



# ROAD TRIP

© January 2023

Vernon L. Jarboe

A low-angle, upward-looking photograph of several tall, slender trees in a forest. The tree trunks are dark brown and textured, reaching towards a dense canopy of green leaves. The sky is visible through the foliage, appearing as a pale blue. The entire image is framed by a thin white border.

*Licensing* **JOURNEY**



- Kansas Required Core
- Virtual CE
- © Copyright 2023    Vernon L. Jarboe

**Is this you**



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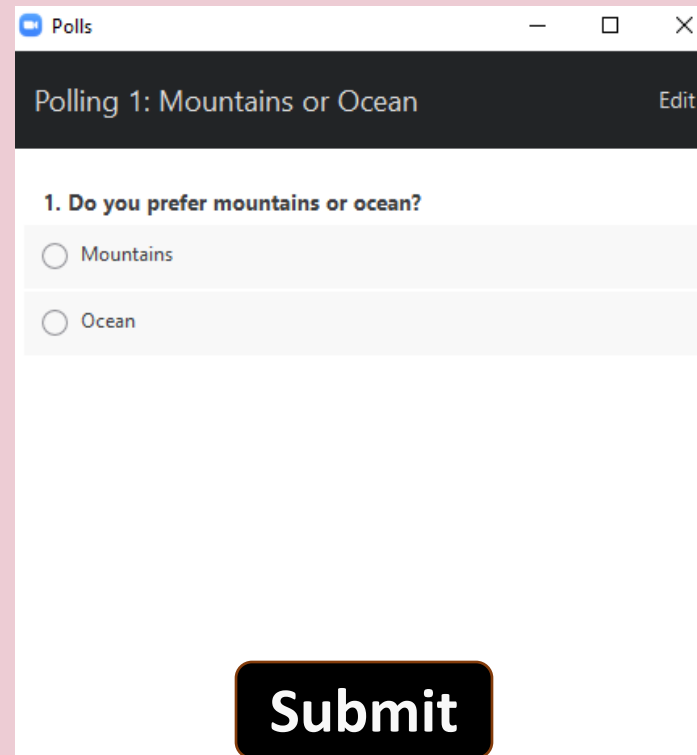
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# Zoom Class Requirements

- ✓ Attend ALL minutes of zoom instruction
- ✓ Respond to ALL poll questions
- ✓ Participate and ask questions in 'Chat'
- ✓ Remain muted
- ✓ Keep video off



Zoom Polls interface showing a poll titled "Polling 1: Mountains or Ocean". The poll question is "1. Do you prefer mountains or ocean?". There are two radio button options: "Mountains" and "Ocean". A "Submit" button is visible at the bottom.



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# **BRRETA BROCHURE**

- AGENCY – BUYER, SELLER OR DESIGNATED
  - Promote the interest of the client with good faith loyalty and fidelity
  - Protect confidential information unless disclosure is required
  - Present all offers
  - Advise parties to get expert advice
  - Account for money and property
  - Disclose adverse facts about the party or property
  - No agent has a duty to
  - Conduct independent investigation or verify statements made by a qualified third party

# **BRRETA BROCHURE**

Transaction brokers have a duty

Not to advocate for either party

To protect confidential information including

That a buyer is willing to pay more, seller willing to accept less or factors that are motivating either party

Exercise reasonable skill and care

Transaction Brokers shall also

- Protect confidential information unless disclosure is required.
- In commercial, confidential information may be disclosed unless disallowed by customer

# **BRRETA BROCHURE**

Present all offers

Advise parties to get expert advice

- Account for money and property
- Disclose adverse facts about the party or property
- 

**No transaction broker has a duty to**

- Conduct independent investigation or verify statements made by a qualified third party

# **BRRETA BROCHURE**

- Agency relationships must be disclosed in sale contract
- Buyer and seller agency including designated agency established by written agreement
- The agreement is between a broker and the buyer or seller
- Buyers and sellers are principal and brokers an agent to the consumer
- Brokers are principals to affiliated licensees

# **AGENCY AGREEMENTS**

- Must be in writing AND
- Shall describe the duties of buyer or seller agency
- Shall include a fixed date of expiration
- Any limitation on duties of confidentiality
- The terms of compensation
- Shall be signed by the client and on behalf of the broker
- A copy shall be delivered to the client at signing or reasonable period of time

# **AGENCY AGREEMENTS**

- A copy shall be delivered to the client at signing or reasonable period of time
- Is not assignable
- May not include a net commission
- Shall not induce others to break existing contracts
- Shall be respected by any other licensee
- No solicitation, no negotiation directly with represented party

# **AGENCY AGREEMENTS**

- DESIGNATED AGENCY
- Created by written designation by broker or broker designee
- Keeps other affiliated licensees from having conflicts
- Possible use of Transaction Broker Addendum
- Makes the broker a transaction broker as to both buyer and seller
- Brokers cannot be a designated agent

# **AGENCY AGREEMENTS**

- **TERMINATION OF AGENCY AGREEMENTS**
  - Full performance resulting in a closing
  - Expiration of time
  - Agreement to terminate
- 
- Note some duties survive termination
  - Accounting for money
  - Protecting confidential information

