



## **PUBLIC PROTECTION CABINET**

**Andy Beshear**  
Governor

**Kerry B. Harvey**  
Secretary

**Ray A. Perry**  
Deputy Secretary

**Kentucky Real Estate Commission**  
500 Mero Street, 2NE09  
Frankfort, Kentucky 40601  
(502) 564-7760  
<https://krec.ky.gov>

**Robert L. Astorino**, Executive Director  
Kentucky Real Estate Authority

**John Hardesty**, General Counsel  
Kentucky Real Estate Authority

## **KENTUCKY REAL ESTATE COMMISSION (KREC)**

### **MEETING MINUTES**

**January 21, 2021**

**\* This meeting occurred via Zoom Teleconferencing, pursuant to KRS 61.826\***

#### **Commission Members Present**

Commissioner Chair, Lois Ann Disponett  
Commissioner Larry Disney  
Commissioner James Simpson  
Commissioner Steve Cline

Commissioner Raquel Carter  
Commissioner James King  
Commissioner Anthony Sickles

#### **KREA Staff**

Robert Laurence Astorino, Executive Director  
John Hardesty, General Counsel  
Hannah Carlin, Education Coordinator  
Terri Hulette, Executive Administrative Secretary  
Angie Thomas, Executive Administrative Secretary  
Angie Reynolds, Administrative Specialist III

#### **Guests Present**

Brittany Mathis  
Charles Hinckley  
Chris Willenbring  
Douglas Meyers

Janie Wilson  
Jim DeMaio (RASK)  
Jocelyn Pomaes  
John Weikel

Joyce Sterling  
 Judy Ball  
 Kimberly Sickles  
 Lauren McMillion  
 Lester Sanders  
 Linda Flickinger  
 Lisa Stephenson  
 Margie Harper- HKAR  
 Mike Parker

Nicole Knudtson  
 Pam Carroll  
 Paul Ogden  
 Rhonda Richardson  
 Richard Wilson  
 Ron Sickles  
 Steve Lewis  
 Todd Epley  
 Virginia Lawson

**Call to Order and Guest Welcome**

The Kentucky Real Estate Commission meeting was called to order through video teleconference by Commission Chair, Lois Ann Disponett, at 9:04 a.m. on January 21, 2021. Roll call was taken and a quorum was present. Guests in attendance were welcomed and introductions of guests, staff, and commissioners were made.

**Swear In New Commissioners** At this time the new Commissioner Anthony Sickles was sworn in by Angie Thomas, KREA Staff Assistant and notary public.

**Approval of Meeting Minutes**

Commissioner Simpson made a motion to approve the **December 10, 2020** Commission Meeting Minutes. Commissioner King seconded the motion. With all in favor, the motion carried.

**Education and Licensing Report**

Ms. Carlin presented the Commission the following:

**1. Testing Statistics**

**December 2020 (First Time)**

<b>Type of Exam</b>	<b>Passed</b>	<b>% Passed</b>	<b>Failed</b>	<b>% Failed</b>	<b>Total Exams</b>
License Reciprocity- Broker	3	75.00	1	25.00	4
License Reciprocity- Salesperson	3	60.00	2	40.00	5
Broker- National	9	90.00	1	10.00	10
Broker- State	7	77.78	2	22.22	9
Salesperson- National	110	74.32	38	25.68	148
Salesperson- State	85	57.05	64	42.95	149
<b>TOTAL</b>	<b>217</b>	<b>66.77</b>	<b>108</b>	<b>33.23</b>	<b>325</b>

**December 2020 (Repeat)**

Type of Exam	Passed	% Passed	Failed	% Failed	Total Exams
License Reciprocity-Broker	0	0.00	1	100.00	1
License Reciprocity-Salesperson	2	40.00	3	60.00	5
Broker- National	2	50.00	2	50.00	4
Broker- State	2	100.00	0	0.00	2
Salesperson- National	29	41.43	41	58.87	70
Salesperson- State	52	47.71	57	52.29	109
<b>TOTAL</b>	<b>87</b>	<b>45.55</b>	<b>104</b>	<b>54.45</b>	<b>191</b>

**2020 (First Time)**

Type of Exam	Passed	% Passed	Failed	% Failed	Total Exams
License Reciprocity-Broker	9	69.23	4	30.77	13
License Reciprocity-Salesperson	21	58.33	15	41.67	36
Broker- National	81	66.94	40	33.06	121
Broker- State	72	56.25	56	43.75	128
Salesperson- National	1,077	73.72	384	26.28	1,461
Salesperson- State	893	58.33	638	41.67	1,531
<b>TOTAL</b>	<b>2,153</b>	<b>65.44</b>	<b>1,137</b>	<b>34.56</b>	<b>3,290</b>

**2020 (Repeat)**

Type of Exam	Passed	% Passed	Failed	% Failed	Total Exams
License Reciprocity-Broker	3	60.00	2	40.00	5
License Reciprocity-Salesperson	10	62.50	6	37.50	16
Broker- National	33	45.83	39	54.17	72
Broker- State	45	56.25	35	43.75	80
Salesperson- National	257	37.41	430	62.59	687
Salesperson- State	418	52.32	381	47.68	799
<b>TOTAL</b>	<b>766</b>	<b>46.17</b>	<b>893</b>	<b>53.83</b>	<b>1,659</b>

**1. Licensing Statistics****As of January 18, 2021**

Type	Active	Inactive	TOTAL
Sales Associate	11,383	5,650	17,033
Broker	3,968	789	4,757
<b>TOTAL</b>	<b>15,351</b>	<b>6,439</b>	<b>21,790</b>

**New Licenses Issued in 2020 (by month)**

Month	Sales Associate	Broker	Total
January	102	16	118
February	87	21	108
March	97	19	116
April	49	11	60
May	15	4	19
June	35	1	36
July	142	8	150
August	125	4	129
September	132	9	141
October	170	7	177
November	115	9	124
December	159	9	
<b>TOTAL</b>	<b>1,228</b>	<b>118</b>	<b>1,346</b>

The January 2021 **Continuing Education Applications** were reviewed for compliance with 201 KAR 11:170 and recommended to the Commission for approval by Hannah Carlin.

