

# Kentucky Real Estate NEWS

A Publication of the Kentucky Real Estate Commission

## Changes to our Regulations

The following administrative regulation revisions were approved by the Legislative Research Commission on March 7, 2008 and are now in effect. The Commission is in the process of printing a new law manual; however, for an updated electronic version of the full text, please check our website at [www.krec.ky.gov](http://www.krec.ky.gov).

### **201 KAR 11:170 Private school and course approval**

This regulation was amended to require all pre-license courses to include a closed-book monitored final examination. Students must obtain at least 75% in order to pass the exam and only one retake is permitted. Students must also now complete, with a passing score, a project that is applicable to the course content. The imple-

mentation date for the new requirements is November 1, 2008. The regulation also changes the pre-license approval period to a two-year cycle and outlines the requirements for submitting materials to the Commission for approval.

### **201 KAR 11:210 Licensing, education and testing requirements**

This regulation now sets forth the requirements for education documents submitted in a language other than English and provides for an evaluation process for education completed outside the United States to ensure candidates have fulfilled the high school/GED requirements outlined in KRS 324.040(3).

*Continued on Page 9*

**Continuing Education Penalty Increased  
From \$200.00 to \$500.00**

**(Please see the article on page 9 for more details)**

**AVOID THE PENALTY**

**GET YOUR CONTINUING EDUCATION**

## CONTENTS

Comments from the Chair
From the Director's Desk
Licensee-Restricted Forms & Contracts
Thank You, Don Bodley
Broker Price Opinions
New Interpretation of KRS 324.160(4)(p)
Owner/Agent Exemptions
New Commercial Law Now in Effect
Tips When Dealing With Foreclosures
Disciplinary Actions
Commission Says Goodbye to Three Employees
Changes in the Continuing Education Requirements
Three New Employees
Responsibilities of Buyers' Agents
E & O Insurance Requirements
Cooperating Fees in Purchase Contracts
Escrow Account/FDIC Issues

# Kentucky

Printed with State Funds  
Issue No. 210, Fall 2008

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Mary O'Wheatley

## **Comments from the Chair**

**by: Lois Ann Disponett,  
Chair**



We have had numerous suggestions on improving our continuing education course offerings as well as requests to access the Commission's continuing education database. We have worked very diligently over the past few years to try to implement these changes. I am very pleased to announce that the online continuing education database will be available to licensees in the very near future. This will allow licensees to look up their continuing education records to find out what type of classes are due for the year, and to determine whether their hours have been posted to fulfill their six-hour requirement.

In order for licensees to access their own information, they will simply logon to the Commission's newly designed website and click on the "KREC database." We are in the final testing phase of this program and hope to have it up and running in the next month or so.

I want to personally thank Ms. Linda Poliskie and Ms. Sarah West for all of their hard work on this project. Hopefully, this will make it easier for licensees to keep track of their continuing education. Please watch the website for more details.

The Commission has also been working very hard on several new courses. Recently the Commission has completed work on a Broker-only Core Course, entitled "Risk Management for Brokers," which is now available. Northern Kentucky University, through a grant from the Commission's Education, Research and Recovery Fund, is working on an online core course for commercial licensees. Watch for more information on this in future newsletters.

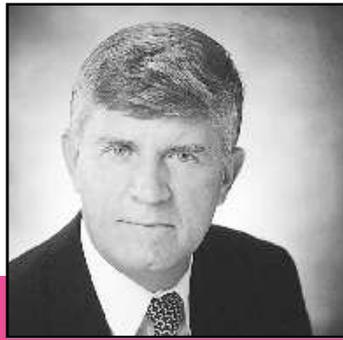
The Commission wishes to extend its sincere thanks and appreciation to the instructors who served on the course development committee for this new broker course.

I have always been impressed with the Commission's willingness to try out new ideas and implement new programs to serve the licensees and the consumers. Therefore, if you have an idea for a course, please submit it to the Education Department for consideration.

