

**REAL ESTATE COMMISSION NEWS BULLETIN****In This Issue**

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*January 2020****Cyber-Security and Wire Fraud in Real Estate*** by Erik Wisner (Executive Director, Kansas Real Estate Commission)

Commission staff recently participated in a small firm broker forum hosted by the Kansas City Regional Association of REALTORS, during which panelists shared data about cyber-security and wire fraud in real estate. According to the FBI Internet Crime Complaint Center (IC3), real estate is the highest targeted industry and fraud mostly occurs through the use of a spoofed email address.

It is important for all transaction participants to be diligent in their communication and stay aware of the real threat of wire fraud during the closing process. Advise clients and customers to look for emails that may be fake and to always call the title company if someone tries to change the original wiring instructions. When communicating via email or text, remember to slow down and think it through. Faster is not always better and simpler is not always safer.

Good business practices might also be to include a wire fraud notice in your company email signature and only use an email service that requires two-factor authentication.

NOTE: Missouri Real Estate Commission staff also participated in this forum and we appreciate Erik Wisner sharing his article with our Missouri licensees. See related article "Alert - Cyber-Security - Are You Protected Against Wire Fraud?" in the next News Bulletin.

CONGRATULATIONS TO COMMISSIONER SHERRY "LYNN" FARRELL NAMED "REALTOR OF THE YEAR"

At the September 2019 Missouri Realtors Business Conference in Springfield, Missouri, Commissioner Lynn Farrell was named "Missouri Realtor of the Year." She had previously received the Realtor of the Year award in 2001 and again in 2010 from the Bagnell Dam Association of Realtors. Lynn is the designated broker for John Farrell Real Estate Co., at Osage Beach, Missouri. She received her salesperson's license in Aug. 1988 and her broker's license in Oct. 1988. Lynn has been involved in the Missouri Realtors Association activities since first being elected as a State Director in 1997. She was appointed by Gov. Parson to the Missouri Real Estate Commission effective July 23, 2018.

CONGRATULATIONS ON YOUR ACHIEVEMENT....!

THINGS TO PONDER

1) Applicants who violate any rules imposed by the test administrator while taking the examination is reason to _____.

- a) Impose a fine on the applicant.
- b) Withhold issuance of the license for one year.
- c) Place the license on probation until the next renewal.
- d) Deny issuance of a license.

2) In the event of the death or incapacity of a licensed broker, the Commission may issue a temporary broker license to:

- a) Any individual approved by the Commission.
- b) A legal representative of the deceased or incapacitated.
- c) Another licensed broker approved by the Commission.
- d) All of the above (a through c) are correct.

3) No part of any approved education course shall be used to solicit membership in organizations, recruit licensees for affiliation with any organization, or advertise the merits of any organization.

- a) True
- b) False

4) _____ is best defined as "a fact related to the property not reasonably ascertainable or known to a party which negatively affects the value of the property."

- a) Brokerage Relationship
- b) Adverse Material Fact
- c) Broker Disclosure Form
- d) Confidential Information

5) Every real estate broker partnership, limited partnership, association, limited liability company, professional corporation or corporation shall appoint _____.

- a) A Training Coordinator
- b) An Official Record-Keeper
- c) An Escrow Officer
- d) A Designated Broker

(Answers found on last page)

Is Your Fictitious Name Valid with the Secretary of State... and MREC...?

Anytime an entity uses a name other than the name in which the license is issued, the entity is required to register that name as a fictitious name with the Missouri Secretary of State (SOS). The initial registration with the SOS is apparently good for five-years and must be renewed as long as the company remains in business and continues to use that name.

Once a fictitious name is appropriately registered with the Secretary of State, a copy of the Fictitious Name Registration certificate must be forwarded to the Missouri Real Estate Commission (this goes for renewals of fictitious names as well).

During audits, many companies are cited for fictitious name violations under Rule 20 CSR 2250-4.030 and Rule 20 CSR 2250-8.010. These infractions include:

1. Fictitious name not registered with the Secretary of State.
2. A copy of the fictitious name registration was not furnished to the Commission.
3. The broker used a fictitious name where the registration was expired with the SOS.
4. The broker's business sign did not bear the name under which the entity was licensed and the fictitious name was not registered with the Secretary of State.
5. The broker's business sign contained an expired fictitious name.