**Education Providers**

**Continuing Education and Post-License Education Courses**

**Kentucky Realtor Institute**

Course Name- Course Number	Instructors	CE Hours	PLE Hours
Real Estate Safety and Beyond Day 1 (23186)	Robert Siciliano	5 elective, 3 law	1 disclosure, 2 electives, 2 risk management, 3 technology

**a. Perry Real Estate College**

Real Estate Safety and Beyond Day 2 (23187)	Robert Siciliano	5 elective, 1 law	3 advertising, 3 agency, 2 elective
---	------------------	-------------------	-------------------------------------

**Lexington Bluegrass Association of Realtors**

Course Name- Course Number	Instructors	CE Hours	PLE Hours
Enforcing the Code and Its Standards (23194)	Bruce Aydt	6 law	4 elective, 2 risk management
Fair Hearings - Fair Results: Hearing Panel Chairs (23195)	Bruce Aydt	3 law	1 elective, 2 risk management
FLEX Technology (23197)	Stuart Raney, JP Stilz, Lucy Waterbury	3 elective	3 technology
Protect Your Real Estate Appraisal Practice (23196)	Larry Disney	3 law	1 elective, 2 risk management

**Post-Licensing Courses**

**Kaplan Real Estate Education**

Course Name- Course Number	Instructors	PLE Hours
The CIC Paperchase Online Video Course V1.0 (23198)	Ted Highland	3 disclosure

**Broker Curriculum Courses**

**Real Estate School**

Course Name- Course Number	Instructors	Broker Curriculum Hours
Broker: Mastering Real Estate Principles (23193)	Jeffrey Davis, Vickie Grimes, Regina Schaal	48

**Instructors**

- a. Bruce Aydt
- b. Nathan Chick

Commissioner Simpson made a motion to approve the list of applications. Commissioner Cline seconded the motion. Commissioner Disney abstained from the discussion and the vote. Remaining all in favor, motion carried.

Ms. Carlin presented the **January 2021** licensing requests:

## **BACKGROUND**

1. **267727** - The applicant submitted a broker's application without a background check. When KREC staff reached out to the applicant, he stated he did not get a background check because he did not realize he needed one. KRS 324.045 (5)(c) requires applicants to, "complete the criminal history check within the ninety (90) calendar days prior to the date the license application is received by the Commission." The applicant has since obtained a background check. He is asking the Commission to accept his exam scores.

Commissioner Simpson made the motion to deny. Commissioner Cline 2nd. Having all in favor, motion carried.

2. **265947** - The applicant failed to complete the required 48-hour Brokerage Management course prior to taking the broker's exam and submitting the application to the Commission. He originally submitted a request to the Commission to accept his exam scores at the September meeting. The request was denied. The applicant is requesting the Commission to re-consider his request because he is having difficulties finding a testing location near him.

Commissioner Sickles made the motion to deny. Commissioner Disney 2nd. Having all in favor, motion carried.

### **Executive Director Comments**

Director Astorino welcomed and introduced himself to the new Commissioner.

The Director stated that the Real Estate Authority is in the process of putting together an Annual Report. He offered an overview of KREC as a whole. There have been exceptional challenges brought to leadership in both private and public sectors due to the virus. Real Estate related businesses have experienced notable increase in service demand, as Ms. Carlin's report indicated. The board has also seen an increase in licensee membership. With that comes demands for services.

KREA is aware of this and are ever vigilante in both areas of licensee regulations and consumer protection. We are also aware that there are concerns regarding safety in a pandemic environment. This necessitates strong, decisive and traditional executive practices while maintaining the ability to lead teams of people who are working remotely. Most of the time they have never even 'met' you in person. We need them to do their best following certain practices which is what we call 'best practices'.

The Boards have implemented the practices, such as a greater flexibility to those working from home. We have clearly established priorities and goals for remote workers. While periodically following up with them to ensure that progress is advancing while staying on the path. We have maintained regular and informative communication up the line with the Cabinet and across the line with our Division.

Perhaps most importantly is that we recognize successes as they occur. There are many of these

occurrences in the report, but the Director wanted to share four of the major successes that relate to KREC specifically.

1. Due to the high volume of calls there are two members of staff dedicated solely to answering telephones.
2. We have also established, with the assistance of the IT Department, a monthly call log. It lists each call by duration and originating phone number. This is helpful in case we need to track down the validity of a customer service phone complaint.
3. This report has also been used as a tool to help to establish a quarterly surveys regarding Customer Satisfaction in relation to the intake calls. The last two quarters that we undertook the survey the results averaged in the “Highly Satisfied” category.
4. General Counsel and Ms. Carlin’s creation of the “Train the Trainer” Education Program. The idea was to clean up any misinformation and/or any lack of understanding concerning the regulations and statutes that govern the state of Kentucky. It was important and is a great reference tool for licensees.

We have also taken to heart the initiatives charged to us by the Secretary to deal with the backlog of consumer complaints. Which had spiked in 2019 and had been backlogged for nearly two years. Thanks to General Counsel John Hardesty and his legal team, the backlog of open unresolved disciplinary complaints has been drastically reduced by over 55%. The Director finds it to be exceptional work, especially in the mix of this remote work environment. To undertake that and reduce it by over half is outstanding work by legal staff.