**The Commission recommends that when licensees measure properties, the ANSI Standard should be used (as is now required by several local Associations).**

## From the Director's Desk

by: Norman E. Brown,  
Executive Director



As you will see on pages 10 - 11 of this newsletter, the Commission has been going through several staff changes. We recently had two employees retire and another one decided to be a stay-at-home mother. You can imagine, with only fourteen employees at the Commission, the kind of impact this has had on our staff.

The interview process alone was very time-consuming as we received over 175 applicants for just one position. We are very pleased to have three new employees on board, and we ask that you be patient with us during this transition period. As always, we try our best to serve the licensees and consumers efficiently and with same-day service. I want to applaud the Commission staff for their hard work during this transition period. Many employees took on additional work during this period and have worked hard at training our new employees.

Another change that you

might have already noticed is our new website design. Our Internet address has not changed, but the site now has an entirely new look. We have changed from the old homepage to a more updated dropdown format. There, you will find links for "Applicant Information," Continuing Education," "Laws and Legal Information" and the "KREC Database."

We are very excited about the new site, and we hope that you find it more user-friendly. With this new design, the Commission staff will now make changes to the website in-house. This will allow us to ensure prompt and accurate updates. The Commission's licensee database will now be updated daily.

If you have not already done so, please logon on at [www.krec.ky.gov](http://www.krec.ky.gov) and take a look at our new site. Then, give us your feedback on what you like and do not like.

### Licensee-Restricted Forms & Contracts

#### *User Name & Password*

*Below are the User Name and Password you need in order to access forms on the Commission's website ([www.krec.ky.gov](http://www.krec.ky.gov)). The link is under Contracts & Forms.*

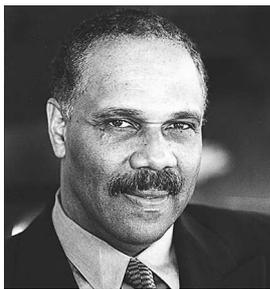
**User Name:** *get* (lower case)

**Password:** *forms* (lower case)

**The Commission would like to thank Webmaster Don Bodley for all of his hard work on the website over the past ten years.**

### Broker-Price Opinions

**Agents and brokers are often asked to perform Broker Price Opinions, commonly called "BPO's," for companies that need a value for a property. Licensees are able to perform this service as part of their licensure activities. Therefore, this activity falls under license law, specifically KRS 324.160(4)(f), the statute which requires an agent to be paid for real estate brokerage only by his or her principal broker. The Commission receives a lot of inquiries about this, because the companies sometimes choose to send the payments directly to the agent. As the above information shows, this is not allowed under license law.**



Ron Smith



Lois Ann Disponett



Ken Perry



F. M. Sponcil



James H. Huff

## New Interpretation of Law Regarding Sellers Soliciting a New Listing Agent

At its July meeting, the Commission revised its interpretation of KRS 324.160(4)(p). This statute prevents a licensee from attempting to secure a listing from a seller, if the licensee knows that the seller already has an outstanding exclusive listing agreement with another broker. Nevertheless, sellers will oftentimes contact a new listing agent to perhaps re-list the property once their current listing has expired. The Commission has now ruled that, *in the event that the seller contacts the agent*, the agent can then view the property and sign a listing agreement that will begin at the expiration of the current listing. *By no means does this change allow agents to solicit listed sellers.*

Because of this change in interpretation, form listing agreements may need to be amended to

address this “effective date” issue. (If an agent asks the listing agent for the expiration date of the current listing and the listing agent refuses to disclose this information, the Code of Ethics of NAR allows an agent to contact the seller to determine the expiration date of their current listing. This is in conflict with Kentucky license law, so this provision does not apply in Kentucky.)

Sample language is available on the Commission’s website under the “Law and Legal Section” for listing agents to use when re-listing prior to the expiration date of the original listing agreement. Should you ever have a seller contact you about re-listing their property and you have any questions or concerns, please do not hesitate to contact the Commission’s Legal Department.