2020 IS RENEWAL YEAR -ARE YOU READY..?

Even numbered years are renewal years for all Missouri real estate licensees. Broker and entity licenses expire June 30, 2020. Salesperson licenses expire September 30, 2020. About 2.5 months prior to the expiration of your license, MREC will mail renewal notices to the address you have on file with MREC. Therefore, make sure your address is correct with MREC before April 1, 2020. Rule 20 CSR 2250-4.020 (4) requires a licensee to notify MREC within 10 days of an address change.

Brokers who have all continuing education (CE) completed prior to April 1, 2020 and Salespersons who have all CE completed prior to July 1, 2020 will receive a renewal postcard in the regular mail. Those licensees may renew on-line using the PIN and license number stated on their renewal postcard. Licensees who have not completed the CE prior to the above dates will receive a regular renewal form and must renew through regular mail; however, if the CE is completed at least two weeks prior to the expiration of the license, the licensee "may" still be able to renew on-line. It is important to get your CE done early! Don't wait to the last minute to try to get it completed.

In order to renew your license, you must have completed 12 hours of continuing education (3 hours must be a core course in Real Estate Ethics), complete the renewal application form (making changes as needed on the renewal form and answering the appropriate questions), and submit your appropriate fees. On-line renewals will show the CE has been completed and you will answer the questions on-line by checking the appropriate boxes. On-line renewal licensees attest that the information included in the renewal postcard is correct. If the information is incorrect on the renewal postcard, then you must request a renewal application from the MREC office, make the changes on the renewal application, and then mail the completed form and payment to the MREC office. This is why it is important to have all information correct before the renewals are printed (3 months prior to the expiration date) and mailed (2.5 months prior to expiration) to each licensee.

For 2020 - "May the best day of your past be the worst day of your future."

Anonymous Irish Blessing

DISCIPLINARY ACTIONS

If you are interested in viewing disciplinary actions taken by the Commission, you will find the information online at: <https://pr.mo.gov/realestate-disciplines.asp>

LICENSEE REPORT - JAN. 1, 2020

45,896 TOTAL

Broker Licenses:	12,478
Salesperson Licenses:	29,188
Entity Licenses:	4,230

HELLO..! MREC CALLING...

By Karen Buschjost, Auditing Unit, Processing Technician III

Licensees should take notice that failure of a licensee to respond in writing, within thirty days from the date of the Commission's written request or inquiry, which is mailed to the licensee's address currently registered with the Commission, will be sufficient grounds for taking disciplinary action against that licensee's license(s). If the Missouri Real Estate Commission (MREC) sends correspondence asking for a response, and no response is received within thirty days, the failure to respond would allow the Commission to seek disciplinary action against the licensee, which may include revocation.

Rule 20 CSR 2250-8.170 (1) states, "Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee."

In the future, when you receive correspondence from the MREC, please ensure you adhere to the thirty-day requirement; otherwise, your license may be subject to discipline.

KNOW YOUR COMMISSIONERS

MS. SHARON L. KEATING – CHAIR
JEFFERSON CITY, MO



MR. STEPHEN “STEVE” KENNY – VICE CHAIR
NEOSHO, MO



MS. SHERRY “LYNN” FARRELL
MEMBER - OSAGE BEACH, MO



MS. CYNTHIA “CINDY” FOX
MEMBER - ST. CHARLES, MO



MR. WILLIAM “BILL” GRATZ
MEMBER – JEFFERSON CITY, MO



MR. CHARLES “CHIP” MISKO
PUBLIC MEMBER – ST. LOUIS, MO



ENHANCE YOUR SKILLS - IMPROVE YOUR PROFESSION

By Ms. Terry Murphy – MREC Education Specialist

Have you taken education courses recently that you knew would enhance your skills as a real estate professional? Of course you have! There are many benefits why continuing education (CE) is important. Each licensee has their own reasons and motivation to further their education. The top reasons include, but are not limited to: become more qualified; reduce risk; gain a competitive edge; gain confidence; increase professionalism; ethics; educate and provide resources to the customer/client; get updates on the current market; learn new technology and tools to sharpen skills/enhance the client experience and provide the best service possible.

