



# REAL ESTATE COMMISSION NEWS BULLETIN

July 2019

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## REAL ESTATE PROFESSIONAL SAFETY

(by DeWayne Hickey - Enforcement Manager)

Agents from Southeast Missouri to Northwest Missouri all have one thing in common; each one must deal with clients who are unknown to them. While you are showing a home, farm, or a commercial property most of the time, you will be alone with your client. The vast majority of your clients are good upstanding people; unfortunately, there are clients who are not. I hope you will never come across that “client” who changes your life forever because of a fearful, dangerous situation.

An article in Psychology Today stated that real estate professionals face a significant risk when they show homes to strangers. Every meeting with a client means trusting somebody new.

During my research, I came across several articles about agent safety, which I have included the links below. Brokers please take the time from your busy day to watch, review and discuss with your affiliates. Agents please take the time to review your company office policy manual for a safety action plan to keep you and your fellow agents safe. The real estate professional safety links are:

<https://www.nar.realtor/safety>

<https://www.atlantarealtors.com/Resource-Center/safety/safeinfive.aspx>

<https://abcnews.go.com/Business/dangers-real-estate-criminals-witnesses-safety-expert-keeping/story?id=13375723>

The Atlanta Realtors® Association has a program called “Stay Safe in Five” which was prepared with the local police department. The five-part video series provides safety tips we can all use. A Google search reveals countless sites that link you to stories about agents who have been robbed, assaulted, and murdered. There are also sites which tell the stories of agents who felt that “something was not quite right” with a client and they chose to have an action plan for their own safety.

An action plan can be as simple as letting your office manager know what time you are showing a property, where the property is located, and what time you will return. An action plan can involve having someone from your organization call you during the showing to verify that everything is fine. It is important to have predetermined code words in case of danger. One of the articles indicated that when the perpetrator kidnapped an agent, she informed him that she had to call her office to let them know everything was fine. The perpetrator instructed her not to mention anything about what she was going through. The agent’s office had a (Cont’d on page 8)

## WERE YOU WONDERING – HOW DID I GET PICKED FOR AN AUDIT..?

Without a doubt, there are rumors out there that companies have been the subject of targeted audits because of a variety of different reasons. In reality, there are only two ways licensed real estate companies are selected for an audit: 1) Random Audits and 2) Commission Directed Audits.

**Random Audits** – The MREC has a computer system that is programmed to randomly select real estate brokerages that have not been audited within the last ten years. This computerized selection is achieved based on zip code.

**Commission Directed Audits** – When the actions of a brokerage comes to the attention of the Commission (e.g., complaint, advertising, etc.), the Commission may direct MREC staff to conduct an audit of that company. This may also include a re-audit within a specified timeframe after an initial audit was completed so the Commission can verify corrections (improvements) have been made.

## THINGS TO PONDER

- 1) Under Section 339.010 (4) RSMo., the term "Commission" is the \_\_\_\_\_.
  - a) credential issued to a licensee
  - b) fee paid to a licensee for selling real property
  - c) document signed after a swearing-in ceremony
  - d) Missouri Real Estate Commission
- 2) Most provisions of the Real Estate Law do not apply to \_\_\_\_\_.
  - a) auctioneer employed by the owner of the property
  - b) licensed attorney at law
  - c) government employee performing official duties
  - d) the law does not apply to all of the above
- 3) It shall be unlawful for any person to act as a real estate broker, real estate broker-salesperson, or real estate salesperson, or to advertise without a license.
  - a) True
  - b) False
- 4) Which of the following is a FALSE statement concerning the authority of the MREC.
  - a) Shall have the power to issue a subpoena to compel the production of records.
  - b) Licensee must respond within 60 days of written inquiry by the MREC.
  - c) Commission may investigate an issue without a formal complaint being filed.
  - d) MREC may refuse to issue a company a license whose officer was previously licensed but now revoked.
- 5) No broker shall commingle his/her personal funds or other funds in the escrow account except the broker may deposit and keep a sum not to exceed \$\_\_\_\_ from personal funds which are specifically identified.
  - a) \$100
  - b) \$500
  - c) \$1,000
  - d) \$2,500

*(Answers found on last page)*

## ARE YOU A "BROKER FOR HIRE"?

Who is a broker for hire in the Missouri real estate industry? A "broker for hire" is an individual who holds a designated broker position in a Missouri licensed real estate company (brokerage), but does not directly supervise the activities of the company operations or the affiliates associated with the brokerage. Brokers for hire are normally paid a fee to be the "front man" for the brokerage; but, others run the everyday operations behind the scenes making decisions within the company (many times by salespersons who may actually own the company, but do not possess a broker's license).