## OWNER / AGENT EXEMPTIONS

*By: Lee Harris, General Counsel*

The Commission has received several “anonymous” complaints and letters lately that deal with the issue of owner/agents. There is a misconception that real estate license law requires a person to advertise as “owner/agent.” This is not true. (If you are a member of the Association of REALTORS®, then there are provisions that apply to this. Please check your Code of Ethics for specifics about your requirements as a REALTOR®.)

In fact, license law does not even require an owner-agent to use the company name or the principal broker name. Please see KRS 324.117(4) for the precise language of the law. License law does, however, require a licensee who is an owner or builder/developer to follow all license laws and to disclose his or her status in writing or in the purchase contract. Please see KRS 324.020(3) and KRS 324.160(4)(e) for the precise language of those laws. Our laws can be found on our website at [www.krec.ky.gov](http://www.krec.ky.gov).

# New Commercial Law Now in Effect

By *Kristen L. Reese, Staff Attorney*

On July 15, 2008, four new statutes became effective, which now allow an out-of-state broker or out-of-state licensee to practice real estate in Kentucky as long as they follow certain requirements. These statutes only apply to *commercial* real estate and an individual practicing residential real estate in Kentucky must still be licensed in this state. The out-of-state licensee must work under direct supervision of an out-of-state principal broker, and the out-of-state principal broker must enter into a written cooperation agreement with a Kentucky cooperating broker. The Kentucky cooperating broker must be a licensed principal broker in the state of Kentucky. The agreement must contain all the terms outlined in KRS 324.236(2). (There will soon be sample forms on our website.)

The out-of-state licensee or broker must follow certain statutory requirements. They must work with a Kentucky cooperating broker; they must limit their brokerage activities to those outlined in the cooperation agreement; they must hold escrow funds inside the state; and they must keep the Kentucky cooperating broker informed. These are just a few of the statutory requirements that must be followed. For the precise language of the new law, please see KRS 324.235-KRS 324.238 on our website.



The out-of-state principal broker is also required to file a Notice of Affiliation with the Kentucky cooperating broker. The Notice must contain the out-of-state principal broker's or licensee's name, firm name, firm address and telephone number, along with the terms specified in KRS 324.237. The Notice must give irrevocable consent to lawsuits being filed against the out-of-state licensee or broker and consent to service. The Notice requires a statement that, during the prior five year period, the out-of-state principal broker or out-of-state licensee has not been subject to a disciplinary action or been convicted of a felony.

The new commercial laws provide that the Commission may levy sanctions and penalties against an out-of-state broker or out-of-state licensee who violates these new laws.

These sanctions may include levying a \$1000.00 fine, issuing a formal or informal reprimand, reporting to the licensing authority of any state, revoking the authority to broker commercial real estate in Kentucky, publishing the sanctions imposed, and reporting suspected violations to the Commonwealth Attorney's office.

If you have any questions, please contact the Commission's Legal Department for clarification.

## Tips When Dealing With Foreclosures

There are many foreclosure actions taking place in Kentucky at this time. Because of this, there are many third-party sales taking place as well. Licensees may be representing more and more buyers who are dealing with a bank or other institution rather than an individual seller. Common practice among financial institutions is to negotiate via e-mail or via phone. Very often, the seller's representative will not actually sign any agreement until the very end. Unsuspecting buyers and their agents are proceeding as if they have a solid

contract when, in fact, they have nothing enforceable at all. Take precautions with buyers in these situations. Let them know that they do not have a contract until it is signed by the seller. In addition, if you are representing a third-party seller, it is important that you inform the seller about Kentucky license laws, so that you can all work within those laws. Specifically, these sellers need to understand that all offers and counteroffers should be in writing, not verbal. (Please see 201 KAR 11:250 for the precise language of the law.)



# Disciplinary Actions

**Graham W. Goldsmith**

(Louisville)

Case No. 07-0141

**Violation:** Mr. Goldsmith stipulated to a violation of KRS 324.160(4)(u), specifically for violating 201 KAR 11:250, for irregularities in the listing agreement; specifically, for adding a \$500.00 signing bonus to the MLS without the knowledge or consent of the client.

