



Agency Agreements – make sure they are compliant

College Chronicle
Newsletter

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Australian College
of Professionals

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Agency Agreements – make sure they are compliant

One of the topics the trainers at ACOP love to discuss is the importance of having your agency agreement correct and enforceable.

Not complying with section 55 of the Property and Stock Agents Act 2002 can mean that an agent is faced with the very real prospect of not getting paid their commission or management fees or as is now being seen in Tribunal matters, having to pay back commission or management fees after they have been paid to the agent.

So, what does Section 55 require?

55 No Entitlement to Commission or Expenses without Agency Agreement

a. A licensee is not entitled to any

commission or expenses from a person for or in connection with services performed by the licensee in the capacity of licensee for or on behalf of the person unless:

- a. the services were performed pursuant to an agreement in writing (an “agency agreement”) signed by or on behalf of:
 - (i) the person, and
 - (ii) the licensee, and
- b. the agency agreement complies with any applicable requirements of the regulations, and offers to sell residential property, or
- c. a copy of the agency agreement signed by or on behalf of the licensee was served by the licensee on that person within 48 hours after the agreement was signed by or on behalf of the person.

Note: Section 55A allows a court or



tribunal to order that commission and expenses are recoverable in certain circumstances despite subsection (1).

In a recent case heard before the NSW Civil and Administrative Tribunal (NCAT), a strata manager was ordered to pay back management fees they had deducted from their Owners Corporation's trust account.

The OC stated that there was never a signed and executed agency agreement with the agent, NCAT agreed with the owners corporation and ordered the strata manager to repay the owners corporation the sum of \$9,300.00.

The strata manager appealed against NCAT's decision. The appeal was unsuccessful. The Appeal Panel of NCAT concluded that the strata manager was not entitled to claim fees from the owners corporation without

a signed strata management agency agreement.

An agency agreement is in place for your protection as an agent. There is no other document that secures your payment and it must be remembered that the laws are in force to protect the consumer, not the agent or agency. The only way you can protect your fees is by ensuring that you have an agency agreement in writing, signed, that it complies with the regulations and is served on your client within 48 hours.

Always pay attention to the details of completing your agency agreements.

Rosy Sullivan
Director | College Principal

CONTINUED >

Supervision Guidelines

Obtain a working document to meet your property agency requirements in NSW

Package includes:



Customisable Word File



Excel spreadsheets

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UPCOMING CPD WEBINARS

3 HOUR COMPULSORY CPD

Real Estate	TUE 18TH MAY
Strata Management	TUE 4TH MAY
Real Estate	TUE 22ND JUN
Strata Management	TUE 8TH JUN

3 HOUR ELECTIVE CPD

Property Sales	TUE 25TH MAY
Residential Property Management	TUE 15TH JUN
Strata Management	TUE 11TH MAY
Commercial Sales & Leasing	FRI 14TH MAY

Please note: All Webinars will be held via Zoom and run from 9am - 12pm unless stated otherwise.

UPCOMING CPD FACE TO FACE COURSES

COMPULSORY SALES & LEASING AND ELECTIVE CPD - NSW

Residential Prop Mgmt Sydney CBD	FRI 7TH MAY	Property Sales Orange	TUE 25TH MAY
Property Sales Sydney CBD	WED 12TH MAY	Residential Prop Mgmt Orange	TUE 25TH MAY
Property Sales Castle Hill	THU 13TH MAY	Livestock Sales Dubbo	WED 26TH MAY
Property Sales Newcastle	FRI 14TH MAY	Property Sales Dubbo	WED 26TH MAY
Property Sales Parramatta	WED 19TH MAY	Property Sales Sydney CBD	MON 31ST MAY
Property Sales Dee Why	THU 20TH MAY	Property Sales Port Macquarie	MON 7TH JUN
Property Sales Liverpool	MON 24TH MAY	Residential Prop Mgmt Sydney CBD	MON 7TH JUN

