

## **Business Entities & Teams Webinar Q & A**

### **Advertising & Names:**

*What do I need to have on my business card?*

Business cards must include the licensee's name, firm name, and the licensee's contact information (phone number or web address). For a real estate team or any other business entity, your licensed name is the name on your business entity salesperson license.

*Do I need a license for my "AKA" Facebook business page?*

If you are advertising using your licensed name (or a DBA indicated on your salespersons license), then no. However, if you are advertising as a real estate team, then you will need a business entity salespersons license.

*Could both a husband & wife DBA as the team name?*

There is no restriction on who can be on a real estate team. As long as both spouses are a part of the business entity and that business entity is licensed with DPOR, they are able to advertise using the team name.

*If I don't advertise as a business entity, do I need to have one?*

No, remember that there is a 3-part test before you are considered a team and need a business entity salesperson license: 1. Work as a unit within the same firm; 2. Hold yourselves out to the public as a unit; and 3. Operate under a fictitious name. If you do not plan to do all three things, then you are not considered a real estate team under the law.

*If two people are working together as a team and one leaves, can the remaining person still advertise under the team name?*

It depends. A real estate team must be two or more people, at least one of whom is a real estate licensee, who work as a unit at the same firm, hold themselves out as a unit,

and use a fictitious name. If there were only two people in the team and one leaves, the remaining person cannot advertise using the team name unless and until there is another person. If there were three or more people and one leaves, then it will be governed by the governing documents for the business entity. Note that if Erin leaves the "Laura and Erin Team" it could be seen as false or misleading advertising for Laura to continue to use that name.

*Is there a restriction on words that can appear in the team name? For example, "realty," "real estate," "associates," or "real estate team"*

No, Virginia does not restrict or prohibit words from team names; however, the name cannot be misleading or imply that the team is a brokerage. The firm may have additional requirements that you will need to follow.

*Is a name like "Homes by Laura Farley" or "Laura Farley Homes" fictitious?*

Yes, any name that is not your legal name is a fictitious name. If your legal last name is "Homes," then you would be able to use it in your advertisements, otherwise you need a DBA and/or a BES.

### **Compensation:**

*If an agent is paid directly by the broker, can they still be part of a team?*

There is no legal or regulatory prohibition on this. It is up to the governing documents for the business entity and the individual broker.

### **Composition:**

*Can a team be made up by individuals in other industries, such as a lender?*

No, the law states that real estate teams are two or more individuals, one of whom is a licensee who work together as a unit within the same brokerage firm.

*Can a husband & wife own a team jointly?*

There is nothing that prohibits this, it would depend on the type of business entity you choose to form.

*If I have a transaction coordinator working for my team, but the coordinator works for multiple firms, do we fall under the definition?*

So long as you meet the other requirements in the definition, then yes. When that transaction coordinator is working for you, they are effectively working for and represent the brokerage firm as well, even if they are doing so as an independent contractor.

*Can a combination of licensees and LLCs (wholly owned by licensees) form a new team business entity?*

There is no requirement that the members of a team business entity be individuals and not LLCs, however the LLCs must have a Business Entity Salesperson License in order to be a member of the team.

*Can a single individual form an LLC?*

Yes, a single individual can form a business entity so long as they meet the rules for that specific entity. This individual would not meet the definition of a real estate team, but in order to advertise in that LLC name and/or have the broker pay compensation to the business entity directly the individual would need a business entity salesperson license.

*Is there a timeframe to hire someone?*

The law states that a real estate team must have more than one person. There is no grace period for calling yourself (or advertising as) a real estate team before you hire a second person. You can take the steps to form a business entity, but you cannot call yourself (or advertise as) a real estate team until you meet all parts of the definition, which states you must have more than one person.

**License Requirement:**

If two agents are individually compensated by the broker and do not represent themselves as a unit, do they need a BES?

It depends. This scenario would not meet the definition of a real estate team. However, if either of the two licensees had formed a business entity for their own tax or liability purposes and wanted their commissions to be paid to the entity, that individual licensee would need a business entity salesperson license first.

*If I'm currently a single agent, but may want to form a team later, should I wait or set it up now?*

At this point you could not call yourself (or advertise as) a real estate team. However, you can definitely begin the steps to form a business entity and register it with the proper state and federal agencies and then apply for your business entity salesperson license.

*I am bringing on a licensed assistant, but wasn't planning on advertising as a team. Will having a licensed assistant force me to do so?*

To be considered a real estate team you must represent yourselves to the public as working together as one unit. For example, if you have a licensed assistant, but you continue to advertise as an individual agent and call yourself by your licensed name, Jane Doe, you will not be considered a team. However, if as an individual agent, you have a business entity and would like that entity to receive commissions for tax or liability purposes, you would need a business entity salesperson license.

**Miscellaneous:**

*Do the circuit courts have a form online for the fictitious name filing?*

Yes, the form can be accessed [here](#).

*Must the business entity name filed with the SCC and DPOR be the exact team name?*

Whatever name you form your business entity with is the name that needs to appear on the license. You can have a fictitious name or DBA that you use. For example, a team formed as "The Central Virginia Real Estate Team, LLC" can have a DBA as "Central Virginia Team."

*Does an LLC have to file the same fictitious name certificate with a clerk of court as the sole proprietor?*

Yes, any entity that conducts business using a fictitious name must file a fictitious name certificate with the Clerk of Court. [The form](#) has check boxes to indicate what type of entity you are.

*Does registering an LLC with the SCC automatically register a DBA in the name of the LLC?*

No. When you form an LLC with the State Corporation Commission, you must still file a fictitious name certificate if you will be conducting business using a DBA.

*Are all the steps necessary for a single licensee to register an LLC the same?*

The steps for forming a business entity and registering it with the appropriate local, state, and federal agencies are the same whether you are forming an entity as an individual agent or as a real estate team.