

# Kentucky Real Estate NEWSPERS

A Publication of the Kentucky Real Estate Commission

## New Regulations Passed

### *New Seller's Disclosure & Agency Disclosure Forms Mandated for Use on January 1, 2007*

On October 6, 2006, new regulation changes were passed. Below is a summary of the changes.

#### **201 KAR 11:105 (Advertising listed property)**

Licensees are now allowed to advertise the listings of another brokerage company, if the licensee obtains the listing broker's consent and the advertisement includes the listing company's complete firm name.

#### **201 KAR 11:220 (Errors and omissions insurance requirements)**

This regulation was amended to establish new minimum requirements for independently-carried errors and omissions insurance.

#### **201 KAR 11:250 (Listing and purchase contracts and other agreements entered into by licensees)**

This regulation was amended to say that any agreement for compensation from a licensee to his or her client or customer shall be in writing. This includes rebates and/or inducements.

#### **201 KAR 11:350 (Seller's disclosure of property conditions form)**

The form was amended slightly to include questions on pets in the home, waste water systems, historic districts and a suggestion that the buyer obtain an inspection. There is a new section at the beginning of the form outlining the intention of the form and the time-

frame for which the seller is providing the information. The new form can be found on our website under licensee-restricted contracts and forms.

#### **201 KAR 11:400 (Agency disclosure requirements)**

The new regulation entirely changes the process for disclosing agency relationships. First, the licensee will present a Consumer Guide to Agency Relationships, which may be developed by the broker to include that company's agency policy. This form is to be given to prospective customers or clients at the time that licensees are now giving the agency disclosure form. There is also an Agency Disclosure Statement, one for the buyer and one for the seller. The buyer's form should be given at the time of the drafting of an offer, and the seller's form should be given at the time of the presenting of an offer. There is a detailed explanation of the new process on our website, as well as copies of the Guide and Disclosure Statements.

#### **201 KAR 11:430 (Procedure for criminal records background check)**

This regulation was amended to allow the Commission to use alternate sources, other than the FBI, for criminal background checks.

*The NEW Seller's Disclosure and NEW Agency Disclosure Forms must be used as of January 1, 2007.*

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Printed with State Funds  
Issue No. 204, Fall 2006

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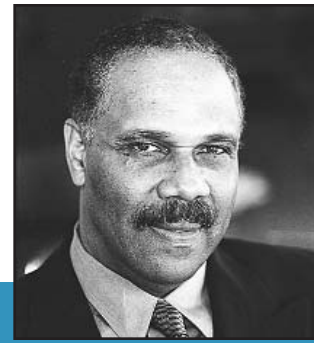
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## **Comments from the Chair**

by: **Ron Smith,**  
**Chair**



The Commission has been very busy over the last few months, not only with regulation changes, but with improving the services offered by our agency. I am very proud of the continuous progress made by the Commission, and I would like to tell you about one new project that is sure to be beneficial to the licensees of this state.

The Commission receives thousands of calls each year from licensees wanting to find out about their continuing education hours. We are working on a process to make this much easier for licensees. Currently, licensees only have the option of calling a Commission staff member who can look them up in our computer database. Our computer programmer, Mr. Steve Koehler, of Core Systems Development, along with Dr. Adel Elmahgraby, of the University of Louisville, are working together to implement an online continuing education screen.

This new process will allow licensees to go on the KREC website and view their individual continuing education screen to check the number of hours they have posted for the year. With this information being available on the Internet, it will allow licensees the ability to check the continuing education hours posted for the

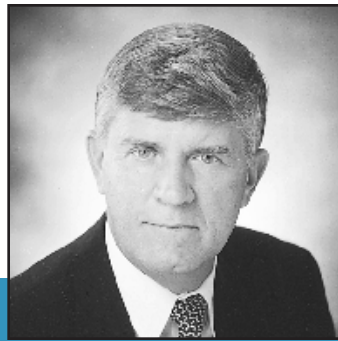
year at any time. We anticipate that this new service will be available around March of 2007.

In other news, we have been trying to implement an online renewal process for the past few years. Because of the way we renew licensees in Kentucky, this process has proven to be too difficult and costly at this time. Therefore, for the time being, we will continue to renew through the mail, using our tried-and-true paper method. Hopefully, we can go back to the drawing board in the future and work out the kinks of our online renewal process.

Last, but not least, I would like to recognize our Education Director, Ms. Linda Poliskie, for her leadership and dedication to providing quality education to the licensees of Kentucky. At the direction of the Commission, she is currently working with Education Task Force members to propose new statutes and regulations to enhance the quality of our educational offerings. We are tallying the results of our Educational Survey and will provide those to you in a future newsletter. If you did not respond to the survey and you would like to make a suggestion or comment regarding changes to the educational requirements, please send them in writing to Education Director Poliskie.