**Disposition:** Mr. Goldsmith agreed to pay a fine in the amount of \$500.00.

**Mark C. Williams**

(Lexington)

Case No. 07-0332

**Violation:** Mr. Williams stipulated to a violation of KRS 324.160(4)(v) for conduct that constitutes improper, fraudulent or dishonest dealing; specifically, for paying referral fees to unlicensed individuals.

**Disposition:** Mr. Williams agreed to voluntarily surrender his license and is barred from brokering real estate in Kentucky.

**Catherine Corbett**

(Falls of Rough)

Case No. 07-0026 & 07-0097

**Violation:** Ms. Corbett stipulated to an unintentional violation of KRS 324.160(4)(v) for conduct that is improper, fraudulent or dishonest dealing; specifically, for including improper statements in her advertisements regarding her

and her husband's property management company, which is not a real estate brokerage firm.

**Disposition:** Ms. Corbett agreed to pay a fine in the amount of \$500.00.

**Deena Brooks**

(Bowling Green)

Case No. 07-0034

**Violation:** Ms. Brooks stipulated to a violation of KRS 324.160(4)(u); specifically, for violating 201 KAR 11:121(1)(5), 201 KAR 11:250, 201 KAR 11:350 and 201 KAR 11:400, resulting from her unintentional breach of fiduciary duties owed to her client, and from her inadvertent failure to obtain a property owner's signature on a limited listing agreement, to provide a seller's disclosure form and to prepare and present the required agency disclosure documents.

**Disposition:** Ms. Brooks agreed to pay the amount of \$400.00 to her client, to pay a fine in the amount of \$1000.00 and to complete six (6) additional hours of continuing education.

**Benjamin J. Neltner**

(Cold Spring)

Case No. 08-0078

**Violation:** Mr. Neltner stipulated to a violation of KRS 324.160(4)(v) for improper conduct, for failing to obtain

proper documentation before advertising a property for sale.

**Disposition:** Mr. Neltner agreed to pay a fine in the amount of \$250.00 and to complete three (3) additional hours of continuing education in law.

**Betty C. Adams**

(Prospect)

Case No. 07-0355

**Violation:** Ms. Adams stipulated to a violation of KRS 324.160(4)(u) for unintentionally violating KRS 324.111 by depositing and withdrawing from her escrow account money belonging to her, specifically her commission payments.

**Disposition:** Ms. Adams agreed to relinquish her privilege to be exempt from continuing education requirements, as stated in KRS 324.281(7), and will now be subject to the Commission's mandatory continuing education requirements. Ms. Adams will also complete the Commission-approved Core Course required by 201 KAR 11:230.

**Raymond F. DeSloover**

(Richmond)

Case No. 07-0154

**Violation:** Mr. DeSloover stipulated to a violation of KRS 324.160(4)(u), specifically, 201 KAR 11:400, for failing to fully comply with the agency disclosure form

## Disciplinary Actions

*Continued from Page 6*

requirements in a dual agency transaction.

**Disposition:** Mr. DeSloover agreed to attend the Commission-approved Core Course, along with an additional six (6) hours of continuing education.

### **Bruce B. Begley**

(Richmond)

Case No. 07-0154

**Violation:** Mr. Begley stipulated to a violation of KRS 324.160(4)(u), specifically 201 KAR 11:350 for failing to satisfy the seller's disclosure form requirements; 201 KAR 11:400, for failing to fully comply with the agency disclosure form requirements in a dual agency transaction; and 201 KAR 11:121 for breaching the fiduciary duties of loyalty and disclosure owed to his buyer-client, resulting from his failure to explain the nature of his interest in the property in question.

**Disposition:** Mr. Begley agreed to attend the Commission-approved Core Course, along with an additional six (6) hours of continuing education, for each year for the next five (5) years. Mr. Begley further agreed to pay a fine in the amount of \$500.00.

