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November 1, 2011

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**E-MAIL**

Mr. Danny Cooper  
Executive Vice President  
Alabama Association of Realtors, Inc.  
Post Office Box 4070  
Montgomery, Alabama 36103

Re: E-Verification of Independent Contractors

Dear Danny:

In response to the questions you have received concerning the applicability of the new Alabama Immigration Act concerning the requirements of e-verification for independent contractors, please review the following:

1. §1324(a) United States Code states that it is unlawful to hire for employment an unauthorized alien. (This is and has been existing Federal law).
2. This same section requires verification that an employee is not an unauthorized alien.
3. §1324(a)(4) states for the purpose of this Act, a person or entity that uses a contract to obtain the services of an illegal alien is in violation of the provisions of the Act.
4. Section 15 of the new Alabama Immigration Act states: That no business or employer shall “knowingly hire” an unauthorized alien.
5. “Knowingly hire” means the actions described in the Federal law under §1324(a).

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6. Section 16 of the new Alabama Immigration Act states that no wage or compensation paid to an unauthorized alien shall be allowed as a deductible business expense for any state income or business tax purposes. The Act further states that this section shall apply whether or not an Internal Revenue Service Form 1099 is issued in conjunction with the wages or remuneration. (Note: There is a severe penalty for violation of this provision of the new law).

7. Section 27 of the new Alabama Immigration Act states that contracts between a party and an unlawful alien, if the party had direct or constructive knowledge that the alien was unlawfully present in the United States, is unenforceable.

8. Section 15(a)(b) of the new Alabama Immigration Act states that effective April 1, 2012, every business entity or employer shall enroll in E-Verify and thereafter according to the federal statutes and regulations, shall verify the employment eligibility of employees through E-Verify.

In my opinion, based upon the statutory provisions of the United States Code and the provisions of the new Alabama Immigration Act, real estate agents that enter into independent contractor agreements with Real Estate Companies and/or Brokers are subject to the E-Verification process.

Please let me know if you have any questions or wish to discuss this matter further.

With all best regards, I am

Sincerely,

E. Ham Wilson, Jr.

EHWjr/k

cc: Carl Clark