# From the Director's Desk

by: Norman E. Brown,  
Executive Director



The Kentucky Real Estate Commission has always been one of the leaders of the Association of Real Estate License Law Officials (“ARELLO”). As such, we can learn about the laws and trends in the real estate industry across the country and in the world. We can then bring that information and expertise back to Kentucky to assist us in addressing the needs of our consumers and licensees.

At this year’s annual convention, I was elected to the Board of Directors of ARELLO. In this position, I can help the Board and the organization to grow and expand in ways that will help all of the real estate commissions and the industry in general. I feel honored to be a part of the Board, and I promise to serve Kentucky’s interests well.

On a different note, we are currently working on a statutory proposal to address several issues that are facing the industry.

The Commission is proposing a post-license course for all new licensees, which must be completed within the first 18 months of licensure. This

course will deal with practical issues, such as completion of contracts and home inspections.

The Commission is also proposing an emergency provision for dealing with escrow account violations and is seeking a law change to require banks to notify the Commission if an escrow account ever has a negative balance.

The Commission is also asking for increased penalties for unlicensed brokerage and to limit the payment from the Recovery Fund to actual damages sustained by a consumer.

Finally, since there have been numerous delays in obtaining the FBI criminal background reports, the Commission is seeking a statutory amendment to allow us to use the National Crime Information Center (“NCIC”) background checking system through the Kentucky State Police.

As always, if you have any suggestions on how we can better serve the industry’s needs, through statutory or regulatory changes, please feel free to contact our office by phone, fax or e-mail.

## ANSI STANDARD

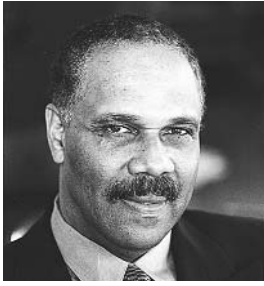
The ANSI Standard is a specific form of measuring property square footage. At the October 26, 2006, Commission Meeting, a motion was made to propose a regulation change that would require licensees to use the ANSI Standard, if the licensee measures square footage. Many courses are currently being offered to train licensees on this specific form of measurement. It should also be noted that a few Boards have already adopted the ANSI Standard and some have even mandated that it is the only form of measurement that can be used by licensees to measure square footage for the multiple listing service. We will keep you up-to-date on the progress of this proposal and encourage licensees to begin training on this specific form of measurement for square footage.

## Revealing Multiple Offers

Under a new National Association of REALTORS® Code of Ethics provision, the terms and conditions of purchase offers may be disclosed to other potential buyers, if the seller chooses to do so. This means that purchase offers are not confidential. Many listing agents are being asked by their sellers to disclose purchase offers to other buyers in the hopes of getting a better offer. If you are a buyer’s agent, you need to inform your client that his/her offer could be disclosed to other potential buyers if there are multiple offers being submitted, unless there is a confidentiality agreement in place prior to presentation of the offer. The Commission has voted that this new provision complies with Kentucky law.



## Commissioner's Corner



Ron Smith



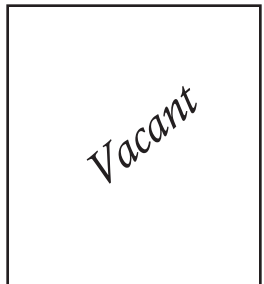
Arvel J. McMahan



Lois Ann Disponett



Ken Perry



## Assisting Sellers with Foreclosed Properties

*By: Lee B. Harris, General Counsel*

Recently, there has been a significant increase in the number of foreclosures in this state. Oftentimes, sellers will list their properties in an attempt to sell the property before the official courthouse sale. Of course, many of these sellers are "upside-down" on their mortgages and do not have a lot of leeway for price negotiations or extended closing deadlines.

In some cases, licensees become involved in an effort to assist the seller in getting out from under the debt and moving on. For example, some real estate licensees will offer to buy the property in the name of a trust or other such entity, negotiate with the mortgage company for a reduced debt and then re-market the property under the trust or other legal entity.

This article will outline a checklist for licensees to ensure that all license laws are complied with when conducting these types of transactions.

First of all, if the property is listed with another real estate licensee, all negotiations and contacts must be handled through that listing agent or broker, as required by 201 KAR 11:045 and KRS 324.160(4)(p).

Second, the buyer/agent should not try to encourage the seller to disrupt his or her existing contract with the listing agent or broker, as mandated by 201 KAR 11:110.

Third, an agency disclosure statement should be given to the seller, indicating who the buyer/agent is representing, in compliance with 201 KAR 11:400.