# **MINISTERIAL ACTS AND UNLICENSED PERSONNEL**

- Ministerial acts
  - Responding to phone call about brokerage services or a property price and location
  - Responding to walk-in consumers
  - Setting appointments or attending and open house
  - Making a referral
  - Taking appraisers and other service providers to and into a property

# **MINISTERIAL ACTS AND UNLICENSED PERSONNEL**

- Activities ALLOWED BY unlicensed personnel
    - Work on documents needed including MLS submissions
    - Order repairs, Write ads, and Measure the house
    - Furnish publicly available information to other brokerage firms and the public
- BUT NOT
- Show the house or any activity requiring a license
  - Explain or interpret information or discuss the transaction or purchase

# **QUIZ 1 FOR CREDIT**

- 1 – When interviewing a seller for a listing a licensee is a transaction broker - True or False
- 2 – A licensee can only be an agent with a written agreement - True or False
- 3 – Written agency agreements should define the work to be performed - True or False

# **QUIZ 1 FOR CREDIT**

- 4 – A licensee is a transaction broker only with a written agreement - True or False
- 5 – A written listing need NOT have a termination date - True or False



PLACES TO BE



# COMMON VIOLATIONS

- Inducement to break contract
- Failure to supervise
- Fair housing compliance
- Misrepresentation
  - Did not protect buyer or seller
  - Withheld information
  - Untruthful
  - Advised on matters outside licensee expertise
- Offer not presented
  - At all
  - Not presented timely



**DISCRIMINATION IS RARELY THIS OBVIOUS,  
BUT IT'S JUST AS REAL. AND JUST AS ILLEGAL.**

# **RACISM IN KS**

- <https://www.justice.gov/opa/pr/three-southwest-kansas-men-sentenced-prison-plotting-bomb-somali-immigrants-garden-city>
- 3 men sentenced from 25-30 years each
- After 5-week jury trial
- Planned bombing of Somalian immigrants living in Garden city

# **BUYER LOVE LETTERS – ARE THEY RISKY**

What is a buyer love letter

- Is every love letter a risk
- What topics pose a risk
- Rhode Island case

# **NAR CODE OF ETHICS**

- Protected classes in law—race color, religion, sex, national origin, familial status, and handicap
- Fair housing act regulates conduct vis a vis your customers and clients
- Code of Ethics also regulates in the area of hiring agents and staff
- Window to the Law: NAR's Fair Housing Action Plan – Fairhaven simulation
- <https://fairhaven.realtor/>



# COMMON VIOLATIONS

- Purchase contract issues
  - Missing or incorrect disclosures
    - Brokerage relationships, radon, sex offender
  - Incorrect escrow agent
- Earnest money agreements and handling
  - Deposit within 5 business days
  - Self-dealing
  - Receipt for earnest money and contract

# **COMMON VIOLATIONS**

- Agency/transaction broker agreements and issues
  - No fixed date of expiration
  - Missing signatures client or firm
  - Document not in broker file
  - Contract dated before agency agreement

# **REPORTING REQUIREMENTS**

- K.A.R 86-3-15
- Report IN WRITING to KREC within 10 days
- Litigation filed by or against licensee on real estate or activities as licensee
- Disposition of litigation
- Court order or judgment filed against licensee or company
- Change of licensee name or address

# **REPORTING REQUIREMENTS**

- Revocation in another state
- Denial or suspension in another state
- Charge, arrest, indictment, plea of guilty or nolo contendere, or conviction
  - Misdemeanor reflecting on honesty, integrity, or competence to conduct real estate activities
  - Felony
  - Broker has duty to report these to KREC if known about an affiliated licensee

# **COMMERCIAL REAL ESTATE SHARING COMMISSIONS**

- K.S.A. 58-3077
- Broker licensed under Kansas law may share a commission
- And broker licensed in another state may perform services in Kansas requiring a license if
- It is not residential and out of state broker agrees to cooperate and agreement signed that
  - Foreign licensee agrees to follow Kansas law
  - Foreign licensee agrees to submit to jurisdiction of Kansas

# **COMMERCIAL REAL ESTATE SHARING COMMISSIONS**

- Which includes written irrevocable consent to service or process on Secretary of State
- Escrow funds are in Kansas
- Compensation sharing is described
- Both Kansas and foreign licensee agree to keep each other informed
- All documents provided to both brokers foreign and domestic
- Copy of signed agreement filed with KREC

# **QUIZ 2 FOR CREDIT**

- 6 – Confidential information can be held by a transaction broker - True or False
- 7 – Licensee has confidential information of benefit to a client should disclose it - True or False
- 8 – Protecting confidential information includes not disclosing a leaky roof - True or False

# **QUIZ 2 FOR CREDIT**

- 9 – Obligations to a customer is more than obligations to a client - True or False
- 10 – Statements by a client or customer have to be checked for accuracy - True or False



BEAUTIFUL PLACES



# **TEAMS**

- KAR 86-3-7 defines advertising as it pertains to real estate license law and clarifies requirements for affiliated licensees. The rules prohibit affiliated licensees from advertising a name or team name which:

# TEAMS

- Uses the terms “realty”, “brokerage,” “company,” or other terms that can be construed as a separate real estate company from their supervising broker’s company;
- Is more than 2x greater in font size than the supervising broker’s business name in the advertisement; and
- Is not adjacent to the supervising broker’s trade or business name

# TEAMS

## KREC GUIDANCE from KSA 58-3086

- Supervising Broker or Team Leader: Who is in Charge? The supervising or branch broker is responsible for supervision of all affiliated licensees including any team leaders and team members. A supervising broker is ultimately responsible for the brokerage and may be held accountable for violations committed by affiliated licensees, including team leaders or team members.

