

Kentucky Real Estate NEWS

A Publication of the Kentucky Real Estate Commission

Governor Fletcher Appoints Ken Perry to the Commission



and Northern Kentucky University. In the early 1990's, he served as a City Councilman in Alexandria.

Mr. Perry first received his sales associate license on August 14, 1989. He worked for several real estate companies before starting his own company, Ken Perry Real Estate, in 2002. There are fifteen licensees with his firm, which is located in Cold Spring, Kentucky.

The Commission is pleased to welcome Mr. Delbert "Ken" Perry, the newest member appointed by Governor Ernie Fletcher on October 31, 2005. Mr. Perry is serving a four-year term and he replaces former Commissioner, Sue Teegarden, whose term had expired.

Mr. Perry was born and raised in Campbell County, Kentucky. He graduated from the Naval Nuclear Power Program in 1984 and was in charge of the Nuclear Reactor for the U.S.S. Dwight D. Eisenhower. He is also six-year veteran of the military. He attended State University of New York

When asked about his new role, Mr. Perry said, "I look forward to serving the public and the real estate industry for the next four years. I appreciate the opportunity to give back to the industry that has given so much to me."

Mr. Perry resides in Alexandria, Kentucky with his wife, Mary Beth, and he has a nineteen year-old daughter, Jessica.

The Commissioners and staff welcome Mr. Perry, and we all look forward to working together to continue to serve the real estate industry in Kentucky.

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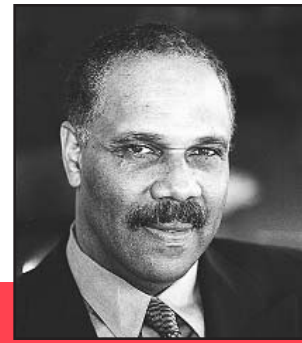
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Comments from the Chair

by: **Ron Smith,**
Chair



Commission's Policy Regarding Applicants Who Are On Probation, Parole or Other State Supervision

This article is mainly geared toward principal brokers, managing brokers, educators and anyone who recruits new applicants. As you know, applicants who have been convicted of a felony in their lifetimes or a misdemeanor in the last five (5) years must appear before the Commission for a hearing. Some of these applicants are still under some type of probation, parole or state supervision. Under 201 KAR 11:430, Section 2 (6)(d), the application of an applicant who is, at the time of filing for a license either under probation or parole may be denied by the Commission, at its discretion. It has been the Commission's policy to deny applicants who are either under probation or parole and direct the applicant to reapply when their probation or parole has expired.

I want to get this message out to the industry, because many of these individuals pay for classes and even take the exam prior to appearing before the Commission, only to be denied because of the Commission's policy. Obviously, we cannot stop people from going ahead and taking classes or even taking the exam. However, keep in mind that the exam results are only good for sixty (60) days and a background check is good for only six (6) months. So, if an individual took the exam only to be denied because he/she is on probation or parole, he/she would most likely have to retake the exam if

they later reapplied and were approved by the Commission.

The Commission has sent notices to schools advising them of their duty to inform students of this policy, as the Commission does not want applicants to spend time and money toward obtaining a license only to be denied. I am also urging others in the industry to do the same when approached by someone who might fall into this category. We recommend that individuals who have anything on their criminal background report wait to get approval from the Commission prior to spending money on classes or the real estate exam.

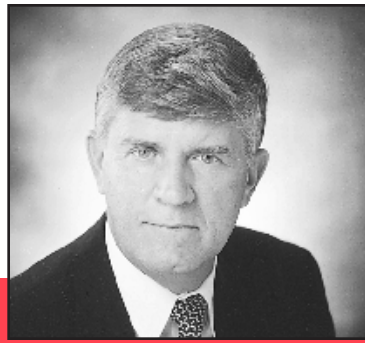
Broker applicants are also subjected to a criminal background check, and, if a sales associate has had a felony at any time or a misdemeanor in the last five (5) years, they, too, will have to be reviewed by the Commission prior to becoming licensed as a broker.

In the last five years, the Commission has reviewed an average of five to seven applicants each month. I am happy to report that, out of those applicants approved for licensure, none has received any disciplinary action.

As always, don't ever hesitate to contact the Commission if you have any questions.

From the Director's Desk

by: Norman E. Brown,
Executive Director



The Dangers of Meth Labs

In Kentucky and across the nation, methamphetamine laboratories (also referred to as "meth labs") are becoming a source of consternation for many sellers, buyers and real estate licensees. The products necessary to make meth can create residue which can cause serious health problems. The residue can be so pervasive that it can seep into duct work, carpeting and drywall. Anyone who breathes in the residue can suffer from severe respiratory conditions and other serious health problems.

In addition, it is very difficult to effectively clean up a meth lab to ensure that the residue is completely gone. Therefore, if an individual buys the property, even if it has been cleaned to some degree, there may be health and financial repercussions for the buyer.

In many cases, the seller may not be willing to admit - or may not know - that the property has been used as an illegal meth lab. In addition, the listing agent may be unaware that there has been a meth lab in the property. A buyer or an agent may walk into the property unaware and immediately suffer the health consequences of the residue left by the meth lab.