Finally, we are starting to make Kentucky’s voice heard again within our industry. Part of that has to do with our pursuit of license reciprocity agreements that where once in place with many states. One will be approved today and we have another that will be presented at the February meeting. Giving us another border state and a few more in the works. We have opened a dialogue with the state of Florida with special thanks to Ms. Carlin.

Our voice is also being heard at the national organization, the real estate regulators, ARELLO – a special thanks to Chairperson Disponett and Commissioner Disney for their involvement.

### **Committee Reports**

#### **Education Committee**

There was no Education Committee report for this meeting.

#### **Applicant Review Committee**

Commissioner Simpson read the report of the Application Review Committee and the Committee’s recommended action on each licensee:

1. A.H. to approve
2. B. M. to approve
3. J.B defer to future meeting
4. J. M. previously approved
5. J.P. to approve
6. K.H. to approve
7. K.D. previously approved
8. W.C. to approve
9. T.E. to approve

### **Complaint Review Committee**

Commissioner Carter read the report of the Complaint Review Committee, and the Committee's recommended action on each Complaint, to be further discussed in Executive Session. The Committee's recommendations are as follows:

### **Final Adjudications**

**19-C-004 -** Complainant claims that he purchased a home and according to the Seller's Disclosure, there were no problems with the property. He admits he purchased the property "as-is," under the assumption it was in good condition. He also did not obtain a home inspection.

Complainant claims that once he moved into the property, he quickly noticed many problems. The Complainant provided a home inspection report (from an inspection he obtained after purchase), which showed one of the roof trusses had been cut to make room for HVAC system. He further claimed the roof leaked. He also claimed his agent, Respondent, told his fiancé and daughter the property had been inspected and the only problem was missing drainage platforms under the downspouts for the eaves. He claims Respondent, a dual agent, knew about the problems along with the seller and failed to disclose them.

Respondent denied that she assisted in completing or completed the Seller's Disclosure Form. She denied knowledge of any problems with the property, specifically relating to the HVAC and roof systems. She provided proof that she went over, in detail, the offer to purchase with Complainant and asked if he wanted a home inspection. She went so far as to explain at length his right to have an independent home inspection. Ultimately, Complainant never requested one. Respondent further denied she told Complainant's relatives about an alleged inspection and there were no issues with the property. In fact, she provided proof that she informed Complainant of the appraiser's inspection and required repairs.

The evidence suggests Respondent was diligent and open with Complainant about her knowledge of the property and his right to obtain an independent home inspection. There is no evidence that Respondent had any knowledge of problems with the property.



**The Committee recommends dismissal of the complaint.**

**19-C-013 -** The Complainant claims Respondent was advertising his company while only taking online real estate prelicense classes and when he was yet licensed as a real estate agent. The Respondent claimed his lawyer advised when setting up his company that it was permissible to use “Realty” in the name of his company as long as he did not perform any of the real estate brokerage activities until he obtained his license. He claimed he has done just that, and never obtained his real estate license. He obtained his apprentice auctioneer license in April 2017 and his principal auctioneer license in September 2018.

Respondent claimed he had one real estate sale since obtaining his principal auctioneer license. All brokerage activities related to sale were handled by a licensed broker. Respondent is not currently a real estate licensee. He did not complete his real estate education and obtain a license. Because of this, KREC does not have jurisdiction to discipline him. Regardless, it does not appear Respondent committed violations of KRS 324.160 or engaged in real estate brokerage without a license. At most, he should have been clear in advertising that his company would serve as the auction company and the other company would serve as the real estate brokerage for any real estate auctions. **The Committee recommends dismissal of the complaint.**

**19-C-027 and 19-C-050 –** The complaints are identical except that Complainant changed the name of the principal broker in the second one. Notably, these two complaints relate to and arise out of the same transaction as Case No. 19-C-006, which Complainant filed against the agents that represented her in the purchase of the subject property. The Commission dismissed that case at its September 2020 meeting for lack of evidence of violations against the respondents in that case.

The question presented is whether the Respondents violated KRS 324.160. While Complainant’s complaint is long and detailed, and she provided numerous exhibits and documents in support, none of them establish a violation against Respondents, or even give rise to a need to further investigate. There is no evidence Respondents, seller’s agents, withheld or hid information regarding what the seller intended to take with her upon selling the property. Further, there was no evidence Respondents violated their duties of good faith and fair dealing to Complainant in this transaction. **The Committee recommends dismissal of the complaint.**

**19-C-032 -** The Complainant claims that the Respondent, agent for her estranged husband and his girlfriend, unlawfully used her position as a real estate agent to allow the

Complainant's estranged husband and his girlfriend into the her property. The Respondent claims she is acquaintances with the husband's girlfriend. The girlfriend was doing a walkthrough of the home for supposed purchase.

Emails included as exhibits with Respondent's sworn answer appear to exonerate her. The evidence laid out above establishes that the Respondent was not told until they were on the property that it was the husband's marital residence with the Complainant. There is no evidence Respondent was aware of the mediation order or occupancy requirements in favor of the Complainant. The girlfriend had requested an appointment for a showing, and it was granted. The husband did not tell Respondent it was his martial residence, and there is an email after the fact wherein he apologized to her. Further, the husband provided notice to his attorney that he intended to visit the property, but his attorney failed to communicate that to Complainant's attorney in order to obtain the required permission.