### **Justin Caudill**

(Morehead)

Case No. 07-0235

**Violation:** Mr. Caudill stipulated to a violation of KRS

324.160(4)(p) for interfering with the listing agreement of another broker.

**Disposition:** Mr. Caudill agreed to pay a \$1,000.00 fine and to attend six (6) hours of additional continuing education courses in law.

### **Donald W. Smith**

(Cincinnati, OH)

Case No. 07-0341

**Violation:** Mr. Smith stipulated to a violation of KRS 324.111 for improper handling of his escrow account.

**Disposition:** Mr. Smith agreed to pay a fine in the amount of \$250.00.

### **Sharon Marie Powell**

(Elizabethtown)

Case No. 07-0318

**Violation:** Ms. Powell stipulated to a violation of KRS 324.160(4)(v) for improperly allowing her clients to move items into the sellers' home prior to closing, without written authorization to do so.

**Disposition:** Ms. Powell agreed to pay a fine in the amount of \$250.00 and to attend three (3) additional hours of continuing education courses in law.

### **Jennifer Robertson**

(Atlanta, GA)

Case No. 07-0272

**Violation:** Ms. Robertson stipulated to a violation of KRS 324.160(4)(u), for violating 201 KAR 11:350, for using the incorrect seller's disclosure form on her listings.

**Disposition:** Ms. Robertson agreed to pay a fine in the

amount of \$250.00.

### **Billy M. Hudson**

(Boston)

Case No. 07-0323

**Violation:** Mr. Hudson stipulated to a violation of KRS 324.160(4)(e) for failing to disclose his status as a licensee and as a buyer in the purchase contract.

**Disposition:** Mr. Hudson agreed to pay fine in the amount of \$500.00.

### **Michael J. Butler**

(Louisville)

Case No. 07-0212

**Violation:** Mr. Butler stipulated to a violation of KRS 324.160(4)(u) for failing to comply with the terms of the original Final Order in this matter.

**Disposition:** Mr. Butler agreed to pay a fine in the amount of \$1000.00 and to complete the 48-hour brokerage management course.

### **Tammye Osborne**

(Elizabethtown)

Case No. 07-0335

**Violation:** Ms. Osborne agreed to a stipulation of a violation of KRS 324.160(4)(s) for failing to timely respond to a formal complaint.

**Disposition:** Ms. Osborne agreed to pay a fine in the amount of \$200.00.

### **David L. Bray**

(New Haven)

Case No. 07-0285

**Violation:** Mr. Bray stipulated to a violation of KRS

*continued on page 8*

# Disciplinary Actions

Continued from Page 7

324.160(4)(u), specifically for violating 201 KAR 11:420, for an infringement of the Internet advertising rules.

**Disposition:** Mr. Bray agreed to pay a fine in the amount of \$100.00.

## **Elnoria Wyatt**

(Glasgow)

Case No. 07-0345

**Violation:** Ms. Wyatt stipulated to a violation of KRS 324.160(4)(u) for a violation of KRS 324.111 for improperly using her escrow account to

pay for her 2007 license renewal.

**Disposition:** Ms Wyatt agreed to pay a fine in the amount of \$250.00.

## **Danielle Field**

(Lexington)

Case No. 07-0185

**Violation:** Ms. Field agreed to a stipulation of a violation of KRS 324.160(4)(b) for incorrectly reporting the age of the property as a result of a clerical error when reviewing the PVA records and complet-

ing the MLS input sheet.

**Disposition:** Ms. Field agreed to pay a fine in the amount of \$250.00.

## **Dennis Alan Wood**

(Corbin)

Case No. 07-0188

**Violation:** Mr. Wood stipulated to a violation of KRS 324.160(4)e) for failing to disclose his status as a licensee in writing.

**Disposition:** Mr. Wood agreed to pay a fine in the amount of \$250.00.

## *The Commission Says Goodbye to Three Employees*

**Sarah Chandler** retired from the Commission on May 31, 2008. Sarah worked in the Licensing Department and many of you have probably spoken to her over the years. She handled all license changes and directory listings. Sarah had been with the Commission since November of 1988. Sarah is enjoying retirement and the extra time she is spending with her grandson and doing volunteer work for her Church.