The Commission has developed a presentation, through the generosity of the South Dakota Real Estate Commission, to educate licensees on the signs and effects of meth labs. If you would like me to do a presentation, just give me a call at the Commission.

When viewing or showing property, you can look for clues that the property may be a meth lab. For exam-

ple, there may be numerous hot plates, glass cooking dishes, coffee filters, bottles and jugs, rubber tubing, funnels and strainers and propane cylinders in a property used as a meth lab. There may also be lots of cold tablets, nail polish remover, rubbing alcohol, engine starter, drain cleaners, batteries, fertilizer, paint thinner, camp stove fuel, Epsom salts and matches in or around the premises.

If you see signs of a meth lab, you should immediately leave the property and report the matter to the proper law enforcement agency. If you find out that a property you are going to list was formerly a meth lab, you may consider not taking the listing at all. If you do choose to continue with the listing, then you need to ensure that the property has already been sufficiently cleaned or assist the seller in ensuring that the property is properly cleaned. There are now entities that will clean up a meth lab.

If you find out that the property has been a meth lab, you must disclose this fact. If the seller of the property refuses to admit that there was a meth lab or does not want to disclose such information, walk away from the listing. If the seller agrees to disclose, then alert buyers and their agents of the dangers that may await them at the property.

This is a complex issue that cannot be solved overnight. If you have ideas about legislation that could assist in uncovering and disclosing the existence of meth labs in Kentucky, please contact the Commission or your legislator.

Practicing Good Faith Makes Perfect Sense

When buyers and sellers enter into a contract, they are agreeing to uphold the provisions of the contract in good faith. In some contracts, there are contingencies for financing, inspections and the like. Once a buyer and a seller have entered into the contract, neither party should try to use a contingency to get out of that agreement in bad faith.

For example, if the contract is contingent upon the buyer using his or her best efforts to obtain financing on certain agreeable terms, the buyer should not then take steps to cause the bank to deny that financing in order to get out of the contract.

In addition, certain form contracts give the buyer a specified amount of time in which to inspect the property and then walk away for any reason, if the buyer does not like the results of that inspection. In some areas, buyers are using this clause to hold a property and then placing offers or contracts on other properties. They then use the inspection clause as a means to be released from the original agreement and to proceed with a subsequent contract.

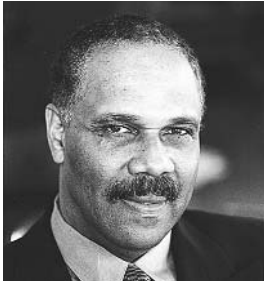
Sellers can also engage in bad faith negotiations. For example, a seller should never counter multiple offers on his or her property. That could result in selling the property to more than one buyer. A seller should choose the offer that he or she likes best and counter only that offer.

None of the above scenarios would constitute acting in good faith. Licensees should explain each term of the contract to their respective clients and also explain that, by signing, the buyers and sellers are agreeing to uphold those provisions.

In addition, licensees should not be parties to the bad faith actions by assisting buyers or sellers in any of these ways.



**Commissioners'
Corner**



Ron Smith



Arvel J. McMahan



Michael Plummer



Lois Ann Disponett



Ken Perry

Group E & O Rate and Provider Remain the Same

The Commission is pleased to offer licensees group errors and omissions insurance this year for the same premium of \$140.00 plus applicable taxes. The insurance carrier for the program is still Continental Casualty Company and the administrator of the program is Rice Insurance Services Company, LLC (RISC).

All active licensees are required to carry errors and omissions insurance. This is a guaranteed issue program which means that all licensees can participate regardless of claim history. This insurance covers licensees for claims arising from a negligent act, error or omission relating to the rendering of or failure to render professional services as a real estate licensee.

Licensees have the option of selecting the group plan through the Commission, or they may shop for errors and omissions insurance on their own. If a licensee chooses to go outside the group plan, they must have their insurance company complete a Private Carrier Certification of Coverage form. The company must have a B+ or better rating by A.M. Best Insurance Rating and must meet the Commission's minimum requirements. The company must also be licensed in Kentucky by the Department of Insurance if the principal broker resides in Kentucky. If the principal broker chooses to carry outside insurance, he or she should let all company associates know the name and phone number of the carrier. Also, the broker should inform his or her associates that this coverage, in most instances, will not transfer with the licensee if they go to another firm. The form required to carry outside coverage will be included in the renewal package and can be found on our website (www.krec.ky.gov) under our Catalog of Documents.

Licensees may also contact RISC if they are interested in purchasing higher limits of coverage. Higher limits are available on an underwritten basis for real estate firms domiciled in Kentucky. All licensees associated with the firm must be insured under the group policy in order to participate. The higher limits must be purchased directly from RISC.

Insured real estate licensees who also hold a Kentucky appraiser license will again be able to purchase an endorsement to cover their services performed as a licensed real estate appraiser. The endorsement cost is \$200.00 and can be obtained directly through RISC at the telephone number below.

