

**AGENDA**  
**October 19, 2020**

**MEETING INFORMATION:**

**<https://zoom.us/j/2135172100?pwd=K0R6TUN6aE03U1pqQVozSmNkYUZ3Zz09>**

**Meeting ID: 213 517 2100**

**Passcode: 4ZdneR**

**Phone: +1 669 900 9128**

**Meeting ID: 213 517 2100**

**Passcode: 074701**

9:00 a.m. Call to Order – Additions to Agenda

1. Approval of the Minutes of the August 24, 2020 Commission Meeting
2. Unlicensed Activity Discussion—Followup from Aug. 24, 2020 Meeting
3. Staff Reports
  - Compliance Report
  - Licensee, Education and Exam Report
  - Director’s Report
4. Executive Session – Personnel
5. Possible Public Comment

Adjournment

Upcoming Commission Meeting Dates:

- December 7, 2020

# **KOMA SCRIPT**

Script for an Open Meeting Via Conference Call Under Disaster Declaration – **October 19, 2020**

Hello, I am **Errol Wuertz** and I serve as chairperson of the Kansas Real Estate Commission pursuant to K.S.A. 74-4202. I ask the members of the Commission to respond to a roll call to signify their presence at this open meeting via conference call (**Executive Director, Erik Wisner** will conduct roll-call vote):

**Bryon Schlosser, Vice-Chair**  
**Connie O'Brien**  
**Joe Vaught**  
**Sue Wenger**

I note that the following staff members are also present:

**Erik Wisner**  
**Kelly White**  
**Amber Nutt**  
**Stacey Serra**  
**Alycia Smith**  
**Wendy Alkire**  
**Athena Andaya**  
**Jane Weiler**

For the members of the public who are attending this meeting, we note that we provided the agenda to the individuals who have asked for notice of our meetings. If you wish to have a copy, you may request it by sending an email to [krec@ks.gov](mailto:krec@ks.gov) with the subject line "REQUEST FOR THE AGENDA" and it will be sent to you.

Public comment has been noticed up in the agenda and public comment will be taken today. Public comment allows the public to address the Commission about its concerns. However, the Commission is not required to comment or deliberate on the matter pursuant to the Kansas Open Meetings Act (KOMA). Further, as it is likely we do not know what the individual is concerned about, we would want to provide notice to the public of our intent to discuss a particular matter so that they may listen and observe our discussion. Each individual will have 5 minutes to present their concerns to the Commission. If additional time is required, the Commission will ask the individual to send us a written correspondence stating the concern.

An executive session is in the agenda. If the Commission will exercise the option to go into executive session, the Commission will follow this process:

1. First the Commission must be in an open session, before going into an executive session.
2. Then, a motion must be made, seconded, and a majority of the Commission must vote to approve of the motion. The motion must contain statement of Justification for closure or explanation of what is

to be discussed (without revealing confidential information); Subject(s) to be discussed pursuant to K.S.A. 75-4319(b); and Time and place open meeting will resume.

3. Finally, the complete motion must be recorded in the minutes.

4. All individuals not invited to participate in the executive session, including members of the public, will be locked out of the meeting for the duration of the executive session. The public meeting will NOT reconvene until the designated time in the motion and the meeting room will reopen for access prior to the beginning of the public meeting.

Because we are conducting this public meeting by conference call, I state for the record the following information or requirements:

1. A public notice of this meeting was issued on **August 24, 2020**. The notice contains the call in number to allow the public to attend this meeting free of charge.
2. As of the start of this meeting, Governor Kelly has not temporarily suspended the requirements of the KOMA. We will be conducting this meeting pursuant to KOMA and the requirements of K.A.R. 16-20-1.
3. Conference call is the only medium for interactive communication offered for this meeting.
4. Each member of the Commission, staff or presenter shall state the person's name and title each time the person speaks or votes, as the case may be.
5. Each participant to this meeting shall ensure microphones, phones, or other electronic devices are muted when the participant is not speaking.
6. Each motion will be clearly stated before the Commission votes and the Chairperson will announce the result of the final vote; and
7. Clearly identify and authorize by delegation each member of the public body or staff who will be permitted to sign any binding document for the Board.

We have **five** items listed on our agenda. We will begin our discussions of these items now.

**MINUTES OF THE  
AUGUST 24, 2020  
COMMISSION  
MEETING**

MINUTES OF THE MEETING  
Kansas Real Estate Commission  
August 24, 2020

The Kansas Real Estate Commission held its regular meeting on Monday, August 24, 2020, at 9:00 a.m. by telephone conference call

**Commissioners Present:**

Errol Wuertz, Chairperson  
Bryon Schlosser, Vice-Chairperson  
Joe Vaught, Member  
Sue Wenger, Member  
Connie O'Brien, Member

**Staff Present:**

Erik Wisner, Executive Director  
Kelly White, Deputy Director, Director of Licensing and Education  
Wendy Alkire, Director of Compliance  
Amber Nutt, Real Estate Education Specialist  
Stacey Serra, Legal Assistant

**Kansas Real Estate Commission Legal Counsel:**

Athena Andaya, Assistant Attorney General  
Jane Weiler, Assistant Attorney General

**Members of the Public:**

Kathy McCarty  
Mark Tomb  
Kimberly Goudy

**Call to Order**

Mr. Wuertz called the meeting to order at 9:00 a.m. and called the roll to signify presence at the open meeting via conference call.

**Approval of the Minutes of the July 20, 2020 Meeting**

Mr. Schlosser moved the minutes of the July 20, 2020 meeting be approved. Mr. Vaught seconded the motion. Motion carried unanimously.