To the extent that there was any wrongdoing, it was committed by the husband and/or his attorney, who failed to notify the Complainant subject to their mediation order, and not the Respondent. Thus, it does not appear the Respondent violated KRS 324.160. **The Committee recommends dismissal of the complaint.**

19-C-039 - The Complainants claim that they looked at property listed by Respondent, and placed an offer on it the same day. They claim they specifically asked Respondent about flooding issues and she said there were "none" as far as she knew. Complainants claim that upon securing their loan they learned the lender would require them to carry flood insurance. The Seller's Disclosure form states "UNKNOWN" for whether the area is located in a Special Flood Hazard Area mandating flood insurance. The Respondent did not and is not required to complete the Seller's Disclosure of Property Condition form. Further, she claims that while at the property, she provided Complainants with a copy of the listing which clearly states "Flood: Yes", and discussed with Complainants that the maps were changed in 2015 that now placed the property in the Special Flood Hazard Area. She further advised that while she lived at the property, and as far as she knew from seller, the property had never actually experienced flooding issues.

Based on the available evidence, it appears the Respondent truthfully told Complainant that while the water levels would rise at the property, none of the improvements ever flooded while she lived there and thus, she was not aware of flooding issues. She discussed with Complainants that the property was in a flood zone based on the 2015 flood map revision that required flood insurance. Further, the seller completed the Seller's Disclosure form, which states "Unknown" for

whether flood insurance if required. As a result, there is no evidence Respondent violated KRS 324.160. **The Committee recommends dismissal of the complaint.**

**19-C-048 -** The Complainant claims that he inquired about purchasing a closed Chase Bank location. He was contacted by Respondent who advised him the asking price on the property was \$999,000. He then spoke to Respondent on the phone and offered \$800,000 for the property. Respondent advised him there already was a higher offer on the property. Within a few weeks he met with the Respondent to discuss the purchase process. Respondent advised Complainant that he planned to review offers with his client on January 28, 2019. Complainant claims on that very day he sent an offer for \$999,000 along with a letter of intent. He did not immediately hear from the Respondent so he called him and Respondent said he had received the offer but asked what Complainant planned to use the property for and notified the Complainant that he would get back with him on soon. On February 4, 2019, Complainant inquired with Respondent about the status of the contract as they were approaching the deadline. On February 7, 2019, Respondent emailed to state he was waiting on direction from Chase and should hear something the following day. He stated the offer was presented to the Committee and he was waiting on direction. The Respondent did not respond for two weeks. By this time the Complainant's offer had expired. Complainant claims that in May 2019, he discovered the property was sold to another real estate broker. It was sold for the same amount he offered - \$999,000. Complainant claims he has been discriminated against by Respondent and/or Chase bank either because of heritage or occupation, and that undermined his opportunity to purchase the property. In his sworn answer, Respondent claims his brokerage had received an unsolicited purchase offer on the property from the ultimate buyer on December 17, 2018, more than a month before Complainant's offer, and then tendered it again on January 7, 2019. Respondent's company submitted both offers to Chase, which decided the property should be marketed fully prior to considering offers. After informing the Buyer of its position, the Buyer made an updated full cash offer on January 17, 2019. Respondent claims Chase Bank, the owner of the property, made the decision on which offer to accept. It chose the Buyer's offer because of its attractive terms, which he laid out in full in his sworn answer. The Committee believed it is clear that compared to Complainant's offer, the Buyer's offer would be much more appealing to Chase. There was no evidence of discrimination, nor other violations. The Committee determined a voicemail left by Respondent for Complainant stating Chase had gone with a "cash offer at a higher price" was not sufficiently misrepresentative or misleading, because while the accepted offer was for the same ultimate price as Complainant's offer, it was full cash and all terms were

higher and better than Complainant's offer. **The Committee recommends dismissal of the complaint with a letter of caution.**

**20-C-034 -** The Complainant asserts a number of different alleged violations against Respondent, including escrow account violations and misrepresentations. On the first property listing the Complainant claims that on March 5, 2020, her clients, the sellers of the property, entered into a contract to purchase their property with the Respondent's clients. The contract had a contingency that stated all timeframes in the contract would not begin to run until Respondent's clients' property was listed as "Pending". She claims the earnest money deposit was to be \$1,000. On March 18, 2020, she claims the Respondent's agent (Respondent was the managing broker), sent an email stating that the Buyers were not going to proceed on with the agreed contract terms, the Respondent's agent allegedly stated the Buyers had an interested party and if the Buyers were to receive an offer, they will write a new offer to submit. On March 19, 2020, Complainant claims the Respondent's agent informed her that the Buyers did not receive an offer and were walking away from the contract.

On April 2, 2020, Complainant claims the Respondent's agent was informed (likely by Complainant) that the sellers were not willing to sign a release of contract. Complainant claims as of the date of the complaint, the parties have not entered into a written mutual release. Despite that, she claims she is not sure if the earnest money was actually collected and deposited or returned to the buyers without a signed mutual release, thus ignoring KRS 324.111. As a result, Complainant claims Respondent violated KRS 324.111 and 324.160(h). The contract states the earnest money deposit shall be deposited "without unreasonable delay" upon acceptance and applied to the purchase price.

Notably, the contract clearly states the offer by the Buyer is a contingency contingent on the Buyer receiving an offer on their property. The contingency was without notice and stated that the contract was null and void if sellers accepted another offer, and the earnest money would be returned to the Buyer. Likewise, it goes into detail as to how the earnest money must be handled. In her sworn answer, Respondent noted her clients withdrew their home from the market because of COVID-19 and the risk of showings in light of the virus. Respondent claims that due to the contingency, the sellers agreed that all timelines would start once their home was placed in Pending Status. She claims this would include the clock for deposit of the earnest money, which is required without unreasonable delay upon acceptance. As a result, Respondent claims she is not in violation of KRS 324.111 or 324.160 because the earnest money was not to be collected until sellers marked their home pending in the MLS.