Under the group plan, licensees have the option of purchasing additional coverages as separate endorsements to the policy. Each principal broker will receive a form with the renewal mailing that should be filled out and sent in directly to RISC if he or she chooses to purchase additional endorsements. Kentucky law requires the addition of municipal taxes and a Kentucky surcharge to the insurance premium for group policies and any endorsements. The following are the different endorsements: Regulatory Complaints; Environmental; and Fair Housing Act and Conformity. Keep in mind that under the basic policy, licensees are not covered for regulatory complaints, environmental issues or fair housing violations.

RISC is also offering, as an enhancement to the program, higher limits of \$250,000 per claim per insured licensee. Licensees whose real estate activity is at least 75% residential sales and who have had no claims in the past five years may pay an additional premium of \$45 per year to increase limits to \$250,000. Licensees whose real estate activity is less than 75% residential sales and/or who have had claims in the past five years may pay an additional premium of \$60 per year to increase limits to \$250,000.

A brochure and the Endorsement Enrollment/Excess Coverage Forms will be included in the renewal package mailed to each principal broker. If you have additional questions, please contact RISC directly.

**Rice Insurance Services Company, LLC, P.O. Box 6709, Lou., KY 40206-0709
Phone numbers: 800-637-7319 and (502)-897-1876 Fax: (502) 897-7174.**

It's That Time of Year Again!

RENEW RENEW RENEW

It is hard to believe it is 2006 and even harder to believe that renewal time is here again. The deadline to renew your license is **March 31, 2006**. This applies to active licensees as well as escrowed licensees. Active licensees renew through their principal brokers. Escrowed licensees renew individually. The fee to renew your license is \$55.00 for brokers and \$50.00 for sales associates. Active licensees are also required to carry group errors and omissions insurance or to show proof of coverage by a private carrier.

Principal brokers have a lot of responsibility during renewal. A renewal form is mailed to all principal brokers with a list of the licensees affiliated under their companies. Principal brokers need to review the renewal form carefully and if changes need to be made, follow the instructions that will accompany the form. Principal brokers are required to collect the renewal fees from each licensee and submit only one check to the Commission for the entire company. However, principal brokers who have a branch office or a multiple office should send separate checks for each branch or multiple office.

Principal brokers may also choose to renew online. The online renewal option is available from March 1 - 20. After the close of business on March 20th, you must either deliver or mail your renewal form and payment. Please see the column at the right for more details regarding online renewal.

Unfortunately, escrowed licensees will not be able to renew online this year. Renewal forms are mailed to their home addresses. Simply return the form to the Commission along with your check. Since online renewal is still fairly new, licensees in escrow will not be able to renew online this year.

Make sure your renewal form is post-marked by **March 31, 2006**. Any renewals received after the deadline will be assessed a \$100.00, which increase to \$200.00 after May 15, 2006. This is in addition to the renewal fees. Failure to receive a renewal form in the mail is not an acceptable excuse for not renewing on time.

For information regarding 2006/2007 E & O insurance, please reference page 4 of this newsletter.

Again, the deadline to renew is **March 31, 2006**. Renewals must be postmarked or hand delivered by that date in order to be accepted without a penalty. We appreciate all of your help and patience during renewal.

RENEWING ONLINE

Principal brokers again have the option to renew online. Just think, renewal is now only a click away. No more wasted postage or worrying about whether your renewal was received. Just get out your credit card, follow the prompts and receive e-mail confirmation.

You can **only** renew online from March 1 through March 20. After March 20, 2006, all renewals must be mailed or delivered to the Commission.

Basic Requirements:

- * *Internet access on your computer,*
- * *Adobe reader (version 5.0),*
[If you do not have this version of Adobe reader, you will be given an opportunity to download the reader.]
- * *Internet explorer (version 6.0), and*
- * *Computer resolution of 800 x 600 or better.*

Why Should You Renew Online?

- * *It is simpler and faster,*
- * *You will receive an e-mail confirmation when your renewal has been processed,*
- * *Credit card payments are accepted and calculations are done for you,*
- * *KREC uses a secure website and does not share information with any other entity (even the KREC does not have access to payment accounts).*

We Suggest That You NOT Renew Online if:

- * *You are changing the firm name and have a branch office, and one branch has already been renewed, or*
- * *You do not want to put credit card/bank information on the Internet, for security reasons.*

Instructions To Renew Online:

Have the following items available when you are ready to start:

- * *Escrow account number, bank name and address,*
- * *Charge card information OR account and routing numbers from checking or savings account for ACH (electronic fund transfer),*
- * *Registration code assigned by the KREC which is found in the top right corner of your renewal form, and*
- * *Completed certificate of coverage and alpha list of insureds from private insurance carrier, if applicable.*

Now that your paperwork is in front of you, log on to www.krec.us using the registration code found in the top right corner of your paper renewal form. It is just that easy!!!

Please refer to the "Help Text" on the screens to answer any questions **BEFORE** calling the Commission.