I know it is hard to believe, but there are some CE misconceptions out there! The top five CE misconceptions are:

5. I don't need to learn anything new. I know everything.
4. I get my education from experience in the field.
3. I have twenty-four (24) hours left to finish twelve (12) hours of CE. I have plenty of time. What could possibly go wrong?
2. I manage my risk. I have an office policy manual in my desk I have never opened. I also check the Internet.
1. I have always wanted to attend a Real Estate Commission meeting. I look forward to attending my first hearing and explaining my mistakes.

Whether you are a seasoned licensee or new to the industry, below are 5 ways to improve and enhance your CE experience!

1. Positive attitude – change your mindset. CE is an opportunity to learn new skills and enhance your professionalism. It's not just a License Law requirement to renew a license.
2. Don't wait until the last minute. Watch for courses that provide more information about topics that interest you. By planning ahead, you don't miss an opportunity to take a class of your choice instead of taking last minute courses that may not be of interest to you.
3. Mark your calendar - plan accordingly. You have two years to complete twelve (12) hours of CE. Take courses in between transactions, business, and family activities so you can concentrate and enjoy the learning opportunities extended to you.
4. Broaden your horizons. Try new courses, new instructors, and new learning methods. Don't take the same classes you completed last cycle. Step out of your comfort zone!
5. Share your experience. Talk with licensees about recently completed classes or inquire about new courses. Maybe you can earn a designation, receive other credit in addition to CE credit and meet some new colleagues!

As we near license renewal time, plan ahead and make the most of your education experience. Learn something new and have fun in the process!

DON'T THROW THAT POST CARD AWAY...IT COULD BE IMPORTANT...!

In another article in this News Bulletin, you will find information about the 2020-2022 license renewals. Brokers and Entities licenses expire June 30, 2020. Salespersons licenses expire September 30, 2020. At the end of this News Bulletin, you will find sample renewals that will be mailed to licensees.

As a broker, if you have your CE completed by our print date of April 1, and as a salesperson by our print date of July 1, you will receive a postcard announcing your renewal (see sample). All instructions will be included in the postcard to permit you to renew your license on-line. Simply follow the instructions.

Those who have not completed their CE before the print date listed above will receive a formal renewal application (see sample). Licensees will have to complete the application (making any corrections on the form) and mail it with the fees to the MREC office.

NOTE: If your current address is not correct with MREC, you cannot renew on-line until after the Address Change form has been completed on-line at the MREC website and the address changed by MREC. Questions: Call the MREC office 573-751-2628, ext. 2.

FICTITIOUS NAMES: REGISTRATION, RENEWAL, AUDIT & “AKA LETTER”

By Ms. Carmen Cobb – Licensure Section - Licensure Supervisor

Rule 20 CSR 2250-4.030 requires a broker or entity to file a fictitious name when conducting business under any name other than the broker’s or entity’s legal licensed name. The Commission must be provided a copy of this official registration within ten days of receipt from the Secretary of State.

A broker or company doing business under any name other than that on the license must register a fictitious name with the Secretary of State (SOS) and must furnish the Commission (MREC) a copy of the registration. Guidelines are:

- A. An individual broker's true first name can be abbreviated and registration is not required.
- B. Additions after the licensee's name are considered fictitious.
- C. Exclusion of middle initials does not require registration.
- D. Any deviation from the licensed name of a corporation, LLC, or partnership is considered fictitious and must be registered, including abbreviations of the words "Incorporated," "Company," "Corporation" and other types of business entities.