Fourth, the real estate licensee must disclose, in the purchase contract, that he or she is a real estate licensee, as required by KRS 324.160(4)(e).

If the real estate licensee intends to advertise the property for sale prior to the closing, written consent from the seller should be included in the purchase contract or in a separate document. Then, the real estate licensee should inform potential buyers that he or she is selling his or her equitable interest in the property and that

simultaneous closings may be necessary in order to transfer the deed.

Of course, all advertisements should comply with license laws. For instance, if the buyer/agent is seeking to buy properties and is acting in the capacity of a real estate agent, either representing himself or herself or representing an LLC or corporation that is engaged in the buying process, then all signage and advertising should include the company name and/or the principal broker's name, with a designation that he or she is the principal broker, as set out in 201 KAR 11:105 and KRS 324.117(4).

Finally, if the real estate licensee is purchasing a piece of property that he or she has listed, it is always advisable to instruct the seller to obtain an outside opinion on the price and terms offered. For example, the seller should be referred to an appraiser, an attorney or another real estate broker for advice about the offer to ensure there is no conflict of interest.

If the above steps are followed, the real estate licensee can ensure a smooth transaction and also greatly benefit a seller in need.

### In Memoriam

Mr Caryl G. Alloway of Georgetown, Kentucky, passed away on September 19, 2006. He was a former Real Estate Commissioner and was the Executive Director for the KREC in the early 1980's. He was licensed as a broker in 1967, and he is probably best known in Kentucky as a 30-year pre-license instructor who helped make the real estate profession a reality for thousands of students. He was recently honored by the Commission for his years of service as an educator. His quest for knowledge and his willingness to share that knowledge with others will be remembered by all those who knew him. The Commissioners and staff extend their sympathy to his wife, Sylvia, and his daughter, Kathy.

# *A Fond Farewell to Mary Evelyn Stevenson*



After 32 years of dedicated service, Mary Evelyn Stevenson has retired from the Commission. Many of you may know and have dealt with Mary Evelyn and are well aware of the exemplary work and service she

provided to the Commissioners, licensees and consumers of this state.

Mary Evelyn began her employment with the Commission in 1974. She started out in the Licensing Department and transferred to the Legal Department in 1995. She always went above and beyond the call of duty. Not only did she do her job with accuracy and experience, but she was also known for her “fast-as-lightning” approach. She could often be seen running down the halls of the Commission. If a job was given to Mary Evelyn,

you knew it would be done quickly and efficiently. Another one of her assignments was supervising the entire renewal process and she was also the expert proofreader for this newsletter publication.

Mary Evelyn’s knowledge and history at the Commission will be greatly missed. Although retiring from the Commission, Mary Evelyn has taken another position with the Kentucky Board of Accountancy. We wish her well with all of her future endeavors, and we hope she will continue to stay in touch.

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## *Staff Spotlight*



We are happy to welcome Ms. Brenda Peixotto to the Commission team. Brenda joined the Commission on October 1, 2006, in our Legal Department.

Brenda retired in 2002 after 22 years

with the Federal Government. She brings with her extensive administrative experience as well as a “team player” attitude. After retiring, Brenda worked at Brown Forman Corporation for three years as an administrative assistant.

Brenda will be assisting General Counsel, Lee Harris and Staff Attorney, Denise Wade. Her primary duties will include compiling and mailing out the monthly case agenda, as well as sending out final orders for all cases, processing applicants who have a prior criminal record, tracking appeals and handling other miscellaneous legal duties.

Brenda has a wonderful personality

and is well-suited to deal with the public and licensees. She believes in service and prides herself on doing the best job possible. Brenda says, “Having worked in a large corporate background, I find it refreshing to be in a smaller, warmer environment. I am looking forward to the challenges of the job, which will keep me very busy.”

Brenda resides in the East End of Louisville with her black cat, Simon. She has one daughter, Adrienne, and a son, Stephen. She is also the proud grandmother of Lizzie, who is three. In her free time, she enjoys watching mystery movies, consignment shopping, reading and spending time with her family.

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## *Michael Plummer Resigns from Commission*

Former consumer member, Michael Plummer, resigned from the Commission on August 6, 2006 to take a position as a board member with the Crime Victims Compensation Board. Mr. Plummer was serving a four-year term and was originally appointed to the Commission on July 25, 2005.

Although Mr. Plummer only served for one year on the Commission, he was dedicated to his role during his time here. He was fiercely devoted to protecting the consumer’s interest as well as bringing a

fresh perspective to the decision-making process. He had a unique sense of humor, and he enjoyed making people laugh. His knowledge and background as an attorney was just one of the benefits of having him on board. His wisdom, combined with his humor, will be missed by all.

We wish him well in all of his future activities and especially with his new position on the Crime Victims Compensation Board. They are lucky to have him as a member.