Disciplinary Actions



John McDermott (Louisville) Case Nos. 05-0090 & 05-0079

Violation: Mr. McDermott did not respond to the Commission's Sworn Complaint; therefore, he is in default, and all of the allegations are deemed to be true. He is in violation of 324.160(4)(s),(v) and (h) for failing to respond to the Commission's complaint, for conduct which constitutes improper, fraudulent or dishonest dealings and for failing to account for or remit, within a reasonable time, any monies belonging to others.

Disposition: Mr. McDermott's license was revoked in both cases.

Frank Spoonamore (Mount Sterling) Case No. 05-0027

Violation: Mr. Spoonamore did not respond to the Commission's Sworn Complaint; therefore, he is in default and all of the allegations in the complaint are deemed to be true. Mr. Spoonamore is in violation of KRS 324.160(4)(s) and (v) for failing to respond to the Commission's complaint and for conduct which constitutes improper, fraudulent or dishonest dealings.

Disposition: Mr. Spoonamore's license was revoked.

Larri Brown (Williamstown) Case No. 05-0031

Violation: Ms. Brown stipulated to a violation of KRS 324.160(4)(j) for being convicted of a felony while holding a real estate license issued by the Commission.

Disposition: Ms. Brown's license will be placed on probation for twelve (12) months, and she shall pay a fine in the amount of two hundred dollars (\$200.00). She also agreed to successfully complete six (6) hours of continuing education, in addition to any hours already required by Kentucky law and to accept a formal reprimand.

Robert E. Greenwell (Louisville) Former broker of Greenwell Company) Case No. 05-0093

Violation: Mr. Greenwell did not respond to the Commission's Sworn

Complaint; therefore, he is in default, and all of the allegations are deemed to be true. He is in violation of KRS 324.160(4)(v) for conduct which constitutes improper, fraudulent or dishonest dealing.

Disposition: Mr. Greenwell's license was revoked.

J. Christopher Janes (Bowling Green) Case No. 02-0131

Violation: Mr. Janes did not respond to the Commission's Sworn Complaint; therefore, he is in default and all of the allegations in the complaint are deemed to be true. Mr. Janes is in violation of KRS 324.160(4)(s) and (v) for failing to respond to the Commission's complaint and for conduct which constitutes improper, fraudulent or dishonest dealings.

Disposition: Mr. Janes' license was revoked.

Joseph J. Ballard (Radcliff) Case Nos. 04-0032 & 03-0026

Violation: Mr. Ballard was found in violation of KRS 324.160(4)(b),(s),(u) and (v) for making substantial misrepresentations, for failing to respond to a Commission complaint, for violating KRS 324.330 for not changing his address and for conduct that constitutes improper, fraudulent or dishonest dealing.

Disposition: Mr. Ballard's license was revoked in both cases.

Joel Gibbons (Nicholasville) Case No. 04-0200

Violation: Mr. Gibbons stipulated to a violation of KRS 324.160(4)(j) for being convicted of a felony while holding a Kentucky real estate license.

Disposition: Mr. Gibbons agreed to have his license placed on probation for a period of five (5) years, beginning on December 8, 2003. Mr. Gibbons agreed to accept a formal reprimand from the Commission and to pay a fine in the amount of one thousand dollars (\$1,000.00). He also agreed to disclose his criminal conviction to any principal broker who agrees to hold his license.

He agreed that he will not attempt to become a broker during his probationary period.

George M. Williamson (Prospect) Case No. 04-0194

Violation: Mr. Williamson stipulated to a violation of KRS 324.160(4)(u) for violating 201 KAR 11:245 and 201 KAR 11:121, by engaging in property management activities pursuant to a verbal property management agreement, after the expiration of his client's and his written property management agreement; by failing to timely deposit funds into his escrow account; and by failing to act reasonably and diligently to prevent his client's overpayments, late payments, and payments for services his client did not receive.

Disposition: He agreed to have his license placed on probation for a period of twelve (12) months. Mr. Williamson also agreed to pay a fine in the amount of one thousand dollars (\$1,000.00) and to attend and successfully complete twelve (12) hours of continuing education, in addition to any hours already required by law. He also accepted a formal reprimand.

Joseph C. Janes (Bowling Green) Case No. 02-0131

Violation: Mr. Janes stipulated to a violation of KRS 324.160(4)(v) for conduct which constitutes improper dealing for pleading guilty to misprision of a felony in the federal district court.

Disposition: He agreed to have his license placed on probation for the duration of his federal probationary period and to accept a formal reprimand from the Commission.

Robert J. Stamps (Bowling Green) Case No. 02-0131

Violation: Mr. Stamps stipulates to a violation of KRS 324.160(4)(v) for conduct which constitutes improper, fraudulent or dishonest dealing for pleading guilty to misprision of a felony in the federal district court.

Disposition: He agreed to have his

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Disciplinary Actions

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license placed on probation for the duration of his federal probationary period and to accept a formal reprimand from the Commission.