For example, fictitious name registration would apply as follows for a fictional individual broker licensee named Robert Johnson:

- *Robert Johnson Real Estate -fictitious*
- *Robert Johnson Realty & Management -_fictitious*
- *Rob Johnson – not fictitious*
- *Rob Johnson Real Estate -fictitious*
- *Bob Johnson – not fictitious*
- *Bob Johnson Real Estate -fictitious*
- *Johnson Real Estate -fictitious*

For example, if the licensed company was “Right & Company LLC” the following would apply:

- *Right and Company-fictitious*
- *Right & Company Real Estate Agents -fictitious*
- *Right & Co. – fictitious*

In order for our office to properly list the fictitious name under the appropriate entity's records, when you complete the fictitious name registration form with the Secretary of State, the owner section of the form must reflect the full licensed entity name as it is licensed with our office. If the entity filing the fictitious name is a **licensed corporation/LLC**, then the full licensed corporation/LLC name must be shown in the owner section of the form. If a licensed **individual broker** is filing the fictitious name, then the individual broker's licensed name must be shown in the owner section of the form. Any variations of the actual licensed entity name will require correction of the form with the Secretary of State before our office can reflect the fictitious name in our records.

In 2004, the Secretary of State (SOS) issued a statement saying that pursuant to House Bill 1664, fictitious name registrations need to be renewed every 5 years.

When MREC conducts an audit, the examiners will review all fictitious names against the Secretary of State’s register (<https://bsd.sos.mo.gov/BusinessEntity/BESearch.aspx?SearchType=0>) to verify they are still current. If the fictitious name is not current, and the licensee is using it, the examiner will cite them for use of an unregistered fictitious name. If the fictitious name is not current and they are not using it, the examiner will advise the broker to provide a written statement to the MREC requesting that the fictitious name be removed from the MREC records.

Lastly, when the MREC licensure staff comes across applications that have a deviation from the licensed name of the company and the fictitious name is not registered with the MREC or SOS, then a fictitious name letter will be sent to the designated broker. A fictitious name “AKA” letter requires the designated broker to respond with: 1) a fictitious name registration or 2) a written response explaining the error on the application.

WHAT HAPPENS WHEN A COMPLAINT IS FILED WITH THE MREC...?

By Pam Mason, Complaints & Investigations Section, Processing Technician II

The Missouri Real Estate Commission (MREC) receives numerous inquiries each year concerning the filing of complaints against real estate professionals. Below are some of the most frequently asked questions with explanations:

What is the complaint process? Once a completed complaint form has been submitted to the MREC office, we send a letter to the subject(s) of the complaint, requesting that they review the complaint and return a written response within 30 days. It is only appropriate that the subject of a complaint have the opportunity to respond to allegations made against them. Once a response is received from the subject of the complaint, the information is reviewed by the Enforcement Manager and the documentation is prepared for the Commission to review. The formal complaint and any supporting documentation will then be reviewed by the Commission at their bimonthly meeting to determine if the complaint warrants further investigation or should be dismissed. If an investigation was not done prior to the Commission's review, the Commission may direct that the complaint be investigated. An investigator will contact the parties involved and a formal investigative report will result, which will be submitted to the Commission at a future meeting. The Commission will determine if disciplinary action should be sought or if the case should be dismissed. A status sheet memo will be mailed to all the participants if an investigation is going to be conducted. The memo does not give a time-frame when the participants may be contacted because the time may vary (depending on the number of investigations being conducted at the time). If the Commission decides to take disciplinary action, the Commission may submit the case to MREC Legal Counsel for a possible settlement agreement or submit the case to the Missouri Attorney General's Office to file an official complaint with the Administrative Hearing Commission (AHC) for a hearing to determine if the MREC has grounds to discipline the licensee. If the AHC says that MREC has grounds to discipline the licensee, then a disciplinary hearing before the MREC Commissioners will be held. A status sheet memo will periodically be forwarded to those involved so they will be aware of the status of the case.

What are the possible outcomes of filing a complaint? All complaints and responses are reviewed by the Commission and will either be dismissed or investigated. When a case is dismissed without further investigation, the Commission will sometimes direct a letter of caution be sent to the licensee. A letter of caution is not a form of discipline or a public record. A complaint may also be dismissed with a notation to the complainant that the issue appears to be of a civil nature and that they may want to consult with their personal attorney.