MREC normally sees a behavioral pattern exhibited by brokers for hire. For example, many brokers for hire are designated brokers for multiple companies that are not closely related in proximity. Rule 20 CSR 2250-8.020 requires a designated broker to supervise the real estate activities of all licensed and unlicensed persons affiliated with the brokerage.

What many brokers for hire do not realize is that when MREC finds a violation within the company, or a complaint has been lodged against affiliates of the company, the designated broker is held responsible. It is the designated broker's license that is "on the line" to be disciplined, not necessarily the owner of the company.

Normally, a "broker for hire" does not adequately and/or directly supervise the brokerage operations or the licensees affiliated with the company; therefore, MREC considers a broker for hire as violating Rule 20 CSR 2250-8.020.

Should MREC conduct an investigation or audit and find that someone other than the designated broker is actually making everyday decisions and running the company, that person's license may be subject to discipline for acting as a designated broker without being properly licensed. The actual designated broker, however, will be held strictly responsible.

## COMMISSIONER EMERITUS AWARDED – ROSEMARY VITALE

On January 29, 2019, staff from the MREC traveled to Kansas City to present Ms. Rosemary Vitale the Commissioner Emeritus Award. Ms. Vitale served as a Commissioner from June 7, 2006 through July 23, 2018.



## Got Your CEs Done Yet..?

Even year 2020 is the year for renewal of all real estate licenses. If you have your continuing education courses completed ninety days before your license expires, then you will be able to renew on-line when you first receive notice that it is time to renew your license(s). Keep in mind that the Commission is requiring a **REAL ESTATE ETHICS** course as a core course before you can renew. This is different from the National Association of Realtors (NAR) requirement. Questions? Call us!

### 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 - JULY 1, 2019 44,461 TOTAL

Broker Licenses:	12,295
Salesperson Licenses:	28,021
Entity Licenses:	4,145

## COMMISSIONER EMERITUS AWARDED – CHARLES DAVIS

On Tuesday, February 26, 2019, Commissioners and staff from the Missouri Real Estate Commission traveled to St. Louis to present Mr. Charles Davis the Commissioner Emeritus Award. Mr. Davis served as a Real Estate Commissioner from October 27, 2005 and served until July 23, 2018.



## **Setting up a Corporation to Receive Commissions**

(by Jeffrey Niemeyer, Examination Field Supervisor)

Have you ever thought about establishing your own corporation or association to receive your commissions from real estate transactions? For various tax and legal reasons, many licensees across Missouri have chosen to do so; however, did you know that in order for your entity to receive a commission from your broker, it must be a licensed entity with the Missouri Real Estate Commission?

Both statutes 339.100.2 (7) and 339.150.2 prohibit brokers from paying commissions to unlicensed persons or entities. Therefore, your broker cannot pay a commission to your entity unless it holds a real estate license. Paying unlicensed entities is one of the items we sample as part of our standard audits.

Fortunately, licensing your entity is an easy process. If you currently hold a Broker's license, you can simply complete and submit an Entity Application, Consent to Examine, and Information and License Change forms. The submission of these forms, along with all supporting documentation and applicable fees, will license your entity, establish yourself as the Designated Broker of your new entity, and place the entity as a Broker-Associate or Broker-Officer under your current broker(age). A handy packet of these forms may be viewed and downloaded from website: <https://pr.mo.gov/boards/realestate/419-0808.pdf>. As always, if you have questions on how to fill out these forms, the proper amount of fees, etc... please contact our Licensure Section at 573-751-2628.