Julie Pogue (Louisville) Case No. 04-0192

Violation: Ms. Pogue unintentionally violated KRS 324.160(4)(p) when she failed to check a multiple listing service to verify a seller's statement that the seller had been released from an active listing contract with another real estate company, resulting in Ms. Pogue acquiring the listing after she unintentionally negotiated the sale of the real property in question with the seller. The seller at that time had a written outstanding contract granting exclusive agency with another real estate broker.

Disposition: Ms. Pogue agreed to pay a fine in the amount of five hundred (\$500.00) and to complete six (6) hours of continuing education in a law or ethics course.

Julie Pogue (Louisville) Case No. 04-0195

Violation: Ms. Pogue stipulated to a violation of KRS 324.160(4)(p) and KRS 324.160(4)(u); specifically, 201 KAR 11:121, for negotiating with a consumer who had an active listing contract with another agent and for breaching the fiduciary duty owed to said consumer/client by failing to act reasonably and diligently.

Disposition: Ms. Pogue shall pay a fine in the amount of one thousand dollars (\$1,000.00) and she shall complete six (6) hours of continuing education in a Commission-approved law or ethics course, in addition to any hours already required by Kentucky law.

Melanie Hall (Mount Sterling) Case No. 04-0059

Violation: Ms. Hall stipulated to a violation of KRS 324.160(4)(v) by engaging in conduct that constitutes improper dealings in two (2) real estate transactions in which she, while acting in the capacity of an agent/buyer, agreed to purchase newly-constructed properties from her seller/client, who

made after-closing transfers to Ms. Hall. Ms. Hall knew that these after-closing transfers were not reflected on the closing statements.

Disposition: Ms. Hall agreed to pay a fine in the amount of seven hundred fifty dollars (\$750.00) and to successfully complete six (6) hours of continuing education in a Commission-approved law course.

Connie Blackwell (Lawrenceburg) Case No. 04-0253

Violation: Ms. Blackwell stipulated to an unintentional violation of KRS 324.160(4)(u) for unintentionally violating KRS 324.117 and 201 KAR 11:105 by publishing, in *The Anderson News*, a misleading advertisement for three (3) properties, which included the names of three (3) individuals who are not affiliated with Ms. Blackwell's real estate company, Anderson Realty.

Disposition: Ms. Blackwell agreed to pay a fine in the amount of two hundred fifty dollars (\$250.00) and to successfully complete six (6) hours of continuing education in a Commission-approved law course, in addition to the hours already required by Kentucky law.

Thad Johnson (Georgetown) Case No. 04-0255

Violation: Mr. Johnson stipulated to a violation of KRS 324.160(4)(v) for improper conduct for engaging in real estate brokerage before he was licensed by the Commission. Mr. Johnson's violation was inadvertent and unintentional, as it was based upon erroneous legal advice.

Disposition: Mr. Johnson agreed to pay a fine in the amount of two hundred fifty dollars (\$250.00) and to attend six (6) hours of continuing education, in addition to any hours required by law.

Reavis D. Gibb (Richmond) Case No. 04-0239

Violation: Mr. Reavis D. Gibb stipulated to a violation of KRS 324.160(4)(u) for violating KRS 324.117 and KRS 324.160(4)(e) for using misleading advertising and failing to disclose his status as a licensee and a principal in a purchase contract.

Disposition: Mr. Gibb agreed to vol-

untarily surrender his license.

Jack L. Adams (Richmond) Case No. 04-0239

Violation: Mr. Adams stipulated to a violation of KRS 324.160(4)(u) for violating KRS 324.117 and KRS 324.160(4)(e) for using misleading advertising and failing to disclose his status as a licensee and a principal in a purchase contract. He failed to disclose that he was the seller of the property and also held a real estate license issued by the Commission.

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

Nancy Hamann (Loveland, Ohio) Case No. 05-0128

Violation: Ms. Hamann stipulated to a violation of KRS 324.010(2) for engaging in unlicensed brokerage by seeking and obtaining a fee for property management activity while her license was in escrow. She also stipulated to a violation of 201 KAR 11:121, Section 1(9) for aiding and abetting her husband in unlicensed brokerage activity.

Disposition: She agreed to pay a fine in the amount of five hundred dollars (\$500.00) and to accept a formal reprimand from the Commission. She also agreed that, if she is going to represent others in property management for a fee, she will first activate her license and place it with a Kentucky-licensed broker. She also agreed that she will not allow her husband to engage in any property management with her, should she become actively licensed.

Dottie S. Watson (Falls of Rough) Case No. 05-0037

Violation: Ms. Watson stipulated to a violation of KRS 324.160(4)(u) for violating KRS 324.117 for false, misleading or deceptive advertising, resulting from her advertisements containing her e-mail address instead of either her principal broker's name or the real estate company's name. She also stipulated to a violation of KRS 324.160(4)(v) for conduct which consti-

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Fair Housing Issues: Including the Names of Churches and Schools in Real Estate Advertisements

The following article was submitted by the Kentucky Commission on Human Rights

When it comes to placing your real estate advertisement, staying in compliance with the Kentucky Fair Housing Act is, of course, a priority for you, your clients, and the publisher of the advertisement. Some of the clearest cut cases of illegal discrimination at the Kentucky Commission on Human Rights come from ads found on-line and in newspapers. Here are some tips to help you prevent illegal discrimination in your advertising.