**Compliance Report**

The Commission reviewed the status of open legal cases. The oldest complaint pending review (not on hold) is from January 15, 2020. The oldest disciplinary file pending staff review is from January 3, 2019. The oldest disciplinary file pending review by the attorney general's staff is from March 4, 2019.

Staff completed nine compliance reviews in FY2021. The current turnaround time for compliance review results is 13 months. Zero transactions were reported by 23% of brokers in the last four fiscal years. No repeat violations were found during three follow up reviews in FY2021. Eight percent of complaints in the last four fiscal years were reported anonymously.

Compliance courses are scheduled for October 1 and 13, 2020 and January 21 and 28, 2021.

### **Licensee, Education and Exam Report**

As of July 31, 2020, there are 17,478 licensees and 314 pending applications (92 salesperson, 17 broker and 208 fingerprint-only files).

Staff approved one principles of real estate course, one Kansas practice course, four elective and two mandatory continuing education courses from July 1 to July 31, 2020.

In FY2021, Pearson Vue administered 317 exams with an overall pass rate of 68%. Two brokers and 34 salespersons tested based on requirements met in another state. Brokers had a 50% pass rate, and salespersons had an 88% pass rate.

The Commission reviewed proposed updates from schools to the outlines for the principles of real estate and the Kansas practice courses. The Commission directed staff to solicit feedback from licensees.

### **Director's Report**

The Commission reviewed the proposed FY2021-FY2023 budget. Overall expenditures outside of salary and wage increases are estimated to remain unchanged from FY2019 and FY2020 (pre-pandemic) levels for FY2021-FY2023. Overall revenue is expected to decline in FY2022 and FY2023 due to a decrease in license applications. Overall fee fund carryover is expected to decline by about \$76,000 but carryover should still be above 75% of operating expenses.

Mr. Schlosser moved to approve the realigned FY2021 and proposed FY2022 and FY2023 Commission budgets and to give Mr. Wisner authority to make any technical or other changes requested by the Division of Budget and the Governor's office during their review. Mr. Vaught seconded the motion. Motion carried unanimously.

The Commission reviewed proposed changes to K.A.R 86-3-22 transaction identification, K.A.R. 86-3-10 retention of records, K.A.R. 86-3-18 trust account records, and K.A.R. 86-3-21 trust account documentation. The proposed changes would eliminate the requirement for transactions to be numbered chronologically, remove redundant language, and clarify which records must be maintained in the broker's business files.

Mr. Schlosser moved to give Mr. Wisner authority to work with general counsel to commence the promulgation of the changes proposed to the regulations. Mr. Vaught seconded the motion. Motion carried unanimously.

### **Unlicensed Activity Discussion**

Mr. Wisner compared the statutes pertaining to the definition of a broker (K.S.A. 58-3035), activities requiring a license (K.S.A. 58-3036), licensure exemptions (K.S.A. 58-3037), and penalties for violations (K.S.A. 58-3065) to the cease and desist language for unlicensed persons in the statutes for the Kansas Board of Veterinary

Examiners (K.S.A. 47-834) and the Kansas Board of Cosmetology (K.S.A. 65-1908). Ms. Andaya will draft statutory language to give the Commission the authority to discipline unlicensed persons conducting activities requiring a Kansas real estate license and subpoena power.

**Overview of Felony Bar Provisions in K.S.A. 58-3043**

Ms. Andaya gave an overview of K.S.A. 58-3043 and indicated the authority to renew or grant an original license in subsection (f) only applies after the five or 15-year bar in subsection (e) has elapsed. The Commission does not have authority to waive the bar periods.

**Public Comments**

No public comments were made.

Mr. Schlosser moved to adjourn the meeting. Mr. Vaught seconded the motion. Motion carried unanimously.

Mr. Wuertz adjourned the meeting at 10:57 a.m.

Attest: \_\_\_\_\_

\_\_\_\_\_  
Errol Wuertz, Chairperson

\_\_\_\_\_  
Bryon Schlosser, Vice-Chairperson

\_\_\_\_\_  
Connie O'Brien

\_\_\_\_\_  
Joe Vaught

\_\_\_\_\_  
Sue Wenger

**UNLICENSED  
ACTIVITY  
DISCUSSION**

**From:** [Andaya, Athena](#)  
**To:** [Wisner, Erik \[KREC\]](#)  
**Cc:** [Weiler, Jane](#); [Andaya, Athena](#)  
**Subject:** Proposed Legislation  
**Date:** Friday, October 9, 2020 4:45:39 PM  
**Attachments:** [Unlicensed Practice DRAFT Legislation.docx](#)  
[Penalties for Violation DRAFT Legislation \(Administrative Fine and Cease...docx](#)  
[Powers of the Commission \(Subpoena\) DRAFT Legislation.docx](#)

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**EXTERNAL:** This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Erik,

As requested by the Commission, here are the changes that I believe are necessary in the current statutes to:

- to effectuate a limitation on the sale of real estate without a license in order to protect the public health, safety, and welfare;
- to provide authority to discipline unlicensed persons conducting activities requiring a Kansas real estate license,
- to provide authority for an administrative fine and a cease and desist;
- and add the subpoena power.

Jane has reviewed the drafts and approves. Please let me know if you have any questions.