# Disciplinary Actions



## **Aaron Milgrom**

(Winchester) Case No. 98-0131

**Violation:** Mr. Milgrom was found in violation of KRS 324.160(1)(h) for failing to account for, or remit, within a reasonable time, monies belonging to another; KRS 324.160(1)(r) for conduct which constitutes improper, fraudulent or dishonest dealing; and KRS 324.111 for failing to set up an escrow account into which monies belonging to another would have been placed.

**Disposition:** Mr. Milgrom's license will be suspended for a period of one hundred and twenty (120) days, and he was ordered to pay a fine in the amount of one thousand five hundred dollars (\$1,500.00). Mr. Milgrom was also ordered to pay restitution to the complainant in the amount of twelve thousand five hundred eighty dollars (\$12,580.00) in addition to paying interest at the judgment rate on the balance due from the escrowed funds.

## **William I. Shaw**

(Georgetown) Case No. 99-0156

**Violation:** Mr. Shaw was found in violation of KRS 324.160(1)(c) for inducing the complainant in this matter to give him money for a real estate transaction. He was also found in violation of KRS 324.160(1)(r) for improper, fraudulent or dishonest dealing; KRS 324.160(1)(q), for violating 324.111, for failing to place monies in to his escrow account, and 201 KAR 11:121, for failing to act in accordance with a fiduciary duty; and 324.160(1)(o) for failing to respond to a Commission investigation within a reasonable time.

**Disposition:** Mr. Shaw was ordered to pay twenty five thousand dollars (\$25,000.00) in restitution, plus interest. Mr. Shaw did not pay the restitution, and the money was paid out

of the Commission's Research Education and Recovery Fund. His license was revoked for this case and will remain revoked until he pays back the money in full, plus interest.

## **Paul D. Miller**

(Richmond) Case No. 05-0341

**Violation:** Mr. Miller received a consumer complaint from the Commission, but he never filed his Sworn Answer. Mr. Miller was found in default and all charges against him were deemed to be true. He was found in violation of KRS 324.160(4)(b),(c),(d),(s),(v) and (w) for selling a property to a consumer and representing that he had title to that property when, in fact, he did not. The consumer was forced to file a quiet title action to clear up the issues.

**Disposition:** Mr. Miller was fined one thousand dollars (\$1,000.00), he was issued a sixty (60)-day suspension, and he was required to attend twelve (12) hours of continuing education, in addition to any hours already required by law.

## **William C. McGehee**

(Louisville) Case Nos. 05-0303 & 06-0058

**Violation/Disposition:** Due to other circumstances, and in an effort to settle this matter, Mr. McGehee voluntarily surrendered his license.

## **Benny H. Green** (Louisville)

Case Nos. 05-0303 & 06-0058

**Violation/Disposition:** Due to other circumstances, and in an effort to settle this matter, Mr. Green voluntarily surrendered his license.

## **Matt Snyder**

(Cincinnati, OH) Case No. 05-0059

**Violation:** Mr. Snyder stipulated to an unintentional and inadvertent violation of KRS 324.160(v) for alleged improper conduct resulting from his circulation to existing contacts of a

flyer advertising Marcus & Millichap Real Estate Investment Brokerage Company prior to his becoming licensed in this state.

**Disposition:** Mr. Snyder agreed to pay a fine in the amount of one thousand dollars (\$1,000.00).

## **Del Mina Henson**

(Grand Rivers) Case No. 05-0209

**Violation/Disposition:** Ms. Henson agreed to voluntarily surrender her license, based upon events arising out of the sale of a restaurant and items being removed from the restaurant prior to the transfer.

## **Anna Kirby**

(Marion) Case No. 05-0316

**Violation:** Ms. Kirby stipulated to violation of KRS 324.160(4)(v) for extending a listing contract without the seller's signature.

**Disposition:** Ms. Kirby agreed to pay a one thousand dollar (\$1,000.00) fine, to be placed on probation for twelve (12) months and to attend six (6) hours of continuing education, in addition to any hours already required by law.

## **John Chappell**

(Marion) Case No. 05-0316

**Violation:** Mr. Chappell stipulated to a violation of KRS 324.160(6) for failing to adequately supervise his sales associate, Anna Kirby.

**Disposition:** Mr. Chappell agreed to accept a formal reprimand and to attend twelve (12) hours of continuing education, in addition to any hours already required by law.

## **Alan Maddox**

(Beaver Dam) Case No. 06-0129

**Violation:** Mr. Maddox stipulated to a violation of KRS 324.160(4)(u), for violating 201 KAR 11:121, for failing to act in accordance with a fiduciary standard toward a client, by

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## Disciplinary Actions

*Continued from Page 6*

providing a key to a seller's home to the buyer without the seller's consent. Mr. Maddox provided a key to the seller's vacant house so it could be cleaned by the buyer.