# **TEAMS**

- A licensee or consumer could confuse a team leader as the supervising broker when they possibly are not. The Company Search page is available to find the responsible broker of a company.

# ADVERTISING

- KREC GUIDANCE

What information must appear in all advertising of a listed property ?

- Licensees must include the supervising broker's business or trade name in all advertising. The supervising broker's business or trade name must be prominently and conspicuously displayed in comparison to the licensee's or team's name. See K.S.A. 58-3086.

# **ADVERTISING**

- Licensees must include any other information considered necessary by the supervising or branch broker. See K.S.A. 58-3086(b)(C).

# **QUIZ 3 FOR CREDIT**

- 11 – Seller disclosure forms are always required - True or False
- 12 – After the closing date passes without closing there is no contract - True or False
- 13 – Giving a lender a contract that is not the real deal violates the law - True or False

# **QUIZ 3 FOR CREDIT**

- 14 – Landlords do not have to disclose repairs needed on property sold - True or False
- 15 – Seller disclosure forms help prove what is known and what is disclosed - True or False

# **ADVERTISING – SPECIAL ISSUES**

- Owner written consent for signage
  - KSA 58-3062(a)(8)
- Disclosure of license status when selling your own property
  - KSA 58-3062(a)(15)
  - KAR 86-3-19

## **LICENSING – SPECIAL ISSUES**

Expiration of license; renewal (K.S.A. 58-3045)

- Two years from date of issuance or renewal
- Application form required
- License automatically expires if not renewed
- Reinstatement possible if within 6 months with payment of \$100 late fee
- If renewal filed, then license may continue to practice

## **LICENSING – SPECIAL ISSUES**

### Educational Requirements for Renewal

- (K.S.A. 58-3046a)
- 12 hours of CE required
  - Courses approved
  - School offering course approved
  - Instructor offering the training approved
  - No renewal without meeting educational requirements

## **LICENSING – SPECIAL ISSUES**

### Expiration Date of Licenses KAR 86-1-3

- The expiration date for each original license issued by the commission shall be the first day of the month of issuance two years after the issuance date. Each license renewed by the commission shall expire two years after the expiration date of the preceding license.
- This regulation shall be effective on and after January 1, 2019.

## **LICENSING – SPECIAL ISSUES**

- Include requirements to maintain and renew a Kansas real estate license (vs. association membership)
- KAR vs NAR vs KREC –
- Membership vs Licensing

## **LICENSING – SPECIAL ISSUES**

Minimum Curricula and Standards for Courses

- (K.A.R. 86-1-11)
- Kansas Required Core at least 3 hours plus
- Balance of 12 hours elective and
  - Courses taken in other states may qualify
  - Courses taken to renew appraisal license may qualify
  - Attending a commission meeting

# **KREC WEBSITE**

- FAQs

<https://krec.ks.gov/resources/faq's>

- Forms

<https://krec.ks.gov/forms>

- Checking on license status

[https://licensing.ks.gov/EGOV\\_KREC/Login.aspx?ReturnUrl=%2fegov\\_krec](https://licensing.ks.gov/EGOV_KREC/Login.aspx?ReturnUrl=%2fegov_krec)

## **KREC WEBSITE**

- Renew your license  
<https://krec.ks.gov/licensing/license-renewal>
- Find license law [https://krec.ks.gov/  
resources/commission-statutes-rules-and-  
regulations](https://krec.ks.gov/resources/commission-statutes-rules-and-regulations)

## **KREC WEBSITE**

- Reporting requirements
  - Criminal charges
  - Petition of suit

[https://krec.ks.gov/docs/default-source/forms/rel-700.pdf?sfvrsn=c9846ca3\\_14](https://krec.ks.gov/docs/default-source/forms/rel-700.pdf?sfvrsn=c9846ca3_14)

## **KREC WEBSITE**

- Request License Changes –
  - Deactivation or Reactivation  
<https://krec.ks.gov/docs/default-source/forms/reactivation.pdf>
- Change your address
- Change your affiliation with broker

# **ADDITIONAL RESOURCES**

- Sloan, Eisenbarth, Glassman, McEntire & Jarboe  
-- [sloanlawfirm.com](http://sloanlawfirm.com)
- Kansas Real Estate Commission  
-- [krec.ks.gov](http://krec.ks.gov)
- Kansas Assn. of REALTORS® -- 800-366-0069
  - Sign up for Legal Hotline -- 785-414-5153
  - Tech Helpline -- 866-432-3021