Sincerely,  
Athena E. Andaya, Deputy Attorney General  
Office of the Kansas Attorney General Derek Schmidt  
Legal Opinions and Government Counsel Division  
120 SW 10th Avenue, 2nd Floor  
Topeka, Kansas 66612-1597  
Phone: (785) 368-8401  
Fax: (785) 296-6296  
[Athena.Andaya@ag.ks.gov](mailto:Athena.Andaya@ag.ks.gov)  
[www.ag.ks.gov](http://www.ag.ks.gov)

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As used in this act, unless the context otherwise requires:

- (a) "Act" means the real estate brokers' and salespersons' license act.
- (b) "Advance listing fee" means any fee charged for services related to promoting the sale or lease of real estate and paid in advance of the rendering of such services, including any fees charged for listing, advertising or offering for sale or lease any real estate, but excluding any fees paid solely for advertisement or for listing in a publication issued for the sole purpose of promoting the sale or lease of real estate wherein inquiries are directed to the owner of the real estate or to real estate brokers and not to unlicensed persons who publish the listing.
- (c) "Associate broker" means a licensee who is employed by another broker or is associated with another broker as an independent contractor and participates in any activity described in subsection (f).
- (d) "Branch broker" means a licensee who has been designated to supervise a branch office and the activities of salespersons and associate brokers assigned to the branch office.
- (e) "Branch office" means a place of business other than the principal place of business of a broker.
- (f) "Broker" means a licensee, other than a salesperson, who advertises or represents that such individual engages in the business of buying, selling, exchanging or leasing real estate or who, for compensation, engages in any of the following activities as an employee of, or on behalf of, the owner, purchaser, lessor or lessee of real estate:
  - (1) Sells, exchanges, purchases or leases real estate.
  - (2) Offers to sell, exchange, purchase or lease real estate.
  - (3) Negotiates or offers, attempts or agrees to negotiate the sale, exchange, purchase or leasing of real estate.
  - (4) Lists or offers, attempts or agrees to list real estate for sale, lease or exchange.
  - (5) Auctions or offers, attempts or agrees to auction real estate or assists an auctioneer by procuring bids at a real estate auction.
- (6) Engages in a pattern of business of buying selling, offering to buy or sell, marketing for sale, exchanges, or otherwise dealing in contracts, including assignable contracts for the purchase or sale of, or options on real estate or improvements thereon. For purposes of this definition, a person, association, corporation, limited liability company, limited liability partnership, partnership or professional corporation will be found to have engaged in a pattern of business if the person or entity by itself or with any combination of other persons or entities, has engaged in one or more of these practices on 2 or more occasions in any 12-month period.
- (7) Assists or directs in the procuring of prospects calculated to result in the sale, exchange or lease of real estate.
- (8) Assists in or directs the negotiation of any transaction calculated or intended to result in the sale, exchange or lease of real estate.
- (9) Engages in the business of charging an advance listing fee.
- (10) Provides lists of real estate as being available for sale or lease, other than lists provided for the sole purpose of promoting the sale or lease of real estate wherein inquiries are directed to the owner of the real estate or to real estate brokers and not to unlicensed persons who publish the list.
- (g) "Commission" means the Kansas real estate commission.
- (h) "Exchange" means a type of sale or purchase of real estate.
- (i) "Interest" means: (1) Having any type of ownership in the real estate involved in the transaction; or (2) an officer, member, partner or shareholder of any entity that owns such real estate excluding an ownership interest of less than 5% in a publicly traded entity.
- (j) "Lease" means rent or lease for nonresidential use.
- (k) "Licensee" means any person licensed under this act as a broker or salesperson.

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<https://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=1364&ChapterID=24>

(l)(1) "Office" means any permanent location where one or more licensees regularly conduct real estate business as described in subsection (f) or a location that is held out as an office.

(2) "Office" does not mean a model home office in a new home subdivision if the real estate transaction files are maintained in the primary office or branch office.

(m) "Primary office" means a supervising broker's principal place of business for each company created or established by the broker.

(n) "Real estate" means any interest or estate in land, including any leasehold or condominium, whether corporeal, incorporeal, freehold or nonfreehold and whether the real estate is situated in this state or elsewhere, but does not include oil and gas leases, royalties and other mineral interests, and rights of way and easements acquired for the purpose of constructing roadways, pipelines, conduits, wires and facilities related to these types of improvement projects for private and public utilities, municipalities, federal and state governments, or any political subdivision. For purpose of this act, any rights of redemption are considered to be an interest in real estate.

(o) "Salesperson" means a licensee, other than an associate broker, who is employed by a broker or is associated with a broker as an independent contractor and participates in any activity described in subsection (f).

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(p) "Supervising broker" means a licensee, other than a branch broker, who has been designated as the broker who is responsible for the supervision of the primary office of a broker and the activities of salespersons and associate brokers who are assigned to such office and all of whom are licensed pursuant to subsection (b) of K.S.A. 58-3042, and amendments thereto. "Supervising broker" also means a broker who operates a sole proprietorship and with whom associate brokers or salespersons are affiliated as employees or independent contractors.

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#### K.S.A. 58-3036

Unless exempt from this act under K.S.A. 58-3037, and amendments thereto, no person, association, corporation, limited liability company, limited liability partnership, partnership or professional corporation shall:

(a) Directly or indirectly engage in or conduct the business of a broker, associate broker or salesperson within this state unless licensed as such a broker, associate broker or salesperson in accordance with this act.

**Deleted:** or represent that such person engages in or conducts ...

**Deleted:** such person is

(b) Directly or indirectly act as a broker, associate broker or salesperson within this state unless licensed as such a broker, associate broker or salesperson in accordance with this act.