**Disposition:** Mr. Maddox agreed to attend six (6) hours of continuing education, in addition to any hours already required by law, and to pay a five hundred dollar (\$500.00) fine.

**Pamela Spencer** (Smiths Grove)  
Case No. 05-0322

**Violation:** Ms. Spencer stipulated to a violation of KRS 324.160(4)(a), (j), (k) and (v) for engaging in the improper conduct of: 1) obtaining her sales associate's license through false and fraudulent representation; 2) being convicted of a felony while holding a license issued by the Commission; and 3) failing to report to the Commission that she had entered a plea of guilty to a felony.

**Disposition:** Ms. Spencer agreed to voluntarily surrender her Kentucky real estate license to the Commission, in lieu of revocation. Ms. Spencer may not petition for re-issuance of her Kentucky real estate license for a minimum period of three (3) years from the effective date of her Settlement Agreement.

### **Danny Harpe**

(Nicholasville) Case No. 06-0091

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

**Disposition:** Mr. Harpe agreed to pay a fine in the amount of one thousand dollars (\$1,000.00) and to accept a formal reprimand from the Commission.

**Veachel Martin** (Hopkinsville)  
Case No. 06-0095

**Violation:** Ms. Martin does not stipulate to any violations or allegations of misconduct and breach of duty alleged in the complaint and further

denies having violated KRS 324.160(4)(u) and 201 KAR 11:121 and other applicable laws and regulations. She maintains that she fulfilled all fiduciary duties in the transaction outlined in this case.

**Disposition:** In Settlement, Ms. Martin agreed to pay a fine in the amount of one thousand dollars (\$1,000.00) and to accept a formal reprimand.

### **Maxine Patterson**

(Barbourville) Case No. 05-0279

**Violation:** Ms. Patterson stipulated to a violation of KRS 324.160(4)(v) for improper conduct for pleading guilty to the misdemeanor charge of attempted welfare fraud while holding a Kentucky real estate license.

**Disposition:** Ms. Patterson agreed to attend nine (9) hours of continuing education, in addition to any hours already required by law, to accept a formal reprimand from the Commission and not to seek her broker's license for one (1) year from the date of the Final Order.

### **Dennis Cummins**

(Louisville) Case Nos. 05-0241 and 05-0198

**Violation:** Mr. Cummins stipulated to a violation of KRS 324.160(4)(u), for violating 201 KAR 11:045, Section 1(3), for placing an advertisement in the Multiple Listing Service stating that "all negotiations will be with the owner."

**Disposition:** Mr. Cummins agreed to accept a formal reprimand from the Commission and to pay a fine in the amount of one thousand dollars (\$1,000.00).

### **Tommy Lee Gailor**

(Louisville) Case No. 05-0228

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

**Disposition:** Mr. Gailor agreed to attend six (6) hours of continuing education, in addition to any hours already required by law, to accept a

formal reprimand and to refund the buyer's earnest money in the amount of one thousand dollars (\$1,000.00).

### **Cedric Gumm**

(Bowling Green) Case No. 05-0214

**Violation:** Mr. Gumm stipulated to a violation of KRS 324.160(4)(u), for violating KRS 324.020, for holding himself out as a "real estate advisor" on his website, prior to obtaining his real estate license.

**Disposition:** Mr. Gumm agreed to pay a fine in the amount of one thousand dollars (\$1,000.00), to accept a formal reprimand from the Commission and to attend six (6) hours of continuing education, in addition to any hours already required by law.

### **Donna Jo Richardson**

(Richmond) Case No. 05-0312

**Violation:** Ms. Richardson stipulated to a violation of KRS 324.160(4)(u), for violating KRS 324.117(4), for failing to have her company name or her principal broker's name on a sign posted on a property for sale. The only information on the sign was Ms.

Richardson's phone number.

**Disposition:** Ms. Richardson agreed to attend six (6) hours in continuing education, in addition to any hours already required by law, and to pay a fine in the amount of five hundred dollars (\$500.00).

### **Steve Wilson**

(Tompkinsville) Case No. 05-0274

**Violation:** Mr. Wilson stipulated to a violation of KRS 324.160(4)(u), for violating 201 KAR 11:350, for failing to timely provide a seller's disclosure of property condition form to the complainants.

**Disposition:** Mr. Wilson agreed to accept a formal reprimand from the Commission, to pay a fine in the amount of one thousand dollars (\$1,000.00) and to attend six (6) hours of continuing education, in addition to any hours already required by law.

