used by the broker. If a broker does not provide an email address to the Commission, they cannot complete the license renewal process. Also, a broker may designate their email address as private in order to exempt it from public records disclosure pursuant to G.S. 93A-4(b2).

REMINDER: Per Rule 58A .0103(b), every broker shall notify the Commission in writing of each change of personal name, firm name, trade name, residence address, firm address, telephone number, and email address within 10 days of said change. Brokers must ensure that their contact information is current in the Commission's records.

ANSWERS TO DISCUSSION QUESTIONS

For Discussion on Page 93:

1. Tamela, a full broker, takes the 12-hour Broker-in-Charge course. After successfully completing the course, she completes a *Request for BIC Eligible Status and/or BIC Designation* (Form 2.25) and submits it to the Commission. However, she received a *Letter of Inquiry* from the Commission and is currently under investigation.

Will the Commission grant Tamela BIC Eligible status if there is a pending investigation?

Answer: No. Pursuant to 58A .0110(l), a hold will be placed in her license record for the Request for BIC Eligible Status and/or BIC Designation due to the pending investigation.

2. Kim has been a broker in NC for 17 years and has never provided an email address to the Commission. When he renews his license in June 2022, Kim discovers an email address is required. He's reluctant to provide an email address, because he doesn't want the address to be published.

What are Kim's options?

Answer: Kim may designate his email address as PRIVATE, which means the email address will only be used for the Commission's direct communications, and the address will not be shared during a public records disclosure.

Kim must provide an email address to the Commission per Commission rule 58A .0503(b) to complete the renewal process. Kim should provide an email to the Commission that he checks on a regular basis.

3. TRUE or FALSE? A BIC must complete the Basic Trust Account Procedures Course within 120 days of **assuming** responsibility for a trust account.

Answer: True. Rule 58A .0110(g)(9) specifies that a designated BIC shall complete the Commission's Basic Trust Account Procedures Course within 120 days of assuming responsibility for a trust account in accordance with G.S. 93A-6(g). This requirement applies to a broker opening a new trust account and/or assuming a trust account.

For Discussion on page 95:

Stan is the BIC of Homez, Realty. When he hires new brokers, he reviews the employment agreement with them at the new broker orientation. The employment agreement dictates that the brokers are *independent contractors* but they must obtain prior authorization from the BIC before placing advertisements and affiliating with other firms. Additionally, this agreement specifies that Homez Realty will distribute a 1099-Miscellaneous Income form to all affiliated brokers electronically.

Is Stan responsible under License Law and Commission rules for the brokers at the company since they are categorized as independent contractors?

Answer: Yes. Stan is responsible for the supervision of all affiliated brokers with Homez Realty pursuant to Rule 58A .0110(g)(1) and g(7).

For Discussion on Page 97:

Bob took the Basic Trust Account Procedures Course on August 2, 2021. Bob later became the new BIC of ABC Realty on June 16, 2022, and assumed responsibilities for the trust account.

Does Bob need to take the Basic Trust Account Procedures Course?

Answer: No. Bob does not have to take the Basic Trust Account Procedures Course because he has already taken it within the previous three years per Rule 58A .0110(g)(9).

For Discussion on Page 103:

Turner, the BIC of XYZ Realty, permits affiliated brokers to hire unlicensed assistants. John, an affiliated broker, hires Melissa as his unlicensed assistant. John tells Melissa to create and publish an advertisement for a property he has listed in Meadow Ridge. He instructs Melissa to use catch phrases that would appeal to a trendy professional. Melissa publishes the following advertisement:

1 bedroom, 1 ½ bathroom loft in downtown Meadow Ridge. This loft is perfect for an individual with no kids. It is within close proximity to walking trails for the physically fit, upscale boutique shops, restaurants, bars, and St. Paul Cathedral for Sunday worship.

Turner did not review the advertisement before it was published.

Is it possible that Turner is in violation of Commission rules?

Answer: Yes, it is possible that Turner may be in violation of Commission Rule 58A .0110(g)(10). Turner is the BIC of XYZ Realty. According to Rule 58A .0110, Turner is responsible for reviewing all advertisements. Although Melissa is John's unlicensed

assistant, Turner is still responsible for ensuring that the advertisements published comply with License Law and Commission Rules and state and federal fair housing. Also, Turner may be liable for possible violations under the state and federal fair housing laws for the advertisement. If Turner is liable under state and federal fair housing laws, he may also be liable for violating Commission Rule 58A .1601 as well.

For Discussion on Page 105:

John is an affiliated broker with ABC Realty and is the BIC of the “Houses LLC” team within ABC. John asks Sue, the closing attorney, to disburse the commission check directly to Houses, LLC (rather than ABC Realty). Sue is not comfortable approving this request because she is concerned about having to verify licensure and collect sufficient information and assume the added burden of producing and delivering required tax forms at the end of the year. Sue denies the request. Sue disburses the commission to ABC Realty. The BIC of ABC Realty then disburses funds to John and his team members.

Has John violated Commission Rule 58A .0120(a)?

Answer: Answer: No, John is not in violation of Commission Rule 58A .0120(a). It is permissible for John to ask Sue to disburse the commission to the entity, Houses, LLC. John is not in violation because he did not require or demand Sue to disburse the commission, nor did he threaten to stop using her services because of her refusal. Also, although John is an affiliated broker with ABC Realty, he is the BIC of Houses, LLC. Therefore, John can receive the commission from Sue and pay the brokers affiliated with Houses, LLC, in compliance with Commission rules.

For Discussion on Page 106:

Blake, a full broker with ABC Realty, assisted Jim with purchasing a home in Zebulon, NC. Tasha is the BIC of ABC Realty. ABC Realty has a rapport with 123 Attorneys, PLLC. Tasha contacts Steve, an attorney with 123 Attorneys, PLLC. Tasha tells Steve to disburse Blake’s commission check directly to him after settlement. Steve disbursed the funds to Blake as Tasha directed.

Has Tasha violated Commission Rule 58A .0120?

Answer: Yes. Tasha has violated License Law and Commission rule 58A .0120(b). According to 58A .0120(b), Tasha must pay Blake his compensation directly because she is his current BIC. Tasha also cannot authorize Blake to receive his commission from Steve, the attorney.

For Discussion on Page 107:

Steve is an affiliated broker with 123 Homes. He has listed several properties in the Greenwood area that need extensive repairs. Sam, the seller-client, informs Steve to list the properties as a bundle. Sam also directs Steve to call Sean, the home inspector, and request a home inspection for all of the properties. Steve tells Sean to exclude any information in the report that indicates the electrical or plumbing systems need to be replaced because he would like to sell the properties quickly. He assures Sean that his business is growing and promises to recommend him as a home inspector to all of his clients and/or consumers in the future.

Has Steve violated Commission Rule 58A .0120(c)?

Answer: Yes. Steve may have violated Rule 58A .0120(c). Steve attempted to influence Sean to exclude the electrical and plumbing systems in the report because he wanted the properties to sell quickly. He informed Sean that if he complied, he would recommend his services to future clients/consumers. Steve's actions also may be in violation of License Law and Commission rules and N.C. Gen. Stat § 93A-6(a)(1) for failing to disclose a material fact.