**Deleted:** or represent that such person acts

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(c) Perform or offer, attempt or agree to perform any act described in subsection (f) of K.S.A. 58-3035, and amendments thereto, whether as a part of a transaction or as an entire transaction, unless licensed pursuant to this act.

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#### K.S.A. 58-3037

The provisions of this act shall not apply to:

(a) Any person, other than a person licensed under this act, who directly performs any of the acts within the scope of this act with reference to such person's own real estate, except such person shall not engage in a pattern of business of buying selling, offering to buy or sell, marketing for sale, exchanges, or otherwise dealing in contracts, including assignable contracts for the purchase or sale of, or options on real estate or improvements thereon. For purposes of this definition, a person will be found to have engaged in a pattern of business if the person or any combination of other persons or entities, has engaged in one or more of these practices on 2 or more occasions in any 12-month period.

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(b) Any person who directly performs any of the acts within the scope of this act with reference to property that such person is authorized to transfer in any way by a power of attorney from the owner, provided that such person receives no commission or other compensation, direct or indirect, for performing any such act.

(c) Services rendered by an attorney licensed to practice in this state in performing such attorney's professional duties as an attorney.

(d) Any person acting as receiver, trustee in bankruptcy, administrator, executor or guardian, or while acting under a court order or under the authority of a will or a trust instrument or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency.

(e) Any officer or employee of the federal or state government, or any political subdivision or agency thereof, when performing the official duties of the officer or employee.

(f) Any multiple listing service wholly owned by a nonprofit organization or association of brokers.

(g) Any nonprofit referral system or organization of brokers formed for the purpose of referral of prospects for the sale or listing of real estate.

(h) Railroads or other public utilities regulated by the state of Kansas, or their subsidiaries, affiliated corporations, officers or regular employees, unless performance of any of the acts described in subsection (f) of K.S.A. 58-3035, and amendments thereto, is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof.

(i) The sale or lease of real estate by an employee of a person, association, corporation, limited liability company, limited liability partnership, partnership or professional corporation which owns or leases such real estate, if such employee owns 5% or greater interest in such association, limited liability company, limited liability partnership, partnership or professional corporation or of the stock of such corporation, except such employee shall not engage in a pattern of business of buying selling, offering to buy or sell, marketing for sale, exchanges, or otherwise dealing in contracts, including assignable contracts for the purchase or sale of, or options on real estate or improvements thereon. For purposes of this definition, a person, association, corporation, limited liability company, limited liability partnership, partnership or professional corporation will be found to have engaged in a pattern of business if the person or entity by itself or with any combination of other persons or entities, has engaged in one or more of these practices on 2 or more occasions in any 12-month period.

(j) The sale or lease of new homes by a person, association, corporation, limited liability company, limited liability partnership or professional corporation who constructed such homes, but the provisions of this act shall apply to the sale or lease of any such homes by any employee of such person, association, corporation, limited liability company, limited liability partnership, partnership or professional corporation if such employee owns less than 5% interest in such association, limited liability company, limited liability partnership, partnership or professional corporation or by any employee of a corporation who owns less than 5% of the stock of such corporation.

(k) The lease of real estate for agricultural purposes.

K.S.A. 58-3042

(a) No real estate license shall give authority to any person other than the person to whom the license is issued.

(b) No license shall be granted to an association, corporation, limited liability company, limited liability partnership, partnership or professional corporation. Each person who is an owner, officer or

member of an association, corporation, limited liability company, limited liability partnership, partnership or professional corporation and who performs any act described in subsection (f) of K.S.A. 58-3035, and amendments thereto, and each person who is employed by or associated with an association, corporation, limited liability company, limited liability partnership, partnership or professional corporation and who performs any act described in subsection (f) of K.S.A. 58-3035, and amendments thereto, shall be a licensed broker or licensed salesperson.

(c) If any person who is an owner, officer or member of an association, corporation, limited liability company, limited liability partnership or professional corporation performs any act described in subsection (f) of K.S.A. 58-3035, and amendments thereto, a primary office shall be established and a supervising broker shall be designated pursuant to K.S.A. 58-3060, and amendments thereto, to supervise the office and any employed or associated salespersons or associate brokers and the supervising broker shall obtain approval for the supervising broker's business name or trade name pursuant to K.S.A. 58-3079, and amendments thereto.

58-3065. Penalties for violations; reporting of minor violations for prosecution not required

(a) Willful violation of any provision of this act or the brokerage relationships in real estate transactions act is a misdemeanor punishable by imprisonment for not more than 12 months or a fine of not less than \$100 or more than \$1,000, or both, for the first offense and imprisonment for not more than 12 months or a fine of not less than \$1,000 or more than \$10,000, or both, for a second or subsequent offense.

(b) Nothing in this act or the brokerage relationships in real estate transactions act shall be construed as requiring the commission or the director to report minor violations of the acts for criminal prosecution whenever the commission or the director believes that the public interest will be adequately served by other administrative action.