Basic guideline: Include all, exclude none. Ensure that the property is described in a way that every buyer would read the ad and think, "Gee, I'd like to live there."

Subliminal messages like, "X school district" or "Y Church nearby" may, in fact, be designed to discourage certain buyers from looking in that market. Although not expressly prohibited by the Kentucky Civil Rights Act, the practice of listing such items in newspapers and on-line ads could potentially result in a complaint being filed under KRS Chapter 344 if licensees do not include a disclaimer.

Linda Strite Murnane, KCHR Executive Director, advises: Ask yourself – 'Why am I including this information in the ad?' If the answer is to attract a buyer who is of a particular race, gender, or familial status, or to include or exclude someone who is of a specific

national origin, or to attract or make unattractive a particular property for a buyer because he or she is in some other protected class, then you may be engaged in a discriminatory act. (According to the U.S. Department of Housing and Urban Development, if licensees choose to use the legal name of an entity, they must include a disclaimer such as "This home does not discriminate on the basis of race, color, religion, national origin, sex, handicap or familial status.")

Ads that said "No Children Allowed" or "Mature Adults Only" or "Retired Couple Preferred" are common examples of advertisements that were placed in newspapers or on websites in 2004-2005. These are illegal discrimination based on familial status.



This rule of thumb might help you, says KCHR Housing Supervisor Cyndi Thornburg Schnell: It's best to describe the property, not the person you imagine living there.

Practicing fair housing is good for everyone. It helps promote Kentucky as a viable state, strong with equality and opportunity, and rich in diversity with all the resources and creativity that diversity brings.

If you would like more information, please call the Kentucky Commission on Human Rights at 502-595-4024 or 1-800-292-5566. We can also conduct a free Fair Housing workshop for your organization.

The Commission has formed an Agency Disclosure Task Force, which met for the first time in January. The Task Force is working on a new and improved Agency Disclosure Form, which will hopefully be easier to understand for not only licensees, but consumers also. We will keep you updated on the progress of the Task Force.

When a licensee has listed a foreclosed property, the Seller's Disclosure Form ("SDF") is required. The exemption found in 201 KAR 11:350 is only for a court-supervised sale, not for the subsequent listing of the property. If the seller does not have knowledge of the property, a representative of the seller may sign the waiver on the back of the SDF, indicating his or her refusal to complete the itemized list of repairs and possible defects.

Commission Holds 7th Annual Half-Century Awards Reception

Once again, the Commission had the pleasure of honoring licensees who have been licensed for 50 years. The event took place on October 18, 2005 at the Louisville Marriott East.

We kicked off the event with a complimentary breakfast. Then honorees were congratulated by Secretary of State Trey Grayson, who was the guest speaker for the event. After the awards were presented, the honorees were treated to a special musical presentation by the Absolute Magic Quartet. They sang a variety of period and patriotic songs and their performance was really enjoyed by all.

The Commission again thanks and congratulates the honorees for their dedication and service to the real estate industry. The Commissioners and staff really enjoyed meeting all of the honorees. What a wonderful achievement!



Picture left to right, front row: Donald K. Meador, David L. Waterman, Leon C. Figa, Raymond M. Levy; back row: Gerald M. Whalen, Secretary of State Trey Grayson, Fred Pfannenschmidt, Jr., Francis D. Kindred and John L. Day.

Licensees honored but not present were: William P. Brown, Sam Dexter, Everett Gevedon, Jr., Aubrey Harvey, Ellis McElroy, Eleanor Meyer, Laurance Moon, James L. Morris, Robert Noll, Wallace Soard, and Leon Tarter

KREC Thanks Former Commissioner Sue Teegarden for Her Many Years of Service

The Commission would like to acknowledge with grateful appreciation all of the many accomplishments made by Sue Teegarden. Ms. Teegarden's term as Commissioner expired on October 30, 2005. Ms. Teegarden was first appointed to the Commission on October 15, 1992 by former Governor Brereton C. Jones.

During her thirteen years as a Commissioner, she was committed and dedicated to protecting consumers as well as regulating and educating licensees. She served as Chair of the Commission during three of her thirteen years. Her concern for the industry was apparent by the many hours she spent dedicated to the mission of the Commission. During her tenure at the Commission, the Seller's Disclosure of Property Condition Form and the Agency Disclosure Form were both implemented,

the Core Course was developed and the Commission's website and e-mail capabilities were introduced.

Ms. Teegarden was actively involved with several organizations. She is a member of the Northern Kentucky Association of REALTORS®, the Kentucky Association of REALTORS® and the National Association of REALTORS®. She was also a thirteen-year member of the Association of Real Estate License Law Officials (ARELLO) and served on numerous ARELLO committees.