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## Disciplinary Actions

*Continued from Page 7*

### Mark DuVall

(Leitchfield) Case No. 06-0052

**Violation:** Mr. DuVall stipulated to a violation of KRS 324.160(4)(v), for conduct which constitutes improper dealings, for vandalizing a sign, a door and a mailbox owned by another licensee.

**Disposition:** Mr. DuVall agreed to pay a fine in the amount of one thousand dollars (\$1,000.00).

### Yvonne Boyd

(Dry Ridge) Case No. 06-0076

**Violation:** Ms. Boyd stipulated to a violation of KRS 324.160(4)(u) for failing to complete the continuing education hours outlined in the Settlement Agreement adopted by Final Order in Case No. 04-0121.

**Disposition:** Ms. Boyd agreed to voluntarily surrender her license to the Commission.

### Jackie Griffie

(Hazard) Case No. 06-0056

**Violation:** Ms. Griffie stipulated to a violation of KRS 324.160(4)(u), for violating 201 KAR 11:420, for improper Internet advertising.

**Disposition:** Ms. Griffie agreed to pay a fine in the amount of one thousand dollars (\$1,000.00), within ten (10) days of the date of the agreement, and to attend six (6) hours of continuing education, in addition to any hours already required by law. Ms. Griffie further agreed to obtain her broker's license by December 31, 2006. If she has not obtained her broker's license by that date, the company will be required to change its name.

### Anna Rae Reams

(West Somerset) Case No. 06-0056

**Violation:** Ms. Reams stipulated to a violation of KRS 324.160(6) for failing to adequately supervise her sales associate, Jackie Griffie.

**Disposition:** Ms. Reams agreed to amend the company's website to

reflect that she is the broker and all of the agents work for her and to attend six (6) hours of continuing education, in addition to any hours already required by law, within twelve (12) months of the date of the Final Order.

### Perry Cecil

(Elizabethtown) Case No. 02-0092

**Violation:** Mr. Cecil stipulated to a violation of KRS 324.160(4)(u), for violating 201 KAR 11:121, for failing to act in accordance with a fiduciary standard towards a client.

**Disposition:** Mr. Cecil agreed to pay a fine in the amount of one thousand dollars (\$1,000.00), within thirty (30) days of the date of this agreement, and to attend six (6) hours of continuing education, in addition to any hours already required by law, within twelve (12) months of the date of the Final Order.

### Deborah R. Raymond

(Louisville) Case No. 04-0160

**Violation:** Ms. Raymond stipulated to a violation of KRS 324.160(4)(u); specifically, KRS 324.360 and 201 KAR 11:350, for failing to solicit the signature of the buyers on a copy of the seller's disclosure of property condition form and for failing to retain a copy of it in the principal broker's records.

**Disposition:** Ms. Raymond agreed to pay a fine in the amount of one thousand dollars (\$1,000) and to successfully complete six (6) hours of continuing education in law, in addition to any hours already required by Kentucky law.

### Mark A. Meredith

(Louisville) Case No. 04-0160

**Violation:** Mr. Meredith stipulated to a violation of KRS 324.160(4)(u); specifically, KRS 324.360 and 201 KAR 11:350, for failing to solicit the signature of the buyers on a copy of the seller's disclosure of property condition form and for failing to retain a copy of it in the principal broker's records.

**Disposition:** Mr. Meredith agreed

to pay a fine in the amount of five hundred dollars (\$500.00) and to successfully complete three (3) hours of continuing education in law, in addition to any hours already required by Kentucky law. If this matter were to have proceeded to hearing, Mr. Meredith would have introduced evidence to show that he was having gall bladder surgery at the time the paperwork for the transaction at issue was being signed.

### Allen Davis

(Madisonville) Case No. 05-0216

**Violation:** Mr. Davis stipulated to a violation of KRS 324.160(4)(u); specifically, 201 KAR 11:250, for unintentionally and inadvertently failing to include a date and time for the seller's signature on a purchase contract.

**Disposition:** Mr. Davis agreed to pay a fine in the amount of Five Hundred Dollars (\$500.00), within thirty (30) days of the date of the Commission's Final Order, to attend six (6) hours of continuing education in law, in addition to any hours already required by law, within twelve (12) months of the date of the Commission's Final Order.

## LICENSEE- RESTRICTED FORMS & CONTRACTS

*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 General Information.*

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

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

*Be sure to check the box that says "remember my password."*



# General Counsel Lee Harris Honored



We are so proud of General Counsel, Lee Harris, for being honored as one of Louisville's "40 under 40" by Business First magazine. The event recognizes 40 of Louisville's

young professionals, who have already proven their role as leaders in the community. The honorees are chosen by an independent panel of judges for their contributions through business and volunteer efforts.