(c) ~~The commission, in addition to any other penalty authorized under this act, may assess an administrative fine, after notice and opportunity to be heard in accordance with the Kansas administrative procedures act, against an unlicensed person, association, corporation, limited liability company, limited liability partnership, partnership or professional corporation for a violation of any provision of this act or any rule and regulation under this act in an amount not to exceed \$xxx.00 per violation.~~

(d) ~~If the commission determines that a person has practiced without a valid broker's or salesperson's license issued by the commission, in addition to any other penalties imposed by the law, the commission in accordance with the Kansas administrative procedures act, may issue a cease and desist order against such unlicensed person, association, corporation, limited liability company, limited liability partnership, partnership or professional corporation.~~

**Commented [AA1]:** Modeled after Board of Examiners in Fitting and Dispensing of Hearing Instruments statute, K.S.A. 74-5826

**Commented [AA2]:** Modeled after Behavioral Sciences Regulatory Board statute, K.S.A. 74-7508

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74-4202. Kansas real estate commission; organization, terms of officers; powers and duties; compensation and expenses; meetings; office

(a) At the first meeting of the commission after January 1 of each year, or as required thereafter, the members shall elect a chairperson and a vice-chairperson from its membership. The members elected shall serve for a term of one year or the remainder of the term, as the case may be. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. A majority of the members of the commission shall constitute a quorum for the exercise of the powers or authority conferred upon it.

(b) The commission shall receive applications for, and issue licenses to, brokers and salespersons, as provided in the real estate brokers' and salespersons' license act and shall administer the provisions of this act and the brokerage relationships in real estate transactions act. The commission may do all things necessary and convenient for carrying into effect the provisions of the acts and may adopt rules and regulations consistent with the acts. For the purpose of the acts, the commission shall make all necessary investigations into any alleged violation the acts or any rules and regulations adopted under the acts. The commission may enforce any order by an action in the district court of the county where the alleged violator resides or where the violation allegedly occurred.

**Deleted:** , and every licensee shall furnish to the commission such evidence as the licensee may have as to...

(c) For the purpose of investigations and proceedings conducted by the commission, the commission may issue subpoenas compelling:

(i) The attendance and testimony of licensees or an unlicensed person, association, corporation, limited liability company, limited liability partnership, partnership or professional corporation; or

(ii) the production for examination or copying of documents or any other physical evidence if such evidence relates to licensee's competence, unprofessional conduct, the mental or physical ability of a licensee to safely practice as a real estate broker or salesperson; or relates to the practice as real estate broker or salesperson by an unlicensed person, association, corporation, limited liability company, limited liability partnership, partnership or professional corporation. Within five days after the service of the subpoena on any licensees or an unlicensed person or entity requiring the production of any evidence in the licensees or an unlicensed person or entity's possession or control, such licensees or an unlicensed person or entity may petition the commission to revoke, limit or modify the subpoena. The commission shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced.

(d) The district court, upon application by the commission or by the licensee or the unlicensed person, association, corporation, limited liability company, limited liability partnership, partnership or professional corporation subpoenaed, shall have jurisdiction to issue an order:

(i) Requiring such licensees or an unlicensed person or entity to appear before the commission or the commission's duly authorized agent to produce evidence relating to the matter under investigation; or

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(ii) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

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(e) Each member of the commission shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

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(f) The commission shall hold meetings and hearings in the city of Topeka or at such places as it shall determine at such times as it may designate and on request of two or more of its members.

Deleted: d

(g) The commission shall maintain an office in the city of Topeka.

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# **COMPLIANCE REPORT**

# MEMO



Real Estate Commission  
Jayhawk Tower  
700 SW Jackson Street, Suite 404  
Phone: 785-296-3411 Fax: 785-296-1771  
krec@ks.gov  
www.krec.ks.gov

DATE: October 19, 2020

TO: Kansas Real Estate Commission Members

FROM: Wendy Alkire, Compliance Director

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## Compliance Department Status Report

### Legal Case Review

#### Current

#### Reported at last meeting

- |  |            |          |
|--|------------|----------|
| • Oldest Disciplinary File Pending KREC Staff Review | 08/12/2019 | 01/03/19 |
| • Oldest Disciplinary File Pending AG Review         | 03/29/2019 | 03/04/19 |

### Complaints

- |  |            |          |
|--|------------|----------|
| • FY2021 Complaints logged– See attached chart       | 76         | 41       |
| • Oldest Complaint Under Investigation (not on hold) | 05/01/2020 | 01/15/20 |