**Melissa Keithley** resigned from the Commission on June 30, 2008 to be a stay-at-home mother for her new baby, Cooper. Melissa prepared the agenda for the Commission meeting, processed all license certifications and prepared all travel vouchers. Melissa had been with the Commission for over ten years. Melissa is very excited about trading in her work at the Commission to a whole new kind of "work" of being a stay-at-home mother.

**Louis Carter** retired from the Commission on July 31, 2008 after eighteen years of service. She had previously worked in state government before coming to the Commission. Most of you have probably spoken with Louis at one time or another, as she was the first point of contact when calling the Commission. Louis is looking to start her second career in child education. She is currently enjoying lots of extra time with her grandchildren.

*All three of these employees are greatly missed. We want to thank each one of them for their dedication and service to the Commission, and we wish them all the best of luck in their future endeavors!*

## Law Changes

*Continued from Page 1*

### **201 KAR 11:230 Continuing education requirements**

The regulation was totally reorganized. The penalty for non-compliance is now \$500.00 and the previous final delinquency plan opportunity was deleted. The revisions further clarify the course and instructor approval processes. Please see the article on this page for more details about the changes to this regulation.

### **201 KAR 11:240 Distance education requirements**

This is a new regulation that sets standards for all online pre-license and continuing education courses. All courses must be certified by ARELLO or IDECC for format and delivery and the KREC will review the content. The regulation outlines the requirements for instructors, course layout, and the provider submission and reporting responsibilities. All such courses require a final examination the individual must pass in order to receive credit for the course.

### **201 KAR 11:450 Broker management course**

This regulation was amended to clarify the course submission process and to increase the number of questions on the final examination from 50 to 75 in accordance with the changes to 201 KAR 11:170.

## Changes in the Continuing Education Requirements

**Penalty Increased:** Licensees who fail to complete the required continuing education hours on or before December 31 of each calendar year will now face a penalty of \$500.00 for non-compliance if they wish to retain their license.

The number of hours required each calendar year remains at six (6), with at least three (3) hours in an approved legal topic. Once every four (4) years, each active licensee subject to the education requirements, must take the six (6)-hour Kentucky Core Course.

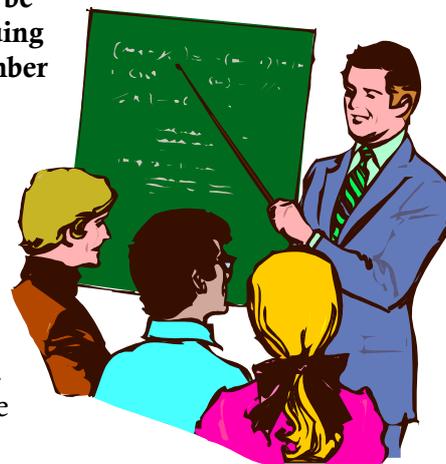
***Taking six (6) hours of law, regular continuing education courses, or a 48 hour pre-license course will not substitute for the Core Course.***

**Delinquency Requirements:** Notices are mailed in mid-January to all licensees whose records show that they are not in compliance. By February 15, licensees must choose whether to place their licenses into escrow or file a delinquency plan, which requires completion of the delinquent hours by June 15. Both actions require payment of the \$500.00 penalty. Failure to take action by February 15 will result in the cancellation of the individual's license and notice to the broker that the licensee is not eligible for renewal. Failure to complete the requirements of the delinquency plan (by June 15) may result in a six (6)-month license suspension.

**What about Escrow?:** If you have not completed the required hours and wish to escrow your license at the end the year, you (not the principal broker) must send your written request for escrow status, including your residence address, license number and a \$10 check, so that it is postmarked on or before December 31. If you fail to submit your request by December 31, then you will be considered delinquent and the penalty will be assessed. The principal broker is only required to release the license and return it to the Commission.