Ms. Teegarden exhibited such professionalism and was a pleasant person to work with. She made a special point of getting to know each one of the staff members and personally took the time to visit them at their work station before each monthly Commission meeting. She will not only be missed by all of us at KREC, but by the industry members as well. The Commission wishes her well with all of her future endeavors, and we thank her so much for her contributions to the Commission and to the industry as a whole.

Disciplinary Actions

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tutes improper dealing.

Disposition: Ms. Watson agreed to pay a fine in the amount of five hundred dollars (\$500.00) and to accept a formal reprimand. Ms. Watson agreed to cease using the term "Realtor" and shall not use that term unless or until she becomes a member of an Association of Realtors®. She also shall not advertise that she will cooperate with other agents, unless she intends to cooperate fully with all other agents.

Fred Swarts (Lexington) Case No. 05-0105

Violation: Mr. Swarts stipulated to a violation of KRS 324.111 for failing to place two earnest money deposits into his escrow account within the requisite three-day time frame outlined by regulation and for receiving interest on his escrow account without disclosing to whom the interest would accrue.

Disposition: Mr. Swarts agreed to attend six (6) hours of continuing education in law and to accept a formal reprimand from the Commission. He also agreed to have his counsel, Ms. Elizabeth Conley, review his escrow account procedures to ensure compliance with license law.

Donald M. Gesin (Mount Sterling) Case No. 04-0083

Violation: Mr. Gesin stipulated to an unintentional violation of KRS 324.160(4)(u), specifically, 201 KAR 11:400, for completing an agency disclosure form in a manner that he, while acting in the capacity of a dual agent who had properly obtained the informed consent of his clients to act as such, mistakenly believed fully complied with the requirements of the regulation.

Disposition: Mr. Gesin agreed to pay a fine in the amount of two hundred and fifty dollars (\$250.00) and to attend an in-house training program.

Carol René Bascom (Mount Sterling) Case No. 04-0083

Violation: Ms. Bascom stipulated to an unintentional violation of KRS

324.160(6), resulting from her mistaken belief that the agency disclosure form that her licensed affiliate completed, which she reviewed for him, was in full compliance with the requirements of 201 KAR 11:400.

Disposition: Ms. Bascom agreed to pay a fine in the amount of two hundred dollars (\$200.00). In addition, Ms. Bascom shall engage her attorney, Virginia L. Lawson, to conduct an in-house training on the proper completion of the Agency Disclosure Form.

Doug Rapp (Louisville) Case No. 04-0294

Violation: Mr. Rapp stipulated to a violation of KRS 324.160(4)(u) for violating 201 KAR 11:245 and KRS 324.020(4) by failing to have required terms in a property management agreement and by splitting property management fees with the unlicensed owner of the real estate company.

Disposition: Mr. Rapp agreed to attend nine (9) hours of continuing education in law, in addition to any hours already required by law and to accept a formal reprimand.



Kimberly L. Patton (Lexington) Case No. 04-0223

Violation: Ms. Patton stipulated to a violation of KRS 324.160(4)(u) for violating 201 KAR 11:121, resulting from Ms. Patton inadvertently and unintentionally mentioning to her prospective buyer-client that her seller-client and the prospective buyer share similarities that include the fact that they were both getting a divorce, thereby breaching the fiduciary duty of confidentiality that Ms. Patton owed to her seller-client.

Disposition: Ms. Patton agreed to pay a fine of five hundred dollars (\$500.00) and to accept a formal reprimand.

Michael S. Hockensmith (Georgetown) Case No. 02-0162

Violation: Mr. Hockensmith did not stipulate to a violation. The complainants agreed to recommend to the Kentucky Real Estate Commission that the Administrative Action to which he

is a party be dismissed, with prejudice, and with no license repercussion to Mr. Hockensmith. The Settlement Agreement was a compromise and was not an admission of liability on the part of the complainants or Mr. Hockensmith.

Disposition: Mr. Hockensmith and another licensee agreed to pay the complainants in this matter the sum of twenty thousand dollars (\$20,000.00) as restitution.

Mary L. Foley (Georgetown) Case No. 02-0162

Violation: Ms. Foley did not stipulate to a violation. The complainants agreed to recommend to the Kentucky Real Estate Commission that the Administrative Action to which she is a party be dismissed, with prejudice, and with no license repercussion to Ms. Foley. The Settlement Agreement was a compromise and was not an admission of liability on the part of the complainants or Ms. Foley.

Disposition: Ms. Foley and another licensee agreed to pay the complainants in this matter the sum of twenty thousand dollars (\$20,000.00) as restitution.

Deborah L. Richardson (Louisville) Case No. 04-0237

Violation: Ms. Richardson failed to pay her original fine as agreed upon in a Settlement Agreement.

Disposition: The Commission fined Ms. Richardson two hundred fifty dollar (\$250.00) in addition to her original fine.

Donna J. Korte (Park Hills) Case No. 04-0273

Violation: Ms. Korte stipulated to an unintentional violation of KRS 324.160(4)(u), specifically, 201 KAR 11:400 and 201 KAR 11:121, resulting from a chain of events that began when she and another licensee were both acting in the capacity of dual agents representing a seller and two prospective buyers of the seller's property, in a multiple-offer situation, without obtaining the informed consent of the seller and both of the prospective buyers, whose interests in that rare situation were not properly protected.