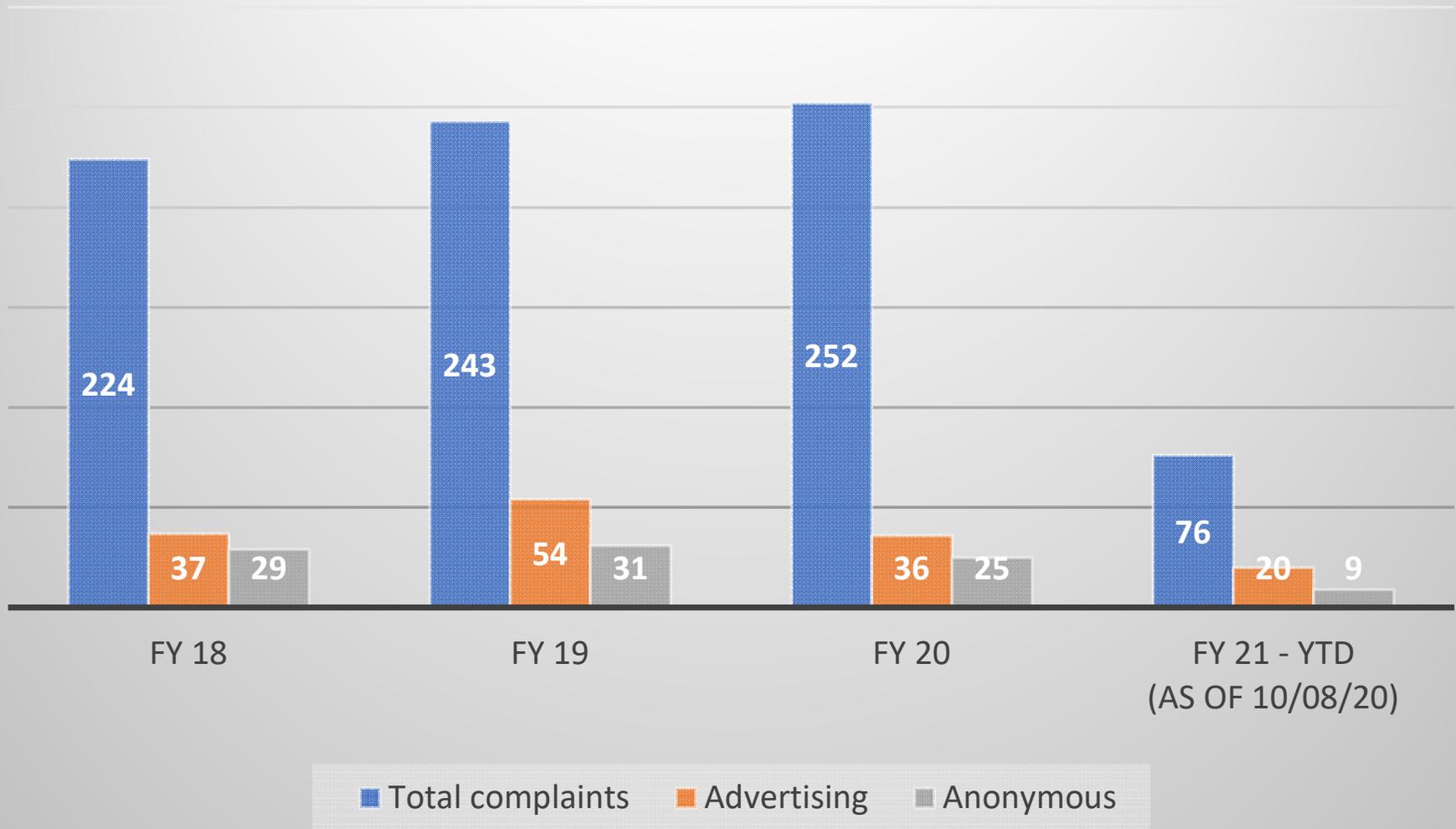
### Compliance Review/Audit

- |   |     |  |
|---|-----|--|
| • Compliance Reviews complete in FY 2021  | 44  |  |
| ○ An additional 41 brokers were contacted but had no transaction records to review. See attached chart for FY comparison. |     |  |
| • Commission Directive follow up reviews- See attached summary  |     |  |
| ○ Follow up compliance reviews complete FY 2021   | 7   |  |
| ○ Percentage with repeat violations   | 0%  |  |
| ○ Percentage with no violations or minor violations   | 43% |  |