For this transaction, the Committee did not find clear evidence of violations and did not believe the earnest money deposit should have been collected until the Respondent's clients' property was listed as "pending" as which time the clock would begin to run so it was not an issue that Respondent did not collect the earnest money deposit since her clients' property was never pending. The only issue was Complainant's release letter suggested an earnest money deposit of \$1,000 had been collected, which was not true. In her reply, Respondent claims this was a mistake on her brokerage's part but argues it does not rise to the level of a violation. Just a simple mistake as the form that was used. The Committee felt a letter of caution to Respondent was appropriate to address this.

On the second property listing the Complainant claims that on April 7, 2020, her clients, the sellers entered into a contract to purchase with Respondent's clients. The earnest money deposit was to be \$1,000. Respondent's clients ultimately withdrew from the contract because of alleged material defects discovered in the inspection report. Which the contract permitted.

She claims as of the date of the complaint, the parties have not entered into a written mutual release. Despite that, she claims she is not sure if the earnest money was actually collected and deposited or returned to the buyers without a signed mutual release, thus ignoring KRS 324.111. As a result, Complainant claims Respondent violated KRS 324.111 and 324.160(h). Notably, the contract states the deposit shall be returned to Buyer if the Buyer cancels the contract based on the inspection, and also states the buyer is out of state and will need seven days to get Respondent the earnest money.

The Respondent claims the amount of \$1,000 was submitted to her brokerage on April 8, 2020 and deposited into the escrow account on April 9, 2020. Notably, Complainant included a copy of the earnest money check in her complaint yet stated in her complaint "I'm not sure the money was ever collected . . ." which the Committee felt could constitute a misrepresentation in her complaint.

Respondent stated that as of the date of her answer, the earnest money remains in her brokerage's escrow account and has not been returned to the buyers. She claims they were preparing to send out the 60-day letter per KRS 324.111 but then received this complaint, so that is now on hold pending resolution of the complaint. She claims as a result, she is not in violation of KRS 324.111 or 324.160.

KREC is not authorized to resolve contract disputes or engage in contract interpretation. It only has jurisdiction to determine if licensees complied with licensing law, and discipline them if they did not. The Respondent obtained and

deposited the earnest money, and it remains in her brokerage's account. She stated her brokerage was prepared to issue the 60-day release letter under KRS 324.111, but has held off pending the resolution of this case. It's also notable that Complainant claimed she did not know if the money ever was collected or deposited by Respondent but submitted the earnest money check in her complaint materials, which may constitute a misrepresentation in her complaint.

**The Committee recommends dismissal of the complaint with a letter of caution to the Respondent regarding the collection of earnest money as required and to ensure that release and all other forms contain accurate language, and a letter of caution to the Complainant regarding misrepresentation of facts in a sworn complaint.**

**Dismissals for Failure to Supplement Pursuant to KRS 324.151(1)**

- 20-C-004** – Complainant failed to supplement the complaint upon request. Complaint was not filed against licensee and was filed beyond statute of limitations. Committee recommended dismissal.
- 20-C-005** – Complainant failed to supplement the complaint upon request. Complaint was not filed against licensee and was filed beyond statute of limitations. Committee recommended dismissal.
- 20-C-010** – Complainant failed to supplement the complaint upon request. The complaint did not contain a narrative or statement of the case; it only contained a cover page. Committee recommended dismissal.
- 20-C-012** – Complainant failed to supplement the complaint upon request. Complainant filed the complaint against a community association manager, over whom KREC does not have jurisdiction. Committee recommended dismissal.
- 20-C-026** – Complainant failed to supplement the complaint upon request. Original complaint did not state a prima facie violation of KRS 324.160. Committee recommended dismissal.
- 20-C-030** – Complainant failed to supplement the complaint upon request. Original complaint did not state a prima facie case of a violation against a licensee. Committee recommended dismissal.
- 20-C-031** – Complainant failed to supplement the complaint upon request. Original complaint did not state a prima facie case of a license law violation. Committee recommended dismissal.

- 20-C-032** – Complainant failed to supplement the complaint upon request. Original complaint did not state a prima facie case of a license law violation. Committee recommended dismissal.
- 20-C-037** – Complainant failed to supplement the complaint upon request. Original complaint did not state a prima facie case of a license law violation. Committee recommended dismissal.
- 20-C-038** – Complainant failed to supplement the complaint upon request. Original complaint did not state a prima facie case of a license law violation. Committee recommended dismissal.
- 20-C-041** – Complainant failed to supplement the complaint upon request. Original complaint did not state a prima facie case of a license law violation. Committee recommended dismissal.
- 20-C-045** – Complaint did not state prima facie violation, not submitted on correct form, and not notarized. The Commission cannot request a supplement because the complaint is anonymous. Committee recommended dismissal.

### **Pending Actions**

- 19-C-002** - The CRC Committee recommend to refer the case for further investigation to determine if violations occurred, including if Respondent ever remitted funds to the surveyor and whether Respondent was able to locate records of transaction he was required to retain.
- 19-C-017** - The Committee determined Respondent committed a violation. Therefore, the Committee recommends discipline in the form of a formal reprimand and three (3) hours of continuing education in advertising for violation of 201 KAR 11:105(2) (in effect at the time of the incident). The Committee recommends the Commission authorize General Counsel to attempt to settle this matter for the required discipline.
- 19-C-034** - The Committee recommend to refer the case for further investigation regarding whether Respondent committed violations of KRS 324.160, including to investigate and review correspondence between the parties and necessary documents.
- 19-C-037** - The CRC Committee recommend to refer the case for further investigation to assess if Respondents committed violations.

**19-C-047 -** The Committee recommend further investigation, including whether Respondent committed fraud as defined in KREC's statutes and regulations, and whether the alleged issue should have been disclosed on the Seller's Disclosure form.

**19-C-049 -** The Committee recommends to refer the case for further investigation, to be completed promptly, to assess whether unlicensed brokerage activities occurred.