If you currently hold a Salesperson's license, the process is a bit more complicated because someone with a Broker's license will have to serve as the Designated Broker of your entity. Usually, the Salesperson will ask their current Designated Broker to also serve as the Designated Broker of their new entity until the salesperson can acquire a Broker's license. There is nothing in the statutes and regulations prohibiting the same person to serve as the Designated Broker of two different entities. This Designated Broker will then complete and submit all the above forms. Once the entity is properly licensed, you will transfer your Salesperson's license to the new entity via completion of the Information and License Change form.

Another option to consider if you cannot find someone with a Broker's license to serve as your Designated Broker is to license yourself as a Professional Corporation (PC). For specific instructions on this, please contact the Licensure Section. For advice on which option (PC or separate association or corporation) is more suitable for your particular set of circumstances, it would be best to consult an Attorney of your choosing.

As a corollary to this issue, you are reminded that the Designated Broker is responsible for the actions of all licensed and unlicensed individuals affiliated with their brokerage. This includes ensuring that all license transfers are properly completed and submitted to the MREC - all licenses, to include the entity and any associated licenses - are properly renewed in a timely manner, and ensuring that no unlicensed activity is being conducted by anyone under their purview.

## **Lead or Be Left Behind – Knowledge is Power!**

**(by Terry Murphy, Education Specialist)**

One of the best things about life is that we never have to stop learning. It is my belief one of the most valuable things in the world is knowledge. Everything else in our lives from money, health, and material things – they can all come and go. The one thing that no one can ever take from you once you have acquired it is knowledge.

Take personal responsibility for your learning. Decide what you want to learn – consider how and in what way you want to develop yourself. A key challenge is to change the mindset from viewing continuing education as a duty to an opportunity to learn a new idea or concept. We encourage our schools to offer the most effective learning classes for licensees by making their learning platforms and/or live class resources accessible and engaging.

There are always new skills to learn and techniques for us to adopt. When we look at the most successful people in the world, they understand this concept. Typically, they are reading, taking additional classes, learning from peers in a training session through interaction, story-telling, discussion groups, case studies, problem-solving or some other method to stretch their mind and keep it sharp.

Those with years of experience under their belt may ask - what is left to learn? There is always something new to learn, hone in on or further skills enhancement. Take a proactive approach when it comes to your education. Learning can happen in many different ways. Don't discount what you get out of a webinar, podcast, blog or email digest discussion focused on relevant issues in our industry. These items are important tools that lend themselves to the bigger picture of learning. The important thing is you're soaking up the knowledge and using it to better yourself and your career. Learning allows you to reduce risk, set yourself apart with new tools/skills, be more professional and offer the best service possible to your customers and clients.

Education opportunities await – so much more out there to learn! Beyond keeping things fresh to sustain your professional creativity and passion, learning keeps you relevant in our ever-changing world. For us to live life to the fullest, we must continually look for ways to improve and learn!

## **NEED A DUPLICATE OR REPLACEMENT LICENSE..?**

**(by Carmen Cobb – Licensure Supervisor)**

Has your designated broker of the company your license is affiliated with misplaced your Missouri real estate license, or has your license been lost, stolen, or destroyed accidentally? The designated broker may request a duplicate copy by completing the Information Change form and paying the \$25 fee.

If the license was never received at the company's main business address, the designated broker can write a letter to MREC (with an original signature) informing the Commission that the license (licensee's name & license number) has not been received. Confirm the company's name and main business address. The letter may be mailed or faxed to the MREC office.

Keep in mind that the Designated Broker of the company in which your license is affiliated must hold your license and make them readily available upon request; therefore, all new and duplicate licenses are mailed to the designated broker at the firm's address on file with the MREC.

## ***Is there a Reason Getting My License Takes So Long?*** **Application Rejection Process**

One of the most important tasks of the Designated Broker is to review all paperwork before being submitted to the Missouri Real Estate Commission for processing. This review ensures the Designated Broker is aware of all information submitted on the application (e.g., current address and contact information, declared criminal history, information about previous real estate licenses or other professional licenses, etc.).

In a recent, cursory review of the initial applications for a salesperson license, 60% were improper and had to be rejected back to the applicant. Here are some of the issues that MREC staff experienced when documents were received and then had to be rejected back to the applicant.