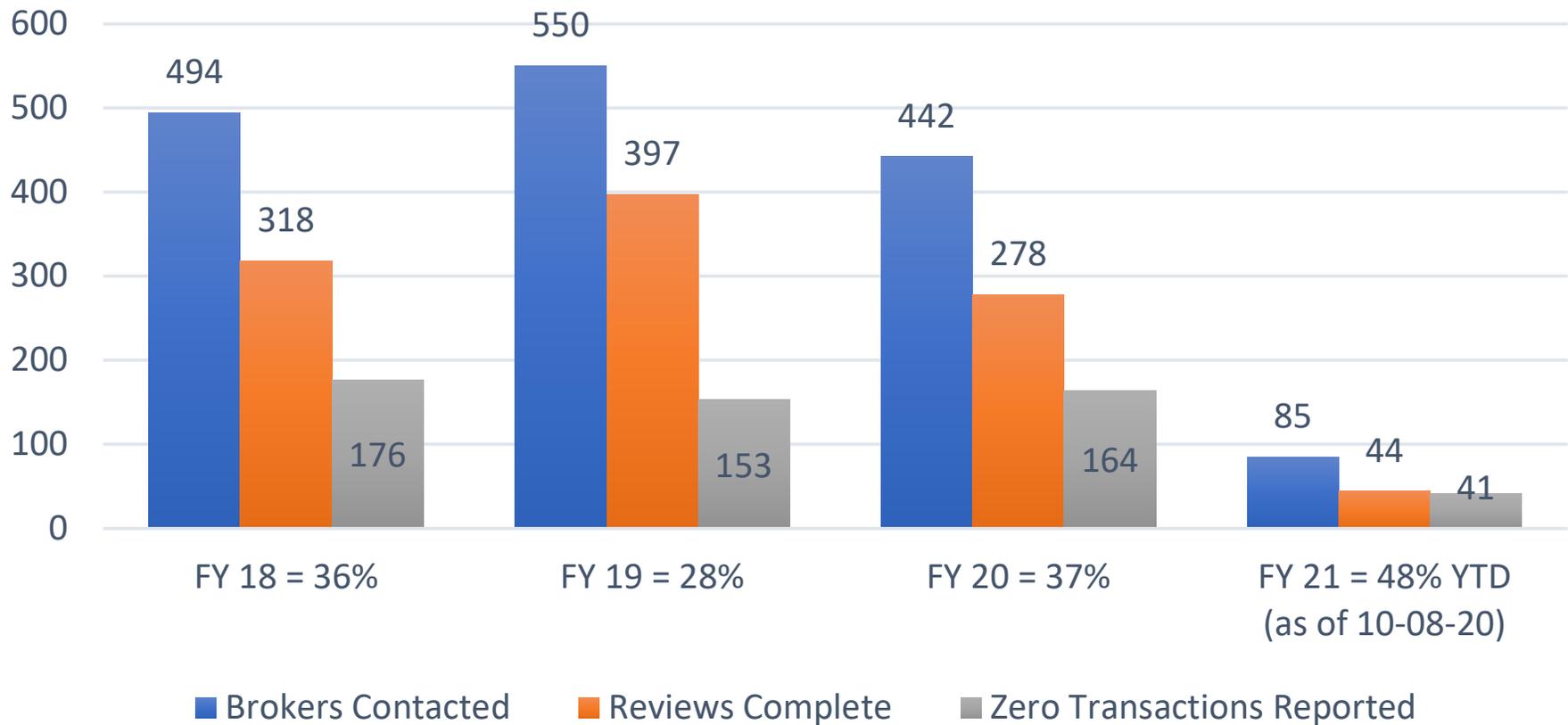
### Miscellaneous

- |                         |                     |                                  |
|-------------------------|---------------------|----------------------------------|
| • Compliance Course:    |                     |                                  |
| ○ Next scheduled dates: | BRRETA -            | January 21, 2021 & April 1, 2021 |
|                         | Broker Supervision- | January 28, 2021 & April 7, 2021 |

# Complaint Data



## Brokers Reporting Zero Transactions



FY2021 Results of follow up compliance review

Updated: 10/8/2020

Month	Total	No violations	Minor only	Repeat	New major	In process	Other	Notes:			
July 2020	3		1		2			1 additional broker had no records			
August 2020	2				2			1 additional broker had no records			
September 2020								1 additional company had a new broker			
October 2020	2	1	1			13					
November 2020											
December 2020											
January 2021											
February 2021											
March 2021											
April 2021											
May 2021											
June 2021											

<b>Total</b>	<b>7</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>0</b>				
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Completed	7
Repeat violation	0
Percentage	0

**LICENSEE AND  
EDUCATION  
REPORTS**

**APPLICANT STATUS REPORT**

Total Pending Applications: 342

<u>Salespersons</u>	<u>101</u>
Awaiting:	
KBI/FBI Reports	52
Application	7
Kansas Practice Course	23
<u>Brokers</u>	<u>10</u>
Awaiting:	
KBI/FBI Reports	7
Application	2
<u>Pre License</u>	<u>231</u>
Awaiting:	
KBI/FBI Reports	63
Applications	165

	<u>Status</u>	<u>Lic Type</u>	<u>Number</u>
<b>Active/Inactive/Suspended</b>			
	Active	Broker	3,583
	Active	Salesperson	13,356
<b>Active</b>			<b>16,939</b>
	Inactive	Broker	79
	Inactive	Salesperson	846
<b>Inactive</b>			<b>925</b>
	Suspended	Salesperson	10
<b>Suspended</b>			<b>10</b>
Grand Total			<b>17,874</b>

<b>Expired</b>			
	Expired Renewable - I	Salesperson	1
<b>Expired Renewable - I</b>			<b>1</b>
Grand Total			<b>1 (test record)</b>

There are no Expired but Renewable records because 4/30, 6/30, & 8/31 expire dates are extended by EO due to COVID-19.

<b>Open</b>			
	Open	Branch Office	187
	Open	Company	2,294
<b>Open</b>			<b>2,481</b>
Grand Total			<b>2,481</b>

# Approved Courses from 8/1/20 to 9/30/20

<u>Course Type</u>	<u>Course #</u>	<u>Course Title</u>	<u>Hours</u>	<u>Status</u>	<u>Location</u>
<b>1st Attempt (At Your Pace Online)</b>					
Elective	E20020	NAR Code of Ethics	3	Active	Distance
<b>American Dream Real Estate School</b>					
Elective	E20012	Common Mistakes Made by Real Estate Rookies and the Rest of Us	3	Active	Distance
Elective	E20013	Safety for Brokers While Showing Properties and Staging	3	Active	Distance
<b>CMPS Institute, LLC.</b>					
Elective	E20015	Mortgage & Real Estate Taxation	3	Active	Classroom
Elective	E20016	Cash Flow Planning for Real Estate Investors	3	Active	Classroom
Elective	E20017	Mortgage Math Camp	3	Active	Classroom
<b>Finance of America</b>					
Elective	E20011	Unlock Purchasing Power - In Reverse	3	Active	Classroom
<b>Kansas Association of Realtors</b>					
Elective	E20018	NAR Code of Ethics and KS Real Estate License Law	3	Active	Virtual
Salesperson Pre-License Course	P20019	Principles of Real Estate	30	Active	Distance
<b>Paul Davis Restoration, Inc.</b>					
Elective	E20028	Mold and Water Claims	3	Active	Classroom
Elective	E20029	Smoke and Odor Damage Mitigation	3	Active	Classroom
Elective	E20023	Before the Disaster	3	Active	Classroom
Elective	E20024	After the Disaster	3	Active	Classroom
Elective	E20025	Claims - Policy and Practice	3	Active	Classroom
Elective	E20026	Fixing Bad - The Clean Up of Meth Labs	3	Active	Classroom
Elective	E20027	Inventory and Evaluation of Property Losses	3	Active	Classroom
<b>RSCK School of Real Estate</b>					
Elective	E20010	Methods of Effective Marketing	6	Active	Classroom
Elective	E20014	Building the Dream: Creating the Foundations and Interactive Relationships	3	Active	Classroom
<b>The CE Shop, Inc.</b>					
Mandatory Kansas Required Core	M20030	Kansas Required Core: Staying in Step with KREC	3	Active	Distance
Elective	E20022	Marketing Strategy and Lead Generation	6	Denied	Distance
<b>WebCE, Inc. (RealEstateCE.com)</b>					
Elective	E20009	Cybersecurity Best Practices for Real Estate Professionals	3	Active	Distance
Elective	E20021	Who Represents Whom? Agency Uncloaked	3	Denied	Distance