Does a civil lawsuit involving the parties to a complaint affect the outcome of a complaint or an investigation?

Complaints received in which there is ongoing civil litigation may cause the complaint or investigation to be placed on hold pending the outcome of the civil case. The MREC is not a collection agency; therefore, MREC does not attempt to recoup funds or monies on behalf of a complainant.

I received a letter from MREC notifying me a complaint had been filed against me. The letter requests I respond within 30 days of the date of the letter from MREC. Is it OK for my broker to respond on my behalf? Rule 20 CSR 2250-8.170 states in pertinent part: "Failure of a licensee to respond in writing, within thirty days from the date of the Commission's written request or inquiry, mailed to the licensee's address currently registered with the Commission, will be sufficient grounds for taking disciplinary action against that licensee." In most complaints filed against a real estate salesperson, the broker is also named in the complaint. Therefore, you should always respond even if your broker responds.

What if I am unable to respond to a complaint filed against me within the 30-day time-frame? Your response must be postmarked within 30 days from the date of our letter requesting a response. This is a requirement established by 20 CSR 2250-8.170 (1), which states, "Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee."

What if the complainant decides to withdraw the complaint after it has been filed? Under Rule 20 CSR 2250-9.030 (2) states "Withdrawal of a valid, legitimate complaint against a licensee as the result of restitution of money or property to the complainant, or other corrective action by the licensee, shall not be grounds for dismissal of a complaint by the Commission, except at its discretion."

If I file a complaint, can MREC settle a dispute over a commission owed to a real estate salesperson? No, Rule 20 CSR 2250-2.040 prohibits the Commission from entering into disputes between licensees concerning matters of commissions.

2018 - 2020 LICENSEES IN MISSOURI

(*2019 TOTALS INFLATED DUE TO EXPIRED LATE RENEWALS STILL COUNTED AS ACTIVE)

<u>LICENSE TYPE</u>	<u>2018</u>	<u>2019*</u>	<u>2020</u>
Broker	3,564	3,549	3,257
Broker Associate	3,290	3,505	3,727
Broker Officer	1,782	1,727	1,656
Broker Partner	50	46	43
Broker Salesperson	3,227	3,199	3,091
Inactive Broker	572	642	549
Inactive Salesperson	2,043	2,362	2,063
Prof. Corp. Broker Salesperson	145	149	155
Prof. Corp. Salesperson	429	477	547
Real Estate Association	2,725	2,867	3,002
Real Estate Corporation	1,293	1,266	1,195
Real Estate Partnership	37	35	33
Salesperson	24,013	26,274	26,578
TOTAL	43,170	46,098	45,896

NON-RENEWAL OF LICENSE - DESIGNATED BROKER'S RESPONSIBILITIES

Rule 20 CSR 2250-8.020 requires the designated broker to supervise the real estate activities of all licensed and unlicensed persons affiliated with their company. This requirement includes the necessity for the designated broker to ensure all licensed affiliates keep their license current and that the affiliates only perform real estate activities if the person is properly licensed with the Missouri Real Estate Commission.

Keep in mind that if an affiliate failed to renew his/her license, but kept working and sold property after the license expired, the unlicensed person should not be paid a commission because they did not hold a valid license at the time the property went under contract. The designated broker could receive a civil penalty for inadequate supervision by permitting unlicensed activity and for paying a commission to an unlicensed person. The licensee with an expired license could receive a civil penalty for unlicensed activity (practicing without a valid license).

UNDER INVESTIGATION - WHO MUST RESPOND

When the Missouri Real Estate Commission begins an investigation of a complaint filed against a licensee, a letter is normally sent to the subject of the complaint asking the licensee and the broker to respond to the complaint. Rule 20 CSR 2250-8.170 states "Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee." Therefore, both the broker and the licensee should file written responses to the MREC inquiry.

Have You Moved ?