Paperwork not legible	Fees not enclosed	Date signed not on forms
Not all paperwork submitted together	Incorrect fees submitted	Check/money order not signed
Improper postage amount on envelope	Certificates not included	Missing required paperwork
Case # or Audit # not included	Missing signatures on app.	Partially completed forms

Ensuring these errors are not part of your paperwork will assist in guaranteeing your transaction is not delayed. MREC staff wants to help applicants, licensees, and brokers get their license paperwork processed as quickly as possible, but that is difficult when the application has to be rejected back.

Anytime applications are received incomplete, required documents are not attached, appropriate fees are not included, boxes on the forms are not checked, signatures are not present, or a copy of the paid fingerprint receipt is not attached, the application is rejected back to the applicant. This causes an unnecessary delay in getting the license application processed and the license issued.

Once a properly completed form is received at the MREC central office, the documentation is put in a processing que (in date order received) and is normally processed within ten working days. After being processed, the approved license information will be placed on the MREC website ([pr.mo.gov/realestate.asp](http://pr.mo.gov/realestate.asp)) and can be found by doing a "Licensee Search". The original license for an applicant will be sent to the designated broker to which the applicant has affiliated his/her license because Missouri real estate law require all licenses be retained by the designated broker and made readily available.

## ...Are You Ready...?

### 2020 License Renewal Period in Missouri

Missouri real estate licenses come up for renewal next year. Broker licenses and Brokerage (company) licenses expire on June 30, 2020 and Salesperson licenses expire on September 30, 2020.

**BROKERS:** Brokers who have their Continuing Education (CE) completed before April 1, 2020 will receive a renewal postcard notification (which is scheduled to be mailed about April 20, 2020). Those who receive a postcard will be able to renew on-line immediately by using the PIN included in their postcard. Those who have not completed CEs before April 1, 2020 will receive a paper renewal (which is scheduled to be mailed about April 20, 2020 also).

**SALESPERSONS:** Salespersons who have completed CEs before July 1, 2020 will receive a renewal postcard notification (which is scheduled to be mailed about July 20, 2020). Those who receive a postcard will be able to renew on-line immediately by using the PIN included in their postcard. Those who have not completed CEs before July 1, 2020 will receive a paper renewal (which is scheduled to be mailed about July 20, 2020 also).

### Designated Broker Responsibilities

In recent months, the Missouri Real Estate Commission has experienced an increase in the lack of designated brokers being diligent in supervisory responsibilities. The three major "lack of supervision" issues includes: (1) approving forms without reviewing them – portions of the form are left blank but the form is signed by the designated broker; (2) permitting licensees with expired licenses to continue to work real estate; and (3) not directly supervising LLCs affiliated with the parent company.

Missouri Rule 20 CSR 2250-8.020 states in pertinent part that the MREC can file a complaint with the Administrative Hearing Commission to discipline the broker's license when the "...designated broker failed to supervise the real estate activities of all licensed and unlicensed persons..." This would include the three issues mentioned above: approving incomplete forms, permitting expired licensees to continue working, and not directly supervising LLCs (teams, groups, etc.).

## IS A NEW REAL ESTATE TEST COMING TO MISSOURI - OR IS THIS RUMOR...?

The word is out! PSI Services was awarded the contract to provide real estate testing services for the Missouri Real Estate Commission. The new contract requires PSI to conduct a job task analysis of a salesperson and broker's duties and then develop a national and state test for salespersons and brokers based on the minimum skills necessary to adequately function as a licensed real estate professional in Missouri. The developed test questions are then validated using subject matter experts (brokers and salespersons currently in the job).

Additionally, the new contract requires the company to develop a list of learning objectives from the materials which the test questions were derived. Accredited schools authorized to teach the pre-license courses will be oriented to the list of objectives and newly developed tests via an upcoming webinar. It is anticipated the new PSI tests will begin on or before January 1, 2020.

## REAL ESTATE PROFESSIONAL SAFETY (CONT'D FROM PAGE 1)

pre-determined code word which the agent used during her telephone call. That code word saved her life. You can have another agent who is in your area showing another property to drive by and check on your status. I hope you don't believe that most of the assaults and robberies were highly sophisticated, planned crimes by the perpetrator. Many of the reported crimes occurred while the agent was sponsoring an open house or showed up early to a showing. Almost all the crimes occurred when the agent was alone.