**To avoid the \$500.00 penalty, be sure to complete your continuing education on or before December 31, 2008 or have your license placed into escrow BEFORE the end of the year.**

**Reminder:** You must provide your KREC license number (*not the NAR member number*) to the course provider when you register and attend classes. This number is available on the KREC website database.



# Karen Huff Joins KREC in Licensing Department



Ms. Karen Huff joined the Commission on August 1, 2008 as a licensing assistant and has already proven herself to be a valuable member of our team. Karen processes the paperwork for licensees going in and out of escrow as well as all licensee

transfers and business address changes. She also prepares directory listing requests and will be heavily involved in the renewal process each year.

Karen has a background in accounting. She had previously worked for the Bullitt County School System and the KFC Corporation. Karen recently received an Associate of Science in Business from Indiana Wesleyan University.

Karen says, "I am very excited about coming on board at the Commission, and I look forward to meeting and helping the licensees. The Commission staff is great, and it is truly a family atmosphere."

Karen resides in Mt. Washington, Kentucky with her two wonderful children. Her daughter, Kayla, is 15, and her son, Blake, is 12. They are both very involved in sports, and Karen enjoys supporting them in their various athletic activities. Karen and her children also enjoy camping, picnicing, swimming and many other outdoor activities. They also like going to baseball games and the University of Louisville basketball and football games.

You can contact Karen at [karen.huff@ky.gov](mailto:karen.huff@ky.gov) or at 502-429-7250, extension 20.

Welcome aboard, Karen!

# Shelley Hunter Transfers to KREC from KY Fair & Expo



Mrs. Shelley Hunter transferred to the Commission from the Kentucky Fair and Exposition Center on August 16, 2008. Shelley has been with State Government for over 16 years. She started her career as the personal secretary to Governor Brereton Jones and Chief Executive Officer Franklin Jelsma, where she worked for 2 years before going to the KFEC. We are so excited about having

such an experienced new member to our staff.

At the Commission, Shelley is responsible for license certifications, and for preparing the monthly agenda for the Commission meetings. She also handles all the travel arrangements, travel reimbursements and timeshare registrations for the Commission.

Shelley says, "I am very excited to be working at the Commission. I have been involved in real estate in some form or fashion since I was 15 years old. The office has a great atmosphere, and everyone has a great attitude and is willing to help at all times. I am honored to be a part of such a great team."

Shelley has been married for 16

years to her wonderful husband, Mark. They have three terrific children: Brandy, 13, Alex, 8, and Dylan, 7. Brandy and Alex enjoy basketball and Dylan enjoys "life" itself. The Hunters reside in Windsor Lakes subdivision in South Louisville, where they have lived for 11 years.

The Hunters enjoy outdoor activities, such as trail riding, boating, swimming and fishing at Rough River. Another hobby for Shelley is real estate. She and her husband own a 63-acre farm in Harned, Kentucky, as well as several rental properties. They also like to buy foreclosures for renovating and reselling.

You can contact Shelley at [shelley.hunter@ky.gov](mailto:shelley.hunter@ky.gov) or at 502-429-7250, extension 24.

Welcome to the team Shelley!

# KREC Hires Mary O'Wheatley as New Receptionist



On August 28, 2008, a new voice could be heard when calling the Commission. Mary O'Wheatley joined the Commission as our new receptionist. Mary is responsible for answering all of our incoming calls as well as processing all home address changes.

Mary was out of the job market for several years when she took time off to care for her mother

after heart surgery. Her mother is doing great, and we are so happy to have Mary on board. She brings such enthusiasm to her job.

Mary has a background in the airlines industry and was a flight attendant for several years. She also worked as a retail manager, an autistic therapist and in guest services for the Walt Disney Corporation. Mary received a degree in Business/Marketing and a certification in Autistic Therapy.

Mary says, "Let's just say it started from the moment I came in for my interview and met the staff. I walked out and I knew I wanted this job! You walk in and realize it's more than just a team, it's a family! Disney has the reputation of being one of the happiest places on earth; I think we

should add KREC to that list also! I love my job!"