COMPULSORY & ELECTIVE STRATA CPD - NSW

Strata Management Sydney CBD	THU 20TH MAY	Strata Management Tweed Heads	TUE 22ND JUN
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Two 3-hour sessions. 9am - 12pm then 1pm - 4pm unless stated otherwise. If you have already completed one CPD course and only need to attend either the Compulsory OR Elective component, please contact the College on 1300 88 48 10

UPCOMING CERTIFICATE OF REGISTRATION FACE TO FACE COURSES

ASSISTANT AGENT - CERTIFICATE OF REGISTRATION

Real Estate and Stock & Station Sydney CBD	3RD -6TH MAY
Real Estate and Stock & Station Castle Hill	17TH -20TH MAY

Units taken from nationally accredited training qualifications from the CPP41419 Certificate IV in Real Estate Practice.

Strata Management Sydney CBD	21ST -24TH JUN
Strata Management Sydney CBD	16TH -19TH AUG

Units taken from nationally accredited training qualifications from the CPP40516 Certificate IV in Strata Community Management.



From the office

And it's the end of the first third of 2021 - and what a four months it has been.

Agents are starting to attend CPD classes again for the new 2021 CPD year, and what a good idea that is – get the hours done early, and then you don't have to think about it again until after March 2022. We are planning our courses for regional areas, and will be contacting all our wonderful students in the country to remind them that we are coming to town for CPD. This past fortnight, we have had quite a focus on strata management, with a Certificate of Registration - Assistant Agent course and also one of the licensing modules relating to specific strata agency practices, including strata trust accounting. This combined with agency office visits completing compliance health checks has kept our trainers super busy.

Our government funded team are

extra busy with many agencies taking on new staff. Now is the opportunity to access free training for new entrants to an agency, and at the same time, access the wage subsidy provided by the Commonwealth government to access up to 50% of the new entrant's wage (up to \$28,000 for the first year of employment). What a great time to be entering the property industry.

Mixed in amongst Anzac Day and our appreciation of the sacrifices that have been made by so many men and women in the past, we have had a fortnight full of celebrations at ACOP. We had cake to mark the occasion of Phoebe receiving her double degree in communications and innovation; cake to mark Michelle (our Chief Operations Officer's) birthday; and then a mega-combined celebration with a mega-cake to match for the multiple birthdays of Linh (media consultant); Tilly (Student Support) and Ryan (Government Funded Student Support). Check out our socials for photos of all the cakes and celebrations.

UPCOMING LICENCE FACE TO FACE COURSES

PROPERTY LICENSING

Commercial Sales & Leasing SYDNEY CBD	3 RD - 4 TH JUN
Property Sales SYDNEY CBD	29 TH JUN - 1 ST JUL
Stock & Station Agency Practices SYDNEY CBD	31 ST MAY - 2 ND JUN
Strata Management Agency Practices SYDNEY CBD	15 TH - 17 TH JUN
Auctioneering SYDNEY CBD	15 TH - 16 TH JUL
Property Mgmt Business Development & NCAT SYDNEY CBD	13 TH - 14 TH MAY

PROPERTY LICENSING

Financial Management (Strata) SYDNEY CBD	13 TH - 14 TH JUL
Trust Accounting + Insurance SYDNEY CBD	FRI 18 TH JUN
Trust Accounting SYDNEY CBD	24 TH - 25 TH MAY
Property Management SYDNEY CBD	26 TH - 28 TH MAY
Business Broking SYDNEY CBD	10 TH - 11 TH MAY

Units taken from nationally accredited training qualifications from the CPP41419 Certificate IV Real Estate Practice and CPP40516 Certificate IV in Strata Community Management.

UPCOMING FINANCE & MORTGAGE BROKING FACE TO FACE COURSES

Certificate IV in Finance & Mortgage Broking SYDNEY CBD	17 TH - 19 TH MAY
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Diploma of Finance & Mortgage Broking Management <i>(Upgrade Program - Must hold Certificate IV in Finance & Mortgage Broking)</i> SYDNEY CBD	20 TH - 21 ST MAY
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Units taken from nationally accredited training qualifications from the FNS Financial Services Training Package.

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