### **Statement from John Weikel**

At this time John Weikel has asked to speak to the Commission, and Chair Disponett recognized him. He introduced himself as the owner of A-Pass-Weikel Institute. Due the recent loss of his parents and dealing with the COVID-19 restrictions, Mr. Weikel claimed he lost track of a filing deadline for instructors and a filing deadline for course renewals. He owns that he did that and is sorry. When the issue was identified over the weekend prior to the December meeting he submitted the application forms, though incomplete for approval along with \$2500 dollars. He was under the misunderstanding that the deadlines could be extended. He asked that the Commission pass two motions –

1. Approve the Instructors filings as submitted to the Commission by Mr. Weikel on behalf of the A-Pass-Weikel Institute with an effective date of the original deadline. So that the licensees have continuity of service.
2. Approve three courses –
  - a. Course 100AB - Pre-license program
  - b. Course 204 – Real Estate Law
  - c. Course 302 – Brokerage Management

Given the Commonwealth's State of Emergency and the Governor's Executive Orders, he respectfully asks for the Commission to vote as requested on the above issues.

General Counsel and Chairperson Disponett shared their sympathies for Mr. Weikel's recent losses. General Counsel noted to the Commissioners that they run into these issues often with each licensing board. That in accordance with regulation 201 KAR 11:170 Section 15 states that the first provider application, course approval application, and instructor application for each provider, course, or instructor received after the effective date of this administrative regulation shall be considered an initial application for purposes of the application and renewal processes prescribed in this administrative regulation.

It was General Counsel's noted the applications were severely deficient and missing many required documents. Because these applications were submitted the day before the meeting on December 9th, where there wasn't enough time for licensing and education staff to properly



review the multi-paged documents prior to the December meeting. In mid-December when the applications were reviewed by Ms. Carlin, they were found to be incomplete. Ms. Carlin reached out to the staff of at A-Pass-Weikel Institute and instructed them as to what was missing and what needed to be supplemented. The completed applications where not received until two days from this meeting, January 19th. Moreover, they were simply dropped off in a box at the office, while everyone is currently working from home and not in the office on a daily bases due to COVID restrictions.

General Counsel advised the Commission to be consistent as to how they handle such issues as any action here may set precedent.

Ms. Carlin also added that due to the changes in the application regulation it was of the utmost importance to review the course documents in their entirety as presented by Mr. Weikel prior to their approval to make sure that they are up to date and correctly reflect the current statutes and regulations. That it would be a disservice to the applicant, the licensee, and the consumer to not review all the applications and course material. We want to make sure that we are training our licensees to the best of our abilities. In her tenure with the Commission, she has never put a course on the Agenda that had not been processed by the book, she feels to do so would set a dangerous precedent for the future.

Mr. Weikel offered his personal assurance that the three courses he was asking for approval for today exceed the state guidelines. He is now asking for help with that from the Commission. Being that it was used in those instances that it be used today.

Commission Carter stated just for clarification, that there are two separate issues at this time: applications and course approval. The Commission had just received the information and it has not gone through the appropriate review process. That despite being way past the deadline the Commission has still been willing to work with Mr. Weikel to get these matters resolved. Ms. Carlin confirmed that Commissioner Carter was correct. Ms. Carlin also noted that once properly reviewed, if the applications and course material is complete and in compliance they will be on the February Agenda for approval.

The Commission took no action related to this matter and Mr. Weikel's statements.

### **Executive Session Legal Matters and Case Deliberations**

At 10:01 a.m. Commissioner Disney made a motion to enter executive session, pursuant to KRS 61.810(1)(c) and (j), and KRS 61.815 to discuss proposed or pending litigation and deliberate on individual adjudications and to discuss 9 new applications reviewed by the ARC, and the 25 above CRC case recommendations as offered by Commissioner Carter:

- 19-C-002
- 19-C-004
- 19-C-013
- 19-C-017
- 19-C-027 and 19-C-050
- 19-C-032
- 19-C-034
- 19-C-037
- 19-C-039
- 19-C-047
- 19-C-048
- 19-C-049
- 20-C-034

- 20-C-004
- 20-C-005
- 20-C-010
- 20-C-012
- 20-C-026
- 20-C-030
- 20-C-031
- 20-C-032
- 20-C-037
- 20-C-038
- 20-C-041
- 20-C-045

Commissioner Cline seconded the motion and the Commission entered into closed session discussion.

### **Reconvene Open Session and Committee Recommendations**

Commissioner Simpson motioned for the Commission to come out of executive session and Commissioner Cline 2<sup>nd</sup> the motion. Commission Chair Disponett resumed the full Commission meeting at 10:48 a.m. and welcomed everyone back attending the teleconference Commission meeting.

Commissioner Carter made the motion to adopt the **Applicant Review Committee** recommendation report as stated. Commissioner Sickles 2<sup>nd</sup> the motion. Having all in favor, motion carried.

Commissioner Disney made the motion to adopt the **Complaint Review Committee** recommendations as stated. Commissioner King 2<sup>nd</sup> the motion. Having all in favor, motion carried. Commissioner Simpson abstained from the vote.

### **Public Comment**

Kim Sickles welcomed Commissioner Sickles to the Commission and wanted to let everyone know that he is awesome.

Mr. Weikel thanked the Commissioner for allowing him to speak today and wished that they would reconsider. That the information was sent to the Commission weeks before this meeting and he would appreciate it if they would pass his requests today as presented.

### **Legal Report**

#### **Docket Update**

General Counsel stated that the CRC and the legal team were making good progress while consistently moving these cases along. There are several Administrative Hearings that are proceeding right now and a few more in the not too distant future. He has been authorized by the Commission to settle a number of cases with discipline and is in the process of reaching out to the involved parties. He thanked both Brian Travis and Angie Reynolds for their contributions. Mr. Travis has recently finished two big investigations that he will later present to the Commission at an upcoming meeting. He also thanked Commissioners Carter and Cline for their hard work this month on the Committee.