This article was not prepared to scare agents, but to remind you of the importance of your safety. Remember, there is someone who counts on you coming home each day. Therefore, your safety is your responsibility. Remember the words of Hill Street Blues Sergeant Phil Esterhaus: "Let's be careful out there."

## RULE REVIEW REQUIRED (BY 536.175 RSMo.)

A 2012 Missouri law requires a periodic review by state agencies of all state rules (code of state regulations) enacted by the agency. This review determines if the rule is still necessary, obsolete, overlaps or duplicates other rules, or if the rule conflicts with other rules, whether a less restrictive or alternative rule would be better, whether the rule needs to be amended or rescinded, and does the rule affect small business in an unnecessary way. **Public comments on rules are being accepted until August 31, 2019.** Comments may be sent to Rich Lamb, DIFP, P. O. Box 690, Jefferson City, MO 65102-0690 or e-mail [Rich.Lamb@difp.mo.gov](mailto:Rich.Lamb@difp.mo.gov). MREC must submit to the Joint Committee on Administrative Rules (JCAR) and to the Small Business Regulatory Fairness Board (SBRFB) a report of its findings which shall include a summary of the comments received and a the state agency's responses. That report is due June 30, 2020.

## NEW SIGNED FINGERPRINT FORM REQUIRED

As you know, Missouri law requires applicants for real estate licenses to be fingerprinted via the Missouri State Highway Patrol (MSHP) vendor for a background check prior to being licensed. The electronic fingerprints are transmitted from the reception site to the MSHP and then to the FBI for analysis. The criminal history results may be returned to MREC within hours, or in rare occasions, it can take up to several days (depending on the complexity of the criminal case results).

State licensing agencies and the MSHP are at the mercy of the FBI requirements and their Criminal Justice Information Services (CJIS) unit if the state agency wants to utilize the FBI criminal record information. Effective August 6, 2018, CJIS began requiring a written notification to applicants and a signed document showing applicants reviewed the State & National Rap Back Privacy Notice, the Noncriminal Justice Applicant Privacy Rights, and the Privacy Act Statement. This document is now required before a license application can be processed. The signature form is now included with the application given to the applicant after successfully passing the required real estate examination(s).

### UPCOMING MEETINGS AND WORKSHOPS

#### REMAINING COMMISSION MEETINGS FOR 2019

August 7, 2019

October 2, 2019

December 4, 2019

(Commission meetings are held at the Professional Registration Building Central Office, 3605 MO. Blvd., Jefferson City, MO 65109. Contact MREC for further information @ 573-751-2628 or at e-mail [realestate@pr.mo.gov](mailto:realestate@pr.mo.gov)).

#### EDUCATORS' WORKSHOP – 2019

Monday, October 21, 2019 (Jefferson City)

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

#### INSTRUCTOR DEVELOPMENT WORKSHOP (JOHN MAYFIELD & MELANIE MCLANE)

Tuesday, October 1, 2019 (Leawood, KS) – Kansas City Reg. Assoc. of Realtors®  
9:00 a.m.-4:00 p.m. (For more information Contact KCRAR Dir. of Ed. & Prof. Dev.  
Ms. Alison Trevor at 913-266-5904 or [AlisonT@KCRAR.com](mailto:AlisonT@KCRAR.com))

## GOVERNOR

The Honorable Michael L. Parson

## DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Chlora Lindley-Myers, Director

## DIVISION OF PROFESSIONAL REGISTRATION

Kathleen (Katie) Steele Danner,  
Division Director

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Carmen M. Cobb, Licensure Supervisor

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## Missouri Real Estate Commission

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Phone: (573) 751-2628

Extension: 1) General Information

2) Licensing

3) Consumer Group

4) Complaints & Investigations

5) Audits

6) Education: Schools & Courses

Fax: (573) 751-2777

Email: [Realestate@pr.mo.gov](mailto: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 Missouri Real Estate Commission** – 339.010 (4) RSMo.
2. **D All of the above** – 339.010 (9)
3. **A True** – 339.020 RSMo.
4. **B Must be within 30 days** – 20 CSR 2250-8.170
5. **C \$1,000** – 339.105 (1)

## **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.