If you have moved since the last renewal period, make sure your home and business addresses are correct with the Missouri Real Estate Commission. Rule 20 CSR 2250-4.020 (4) requires a licensee notify MREC within 10 days of an address change. Your 2020-2022 renewal will be mailed to your current address on file with MREC. You can update your address by completing the address change notification form on the MREC website at: <https://pr.mo.gov/realestate-coa.asp>.

THOUGHTS: Sometimes we tend to forget that a home purchase is probably the largest purchase a person will make in their lifetime. We should remind our sellers how important it is for their property to have an immaculate appearance as seen through the eyes of the buyer.

"Buyers decide in the first eight seconds of seeing a home if they're interested in buying it. Get out of your car, walk in their shoes, and see what they see within the first eight seconds." by Barbara Ann Corcoran

REQUIRED DOCUMENTS FOR A NEW SALESPERSON LICENSE

When an applicant submits an application for a Missouri real estate salesperson license, here are the documents that should accompany the formal application:

- (1) Original formal application (on blue paper) with the questions answered, dated, and signed (after the applicant has completed the formal application, the Broker must review and complete Section 7);
- (2) Copy of the 48-hour Missouri Salesperson Pre-Examination Course certificate;
- (3) Copy of the 24-hour Missouri Real Estate Practice Course certificate;
- (4) Copy of the IDENTOGO (Idemia) fingerprint vendor paid receipt; and
- (5) Cash, Check, or Money Order for the appropriate fees payable to the Missouri Real Estate Commission (MREC) and mailed to the MREC, 3605 Missouri Blvd, Jefferson City, MO 65109.

UPCOMING MEETINGS AND WORKSHOPS

COMMISSION MEETINGS FOR 2020

February 5, 2020

August 5, 2020

April 1, 2020

October 7, 2020

June 3, 2020

December 2, 2020

(Commission meetings are held at the Professional Registration Building Central Office in Jefferson City, MO. Contact MREC for further information @ 573-751-2628 or at e-mail realestate@pr.mo.gov). Certain portions of each meeting are closed.

EDUCATORS' WORKSHOP — 2020 *This is a free workshop for all real estate instructors and accredited school administrators.*

October 19, 2020 (Jefferson City)

(Contact MREC Education Specialist Ms. Terry Murphy for further information @ 573-751-2628, extension # 6 or Terry.Murphy@pr.mo.gov).

GOVERNOR

The Honorable Michael L. Parson

DEPARTMENT OF COMMERCE AND INSURANCE

Chlora Lindley-Myers, Director

DIVISION OF PROFESSIONAL REGISTRATION

Sarah Ledgerwood, JD

Interim Division Director

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5) Audits
6) Education: Schools & Courses

Fax: (573) 751-2777

Email: Realestate@pr.mo.gov

Website: <https://pr.mo.gov/realestate.asp>

The Missouri Real Estate Commission office is open Monday-Friday, 8 a.m-5 p.m., except State Holidays. Walk-ins are asked to arrive no later than 4:30 p.m. At this time, MREC is not set up to take payment by credit/debit card at the office (must be cash or check only – in the exact amount of the fee).

Things to Ponder - Answers

1. **D Deny Issuance of the License** – 20 CSR 2250-3.020 (3)
2. **D All of the Above are Correct** – 339.040 (10)
3. **A True** – 20 CSR 2250-07.0270 (11)
4. **B Adverse Material Fact** – 339.710 (1) RSMo.
5. **D A Designated Broker** – 339.710 (12)

DISCLAIMER

This publication is designed to discuss common practice issues or issues of concern for real estate agents. It is provided with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional service. If legal advice or other expert assistance is required, the services of a competent professional should be sought. The Missouri Real Estate Commission grants permission to reprint articles which appear in this newsletter on condition that recognition of their original publication in the MREC Newsletter also appears with the article. MREC often solicits articles from outside experts or reprints articles with permission. While we feel that these articles may offer a broader perspective and will be of interest to the reader, it should be remembered that the views expressed are those of the author and not necessarily those of the Commission, and do not constitute additional policies and/or rules of the Commission above those currently adopted by Missouri statute and/or rule. Permission to reprint solicited articles must be obtained from the article source.