### **Advertising Question – Business Cards and Similar Advertisements**

A brokerage asked if a business card with the agent's picture and contact information on the front and their broker's information on the back is permissible under the Commission's current regulations and statute regulations.

General Counsel noted that first, the Commission would have to consider if the business card is one advertisement or two. One for each side of the card, if it would it be considered as two separate advertisements. According to 201 KAR 11:105 Section (2) states that – All advertisements shall include: (a) The full name of the real estate brokerage company registered with the commission; or (b) The full name of the principal broker registered with the commission, with a clear designation of principal broker status. The required content must be displayed in written text. Must be clear and visible to a typical observer of the advertisement; and not be false, misleading, or deceptive. In addition the regulation allows for the name of an affiliated licensee use of an alternate or an assumed name to be included on an advertisement. It cannot appear larger than the name of the brokerage or the name of the principal broker.

The definition of Advertisement under the KREC regulation is any manner, method, or activity by which a licensee of the Commission makes known a specific property for sale or lease. Or any services for which a real estate license is required. It does not include private communications between a licensee and a client or a prospective client, directional or pointer signs that only provide directions to the listed property. Direction signs that do not include licensee or broker information.

The Commission did not find the business card to be violation of the Advertising regulation. They considered it one form of advertising and not two. That it was fine for the licensee's name and picture to be one on side while the principal broker information is on the other side. With the requirement that the name of the brokerage or principal broker be as big as or larger than the affiliated licensee's name and information. Which it was.

### **Using the words “Realtor or Real-Estate” in their team**

As previously discussed in the May 2020 KREC meeting General Counsel summarized that the thoughts expressed at the time are these phrases in a team or group name are not precisely prohibited by the current statutes and regulations. The Commissioners were concerned that the use of the phrases “Real Estate” or “Realty” in a team or group name that could be considered misleading. Misleading in regard to the consumer or anyone that views that team or group name as offering real estate brokerage services separate or independent of the principal broker. Which is not allowed.

While it is not currently prohibited by the regulations and statutes, if the Commission wanted to make it explicit then they would want to give some thought as to how they would like to amend

the regulations. In addition to looking at the legal ramifications.

The previous conclusion that was reached was that **using the words “Realtor or Real-Estate” in their team** names will be viewed on a case by case bases as per regulation 201 KAR 11:105 and statute KRS 324.117 (Advertising). Since the May meeting no complaints have been filed related to such issues.

Commissioner Cline feels that a case-by-case basis is too broad and that it needs to be straightened out. There are too many questions regarding this matter among the licensees across the state. He feels that it needs to be somewhat defined and easier for people to understand what the Commission expects. That the current regulations and statutes do not represent what was originally voted on by the Commission.

Mr. Mike Parker asked to comment on the discussion. He stated that he agreed with Commissioner Cline to a point. That while they should not be allowed to use the ‘Realty’ in a group or team name, because it suggests a Real Estate company. But the word ‘Real Estate’ should be allowed use because it tells the viewer what they do.

General Counsel noted that there would need to be a line added to the advertisement regulations. One that would explicated prohibit the use of those words. He also asked the Commission to consider the rebranding cost to the many licensees that currently use this verbiage. He also stated that the Legislative Research Commission (LRC) doesn’t always allow a certain changes to be made. Sometimes they make suggestions based on what, at that time, is considered permissible. He will to look into it, but asked the Commissioners to reach out to previous employees or anyone that may have worked on it in the past for information as to why certain changes were or were not made. Chairperson Disponett asked Commissioner Cline to look into this.

Ms. Rhonda Richardson stated that the LRC Committee should have a copy of what was presented to them for approval in additional to any minutes from their meetings that would detail any variations from the original submissions to and from LRC.

### **Illinois Diversity Legislation**

Commissioner Disney stated that he did not have much to report. That the **Illinois Diversity Legislation** was currently in Committee. It consists of legislation that if a real estate agent or appraiser licensee demonstrates a failure to observe the ‘Diversity, Equity, & Inclusion’, such as inappropriate comments and/or conduct, it would not only influence their C.E. but could result in the revoking of their license(s). Illinois has clearly defined it, it has its own classification and is not under another category such as Ethics. Commissioner Disney has a copy that he will circulate to interested parties. He finds that it has merit and that something like this should be considered by the Commission. He feels that it about time the Commission sends a message that this type of

behavior will not be tolerated. He currently does not know where it stands in the Committee but will find out and report his findings back to General Counsel.

Commissioner Sickles stated he had also reviewed the **Illinois Diversity Legislation**. He feels that at this time Kentucky has an opportunity to lead by example in the diversity effort. The Commission is the most diverse as it has ever been. He feels that can position them into being a National Leader in this area. That he would be interested in forming an Exploratory Committee to help investigate, facilitate courses and research for mandatory diversity training. In addition to helping to pursue legislative action(s) much like Illinois has done.

Chairperson Disponett stated that in October she had appointed Commissioners Disney and Carter to work on a Diversity, Equity, & Inclusion subcommittee. The subcommittee would welcome Commissioner Sickles if he was interested in joining. For a three person subcommittee one of the members would not vote unless it was to break a tie.

### **New Business**

Chairperson Disponett stated that the **timeframe for requests to be on the agenda** needs to allow the submission of information to the KREC staff in a reasonable amount of time prior to it being added to the following meeting. Therefore allowing enough time for the Commissions to review, researched and study the submitted material as needed. Commissioner Disney asked if a 10 to 14 day receipt of board meeting materials prior to being placed on the agenda would offer enough time to the staff. Commissioner Carter asked if 14 to 21 days would be more effective.