Mary lives in Louisville with her husband, John, who is a firefighter in Middletown. They are both very involved in community services, and Mary is an avid volunteer. Specifically, Mary has been a volunteer with the WHAS Crusade for Children since 1998. She is also a child and animal advocate. Mary enjoys cooking for the firefighters and playing cards. She enjoys golf too; although, she is still perfecting her game.

Mary can be reached at [mary.o'wheatley@ky.gov](mailto:mary.o'wheatley@ky.gov) or at 502-429-7250, extension 10.

We are so excited to have Mary join our Commission family!

## RESPONSIBILITIES OF BUYERS' AGENTS

Buyer's agency is very prevalent in the real estate industry these days. Practicing buyer's agency requires licensees to tweak their thinking and their actions sometimes, in order to best protect the buyer. For instance, a buyer's agent should not simply rely upon the information that is provided by a seller's agent or a seller. Rather, a buyer's agent should inquire about and investigate any issues that are relevant to the buyer's purchase and ownership of the property.

Recently, the Commission has received complaints against buyers' agents for relying too heavily on the information supplied in advertising and listings.

## Important E & O Insurance Requirements for License Transfers

If you are transferring your license and have E & O insurance through a private carrier, you must first check with your insurance company to see if your coverage is transferable from one brokerage to another. If your coverage transfers with you and you have approval from your new principal broker, you must furnish a new "Private Carrier Certification of Coverage" form that includes the new firm name as part of the license transfer request. If your coverage is not transferable, you must either purchase the Commission's group coverage or shop around for another policy that meets the Commission's requirements. The Commission cannot process a transfer without this new form as proof that the coverage is still valid with the new brokerage. The required form can be found in the E & O section of the KREC website or the Contracts and Forms section in the public access forms.

## Cooperating Fees Should not be Negotiated in the Purchase Contract

When a property is listed and a commission is agreed upon, the listing agent and the seller will agree upon how much of the commission will be offered to a cooperating agent who brings a buyer. For licensees who are also REALTORS®, this cooperating fee is offered through the Multiple Listing Service (“MLS”). A purchase contract is binding only between the buyer and the seller. Licensees are not a party to that contract and cannot enforce that contract. Nevertheless, from time to time, licensees will try to negotiate or re-negotiate the commission split in the offer to purchase. This is an improper way to deal with commission issues. [Therefore, the Commission is advising licensees not to try to change or establish a cooperating fee in an offer to purchase.]

## ESCROW ACCOUNT/FDIC ISSUES

In light of the economic issues facing some financial institutions these days, many principal brokers have contacted the Commission with concerns about their escrow accounts. The Federal Deposit Insurance Corporation (FDIC) insures deposits; however, many principal brokers consistently carry more than the limit in their escrow accounts. There are several ways to protect yourself and your clients’ money. First, a principal broker may choose to open up numerous accounts at different banks and then disclose those account numbers to the Commission. Or, the principal broker may choose to look into alternative plans, such as brokered certificates of deposit.

Finally, we encourage you to log onto [www.fdic.gov/deposit/deposits/insured/faq3.html](http://www.fdic.gov/deposit/deposits/insured/faq3.html). This website outlines the protections that are given to fiduciary accounts. Principal brokers should make sure that they have properly established their escrow accounts to comply with the FDIC’s rules or fiduciary accounts. If so, the deposits for each consumer will be protected, subject to limits set by Congress. The Commission advises brokers to consult with their banking institutions about possible solutions.

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**The Kentucky Real Estate Commission will be closed on:**

**November 4, 2008**  
(Election Day)

**November 11, 2008**  
(Veteran’s Day)

**November 27 & 28, 2008**  
(Thanksgiving)

**December 25 & 26, 2008**  
(Christmas)

**January 1 & 2, 2009**  
(New Year’s)

**January 19, 2009**  
(Martin Luther King Day)