Disposition: Ms. Korte agreed to pay

Disciplinary Actions

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a fine in the amount of five hundred dollars (\$500.00) and to attend and successfully complete six (6) hours of continuing education in law, in addition to any hours already required by law. Ms. Korte also accepted a formal reprimand.

Ms. Patricia L. Coslett (Park Hills) Case No. 04-0273

Violation: Ms. Coslett stipulated to an unintentional violation of KRS 324.160(4)(u), specifically, 201 KAR 11:400 and 201 KAR 11:121, resulting from a chain of events that began when she and another licensee were both acting in the capacity of dual agents representing a seller and two prospective buyers of the seller's property, in a multiple-offer situation, without obtaining the informed consent of the seller and both of the prospective buyers, whose interests in that rare situation were not properly protected.

Disposition: Ms. Costlett agreed to pay a fine in the amount of five hundred dollars (\$500.00) and to attend and successfully complete six (6) hours of continuing education in law, in addition to any hours already required by law. She also agreed to accept a formal reprimand.

Sol F. Anthony (Hardinsburg) Case No. 05-0037

Violation: Mr. Anthony stipulated to a violation of KRS 324.160(6) for failing to adequately supervise one of his sales associates.

Disposition: Mr. Anthony agreed to pay a fine in the amount of two hundred fifty dollars (\$250.00) and to successfully complete six (6) hours of continuing education, in addition to any hours already required by law.

Debbie L. Brown (Franklin) Case No. 05-0132

Violation: Ms. Brown stipulated and agreed that she unintentionally and inadvertently violated KRS 324.160(4)(v) when she mistakenly believed that it was proper to initiate a process to withdraw a listing from a multiple listing service, rather than seek a mutual written release, to termi-

nate one of her listing agreements.

Disposition: Ms. Brown agreed to pay a fine in the amount of two hundred fifty dollars (\$250.00) and to successfully complete three (3) hours of continuing education in agency, in addition to any hours already required by law.

Cindy A. Simmons (Perryville) Case No. 04-0152

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

Disposition: She agreed to pay a fine in the amount of two hundred dollars (\$200.00) and to attend six (6) hours of continuing education in law, in addition to any hours already required by law. She also agreed to amend and correct all non-compliant advertising on all of her company and personal websites and agreed that all future advertising is in compliance with the Internet advertising regulations.

Rita Nevins (Pendleton) Case No. 04-0235

Violation: Ms. Rita Nevins stipulated to a violation of KRS 324.160(6) for failing to adequately supervise her sales associate, Susan Daily, by allowing her to run a property management company outside Ms. Nevins' real estate company.

Disposition: Ms. Nevins agreed to pay a fine in the amount of two hundred dollars (\$200.00) and to successfully complete six (6) hours of continuing education in law, in addition to any hours already required by law.

Susan Daily (Louisville) Case No. 04-0235

Violation: Ms. Daily stipulated to a violation of KRS 324.160(4)(h) for failing to account for, or remit money belonging to others. She also stipulated to a violation of KRS 324.160(4)(u) for violating 201 KAR 11:245 by failing to comply with property management guidelines.

Disposition: Ms. Daily agreed to pay a fine in the amount of two hundred fifty dollars (\$250.00) and to successfully complete six (6) hours of continuing education in law, in addition to any hours already required by law.

Unlicensed Brokerage

Mike Elliott (Danville) Case #05-0060

Violation: Mr. Elliott, who is not a licensed real estate agent, accepted the Commission's settlement agreement, which stated that the Commission alleged that he and *The Advocate Messenger* violated KRS 324.010(2) and (4) and engaged in unlicensed real estate brokerage by, without a real estate license, soliciting and obtaining a percentage of licensees' real estate sales rather than an up-front fee for advertising. Mr. Elliott and *The Advocate Messenger* ceased and desisted the alleged violation in April 2005 by amending all real estate advertising programs to ensure that real estate licensees were charged only an up-front fee.

Disposition: Mr. Elliott and *The Advocate Messenger* agreed not to resume the alleged violation and to pay the sum of five hundred dollars (\$500.00). However, nothing in this Settlement Agreement shall be construed as an admission of liability or violation of law by the Respondents.

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). The link is under General Information.

User Name: get (lower case)

Password: forms (lower case)

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

KREC Commissioners and Staff



Left to right, front row: Michael Plummer, Melissa Kime, Jerry McMahan, Lois Ann Disponett, Ron Smith, Louis Carter, Ken Perry; back row: Shelly Saffran, Mary Stevenson, Michelle Gary, Kim Brewer, Denise Wade, Norman Brown, Sarah West, Dianna Rogers, Sarah Chandler, Linda Poliskie, Lee Harris.

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The Kentucky Real Estate Commission will be closed for a half day on:
April 14, 2006
(Good Friday)
and a full day on
May 29, 2006
(Memorial Day)