It is probably apparent to most of you the many accomplishments Lee has made at the Commission. She takes a pro-active approach by fielding calls from licensees and industry members in an effort to ward off possible future complaints and keep licensees within the limits of the law.

She also took on the huge task of rewriting the 500-plus page text book entitled Kentucky Real Estate Professionals and Law.

Lee is very active in various local charities, donating about 10 hours per week toward volunteer efforts. She especially loves animals and is very involved with the Kentucky Humane Society.

We are very lucky to have Lee on board at the Commission, and we congratulate her on this great accomplishment. Way to go, Lee!

## HOME INSPECTOR LICENSURE

*By Lee B. Harris, General Counsel*

As of July 1, 2006, anyone performing a home inspection for compensation must be licensed in the State of Kentucky.

### Definitions

The law, which was passed two years ago, allowed those performing home inspections a grace period to obtain their licenses. By definition, a home inspection is "a visual analysis for the purpose of providing a professional opinion by a licensed home inspector, of the condition of a residential dwelling and the dwelling's attached garages and carports, any reasonable accessible installed components, and the operation of the dwelling's systems, including any controls normally operated by the owner of the dwelling, for systems and components in the standards of practice of the board." A home inspection does not include a code compliance inspection.

A "home inspection report" is specifically defined as "a written report prepared by a licensed home inspector for compensation and issued after a home inspection." The report will include any component that is deficient, the inspector's recommendation to

repair or monitor the deficiency, a list of the systems that were inspected and the reason why any particular system was not inspected.

Residential dwellings are defined as "any structure consisting of at least one (1), but not more than four (4) units, each designed for occupancy by a single family, whether the units are occupied or unoccupied."

### Exemptions

The statute outlines numerous exemptions for individuals in related professional fields. For example, the law exempts individuals acting as code enforcement officers and representatives of state or local housing authorities. Also exempt are individuals acting in their professional and licensed capacities as architects, professional engineers, plumbing contractors, electricians, liquefied petroleum gas dealers, and/or master heating, air conditioning or ventilation contractors, journeymen or mechanics.

In addition, the law exempts the following licensees, when they are acting in their licensed capacities: real estate brokers, real estate appraisers, insurance adjusters, pest and wood-



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# Continuing Education Suspensions

The following individuals were suspended for six months, beginning on September 1, 2006, for failing to comply with the 2005 continuing education delinquency plan. These individuals signed an agreement to obtain their 2005 continuing education hours by June 15, 2006 and failed to comply with the agreement.

Charles W. Baker, Jr. (Versailles)  
Paul Claydon (Louisville)  
Tracy Corbit (Shepherdsville)  
Karen Cox (Louisville)  
Hilliard Dabbs (Clarksville, TN)  
Georgia Day (Union)  
Robert Fohl (Ft Thomas)

Peggy Fox (Clarksville, IN)  
Tina Garland (Mt Sterling)  
David S. Howard (Morehead)  
Mark Howard (Cynthiana)  
Emilie Kelso (New Albany, IN)  
Robin King (Louisville)  
Cassidy Lawson (Louisville)

Herman Lodde (Jeffersonville, IN)  
Sheila Minrath (Louisville)  
Marsha Stinnett (Louisville)  
Robert L. Taylor (Corbin)  
Stephanie Vorhees (Newport)  
Michael M. White (Jeffersonville, IN)

The following two individuals were suspended for six months beginning on October 1, 2006.  
William Cooper, III (Simpsonville) & Charisse Spalding (Louisville)

## RE M I N D E R

### *Continuing Education Deadline is 12/31/06*

All active licensees (except those who were licensed in Kentucky prior to June 19, 1976) must complete six (6) hours of continuing education by December 31, 2006. Keep in mind that three (3) of these hours must be in law. Active licensees must also complete the Kentucky Core Course once every four (4) years. If you took the Core Course this year, it fulfills your six (6) hour continuing education requirement, and no other education is needed in 2006.

If you have not completed the required continuing education and plan to put your license into escrow, you must submit a signed written letter requesting to be placed in escrow along with a \$10.00 check, and it must be postmarked on or before December 31, 2006. Otherwise, you will be considered as delinquent and subject to penalties for not completing the continuing education in a timely manner. For a complete list of providers, log on to our web site at [www.krec.ky.gov](http://www.krec.ky.gov) and reference the Education Information.

## HOME INSPECTOR LICENSURE

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destroying insect inspectors, builders who hold a license from a political subdivision, and/or manufactured home retailers or installers.

### Legal Issues

If a consumer has engaged the services of a licensed home inspector and then has a claim based on services that were rendered or failed to be rendered, the consumer has a one-year statute of limitations from the date that he or she knew or should have known of the claim.