Ms. Carlin noted that the staff's internal goal is to have the information presented to the Commission members in Board effects at least seven days prior to the meeting. Unfortunately it doesn't always mean staff as received all the information from the involved parties as needed prior to nor is it not the only responsibility of the staff. For the Course Application the regulation lays out the time frame. For C.E. courses, a completed application packet is required 60 days prior to the date of the course. A pre-licensing course or a broker education course, those are required 90 days prior to the date of the course. Those have a greater time frame. When it comes to individual licensing request, she is inclined to say 14-days because those take less time to review and put together.

Commissioner Carter made the motion that all requests as related to licensees, applications and items, aside from courses, to be submitted no later than 14-days prior to the next scheduled Commission meeting. Commissioner Disney 2nd the motion. Having all in favor, motion carried.

Ms. Carlin stated that the Chair has been very outspoken about her desire to request that all the Commission members take the **At Home with Diversity Training**, a course currently being offered by the National Association of Realtors, (NAR). Chairperson Disponett encouraged

anyone who hadn't taken the **At Home with Diversity Training** to do so. Many of the Commissioners had already or were in the process of. The Chair and Commissioner Disney stated that it was very enlightening and educational. The cost to the Commissioners can be covered by the KREC Recovery Fund, if the Commissioners choose to attend.

Commissioner Simpson made the motion that cost of the Commissioners attending the **At Home with Diversity Training** offered by the NAR would be reimbursed from the Recovery Fund. Commissioner Disney 2nd the motion. Having all in favor, motion carried.

Ms. Carlin pointed out the **2021 KREC - 180 Day Objectives**. The second page details the objectives. She, the Madam Chair and the Executive Director worked very hard on this. They had discussed many times what they would like to see accomplished by the Commission in the next 6-months. They felt these to be the main points but items can be added as needed.

1. Establish and maintain a process for expedient turnaround of license application, and license related requests, and maintain that standard throughout 2021. This process would include periodic updating of web site information as reference for basic licensee questions.
2. Working with KREC legal team, build on progress made in 2020. Reduce backlogged discipline cases to under 100, and maintain that level of performance throughout 2021 and track /update monthly
3. Evaluate possible ambiguities which may exist in selected forms, and possibly certain regulations. If change is deemed to be needed, develop appropriate and clear specific changes to said forms and possibly regulations thereby ensuring best outcome for users and public customers.
4. Aggressively seek license reciprocity with all Kentucky Border States and Florida. Also initiate discussions with North Carolina, and South Carolina, which offer statutory reciprocity and do not wish to sign agreements.
5. Investigate, define, and create a practical diversity and inclusion initiative possibly attracting under represented segments of the population into the real estate profession.

Executive Director Astorino stated that he felt these were spot on with what he had heard on this call today. He is gratified to see that these have been accepted enthusiastically and that it matches what the Commission is wanting to achieve. That is what we are here to do.

## **Reciprocity Agreements**

Commissioner Disney made the motion to accept the presented signed Reciprocity Agreement with the state of Tennessee. Commissioner King 2nd the motion. Having all in favor, motion carried.

### **Committee Appointments**

At this time Chairperson Disponett appointed Commissioner Sickles to set on the rotating CRC subcommittee with Commissioner Disney.

### **ARELLO Appointments**

Chairperson Disponett reminded the Commission how staff and Commission members had attended Arello virtual training back in November of 2020. They had good exchanges and met a lot of people via Zoom. She recently discovered in December that many employees and Commission members had been appointed to Arello leadership subcommittees.

- KREA Director Robert Astorino – the Fair Housing Committee
- KREC Chairperson, Lois Ann Disponett – Exam Accreditation, Membership and Commissioner Resource Committee
- Commissioner Larry Disney – License Portability Task Force and Investigator Audit Committee
- Hannah Carlin, Education and Licensing Coordinator / Records Custodian - Fair Housing Committee
- Brian Travis, KREC Investigator - Investigator Audit Committee

Commission Agreed to have a Special Meeting to discuss 'Forms & Written Consent vs. Listing Agreement'. The members agreed to meet 1:00 p.m. Wednesday March 3<sup>rd</sup> via Zoom.

### **Approval Per Diem**

1. Commissioner Disney made a motion to approve the per diem for Commissioners Simpson and Commissioner King for the attendance of the January 20, 2021 Application Review Committee meeting. Because it was teleconferenced, there were no travel expenses. Commissioner Carter 2nd the motion. Having all in favor, the motion carried.
2. Commissioner Simpson made a motion to approve the per diem for Commissioners Carter and Commissioner Cline for the attendance of the January 20, 2021 Complaint Review Committee meeting. Because it was teleconferenced, there were no travel expenses. Commissioner King 2nd the motion. Having all in favor, the motion carried.
3. Commissioner Simpson made a motion to approve the per diem for the January 21, 2021 KREC meeting. Because it was teleconferenced, there were no travel expenses. Commissioner Sickles 2nd the motion. Having all in favor, the motion carried.

**Meeting Adjournment**


The next KREC meeting will be February 18, 2021 at 9:00 a.m. Watch for a zoom link.

Commissioner Disney made a motion to adjourn the meeting. Commissioner King seconded. Having all favor, the motion carried and the meeting adjourned at 11:57 a.m.

I, Robert Astorino, Executive Director of the Kentucky Real Estate Authority, have reviewed and pursuant to KRS 324B.060, have (Approved or Disapproved) the expenditures of the KREC (Insert name of Board) as described in these attached minutes.

Meeting Date 02/24/21

I have not reviewed, nor did I participate in discussions, deliberations, or decisions regarding, the actions of the Board as it relates to individual disciplinary matters, investigations, or applicant reviews.

  
Robert Astorino, KREA Executive Director

Date 02/24/21