There is also a disciplinary process through which consumers may make a grievance against a licensee for any violation of KRS 198B. The penalties for unlicensed practice of home inspections for compensation are quite steep. Anyone engaging in home inspections for

compensation without a license is guilty of a Class B misdemeanor.

It is very easy to determine if a home inspector is licensed, as there is a list of applicants who have been approved. This list can be accessed on the website of the Office of Housing, Buildings and Construction at [www.ohbc.ky.gov](http://www.ohbc.ky.gov).

### Conclusion

Many participants in the real estate industry have sought the licensing of home inspectors for years. This change should provide consumers with an extra level of professionalism and protection when purchasing a home. It is important for buyers to ensure that the home inspector they choose is actively licensed, however, or those protections will be lost.

## Education, Research and Recovery Fund Annual Statement of Income and Expenses for Fiscal Year Ending June 30, 2006

<b><u>Income FY 2005/2006</u></b>		Contract Attorney Fees	1,103
Exam Recovery Fee	\$ 56,940	Speaker Fees	14,800
Reciprocal Recovery	5,130	Room Rental	2,064
Renewal Recovery	655,050	Postage/Parcel Delivery	2,549
Core Course	8,786	Postage/Meter & Bulk	70,203
Fines	23,200	Printing State	6,616
Education Fines	73,600	Printing Vendor	52,418
Investment Income	27,119	State Fair	5,131
Restitution	17,217	Advertising	278
Prior Year Grant Refund	60,128	Cassettes/Books	1,188
<b>TOTAL INCOME</b>	<b><u>\$ 927,170</u></b>	In-State Travel	11,613
		Out-of-State Travel	35,974
<b><u>Expenditures FY 2005/2006</u></b>		Travel for non-state employees	162
Personnel	\$191,371	Subpoenas/Court Fees	2,914
Legal Services (Attorney General)	31,924	Judgements	40,000
Legal Contract	9,872	Subscriptions	673
Continuing Ed. Services	61,546	Seminar Refreshments	5,024
Investigative Services	154,420	College Grants/Scholarships	300,000
Carpool	130	On-line subscriptions	4,794
Court Reporter	186	<b>TOTAL EXPENDITURES</b>	<b><u>\$ 1,006,953</u></b>

## Requesting a Specific Appraiser from a Loan Officer

The Commission has received several calls asking whether a licensee is allowed to request a specific appraiser from a loan officer/mortgage company.

Mr. Larry Disney, Executive Director of the Kentucky Real Estate Appraisers' Board says, "Each agency that regulates the nation's federal banks and credit unions has issued an inter-agency guide that prohibits the loan officers, who have a direct interest in the loan from having any contact with the appraisers."

Mr. Disney adds that, "The Appraisers' Board has been told that the National Mortgage Brokers Association rules encourage their members

to have a policy that prevents 1) referrals of appraisers, or 2) input from anyone as to a specific appraiser being used for assignments. Appraisal assignments intended for federally-regulated financial institutions' use cannot be ordered by the property owner, borrower, or real estate agent. Also, it is the responsibility of each regulated financial institution to order the appraisal assignment directly and the order must originate from a source removed from control of the loan officer or the person who is responsible for making the lending decision."

It is the intent to mandate that mortgage companies and banks

1) approve appraisers and have an approval and exclusionary list, 2) have those appraisers appear on a rotating basis of assignment so as to prevent collusion, acts of mortgage fraud, etc., and 3) take the loan officer or mortgage broker, real estate agent or any advocate person completely out of the direct communication with the appraiser.

The burden is upon the lending agency or the bank to regulate. At least one of Kentucky's largest banks was recently hit with a major finding of deficiency for not having the appraiser independence regulation in their lending policies.



## **Use of Seller's Disclosure When Dealing with Estates**

Whenever a licensee lists a single-family residential dwelling, the Seller's Disclosure Form is required by law. If the transaction involves a third-party entity, such as an estate, the licensee must present the form to the seller for completion. If the seller refuses to complete the form because they do not have first-hand knowledge of the property, licensees should have the seller sign the waiver on the back of the form and present that to all prospective buyers.

## **PETS AT SHOWINGS**

Recently, the Commission was made aware of an instance where a buyer was violently attacked by the homeowner's dog during an open house. The Commission urges all agents to be aware of this possibility and to take all necessary precautions when dealing with this type of situation. If you are a member of a local Board, a statement can be added to the "comments section" of the listing, notifying all parties of the possibility of a dangerous dog. You should also encourage homeowners to take their dogs with them when showings are scheduled or during open houses.

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

November 10, 2006  
(Veteran's Day)  
November 23 & 24, 2006  
(Thanksgiving)  
December 25 & 26, 2006  
(Christmas)  
December 29, 2006 &  
January 1, 2007  
(New Year's)