## Exam Performance Summary by Fiscal Year (FY17-FY21)



Fiscal Year	First Time Takers					Repeat Takers					Overall Statistics				
	Total Exams	Total Pass	Pass Rate	Total Fail	Fail Rate	Total Exams	Total Pass	Pass Rate	Total Fail	Fail Rate	Total Exams	Total Pass	Pass Rate	Total Fail	Fail Rate
<b>FY2017</b>															
Broker	172	143	83%	29	17%	60	32	53%	28	47%	232	175	75%	57	25%
Salesperson	1,907	1,369	72%	538	28%	870	482	55%	388	45%	2,777	1,851	68%	926	33%
Total	2,079	1,512	73%	567	27%	930	514	55%	416	45%	3,009	2,026	67%	983	33%
<b>FY2018</b>															
Broker	208	172	83%	36	17%	64	37	58%	27	42%	272	209	77%	63	23%
Salesperson	1,952	1,401	72%	551	28%	929	478	51%	451	49%	2,881	1,879	65%	1,002	35%
Total	2,160	1,573	73%	587	27%	993	515	52%	478	48%	3,153	2,088	66%	1,065	34%
<b>FY2019</b>															
Broker	209	150	72%	59	28%	101	55	54%	46	46%	310	205	66%	105	34%
Salesperson	1,857	1,340	72%	527	28%	978	457	47%	521	53%	2,845	1,797	63%	1,048	37%
Total	2,076	1,490	72%	586	28%	1,079	512	47%	567	53%	3,155	2,022	63%	1,153	37%
<b>FY2020</b>															
Broker	207	151	73%	56	27%	95	60	63%	35	37%	302	211	70%	91	30%
Salesperson	1,617	1,169	72%	448	28%	731	389	53%	342	47%	2,348	1,558	66%	790	34%
Total	1,824	1,320	72%	504	28%	826	449	54%	377	46%	2,650	1,769	67%	881	33%
<b>FY2021</b>															
Broker	23	14	61%	9	39%	10	6	60%	4	40%	33	20	61%	13	39%
Salesperson	662	450	68%	212	32%	338	164	49%	174	51%	1,000	614	61%	386	39%
Total	685	464	68%	221	32%	348	170	49%	178	51%	1,033	634	61%	399	39%

**PASSING RATE BY SCHOOL FOR FY2021 (July-September)**



**Kansas Broker**

School Name	First Time Takers					Repeat Takers					Overall Statistics				
	Total Exams	Total Pass	Pass Rate	Total Fail	Fail Rate	Total Exams	Total Pass	Pass Rate	Total Fail	Fail Rate	Total Exams	Total Pass	Pass Rate	Total Fail	Fail Rate
Career Education Systems - Kansas City	8	6	75%	2	25%	1	0	0%	1	100%	9	6	67%	3	33%
Career Education Systems - Online	4	2	50%	2	50%	2	2	100%	0	0%	6	4	67%	2	33%
Lowry School of Real Estate	5	3	60%	2	40%	5	3	60%	2	40%	10	6	60%	4	40%
Kansas Association of REALTORS	1	0	0%	1	100%	1	1	100%	0	0%	2	1	50%	1	50%
Waiver - Equivalent Requirement Met	4	2	50%	2	50%	1	0	0%	1	100%	5	2	40%	3	60%
<b>Total</b>	<b>22</b>	<b>13</b>	<b>59%</b>	<b>9</b>	<b>41%</b>	<b>10</b>	<b>6</b>	<b>60%</b>	<b>4</b>	<b>40%</b>	<b>32</b>	<b>19</b>	<b>59%</b>	<b>13</b>	<b>41%</b>

**Kansas Salesperson**

School Name	First Time Takers					Repeat Takers					Overall Statistics				
	Total Exams	Total Pass	Pass Rate	Total Fail	Fail Rate	Total Exams	Total Pass	Pass Rate	Total Fail	Fail Rate	Total Exams	Total Pass	Pass Rate	Total Fail	Fail Rate
OnCourse Learning Real Estate	1	1	100%	0	0%	0	0	0%	0	0%	1	1	100%	0	0%
Waiver - Equivalent Requirement Met	88	76	86%	12	14%	22	18	81%	4	19%	110	94	85%	16	15%
Career Education Systems - Online	109	88	81%	21	19%	37	20	54%	17	46%	146	108	74%	38	26%
Lowry School of Real Estate	8	6	75%	2	25%	3	2	67%	1	33%	11	8	73%	3	27%
The CE Shop, Inc.	49	36	73%	13	27%	20	14	70%	6	30%	69	50	72%	19	28%
American School of Real Estate Express, LLC	48	33	69%	15	31%	21	13	62%	8	38%	69	46	67%	23	33%
ReeceNichols Training – Online	7	4	57%	3	43%	1	1	100%	0	0%	8	5	63%	3	38%
Career Academy of Real Estate	6	5	83%	1	17%	6	2	33%	4	67%	12	7	58%	5	42%
Career Education Systems - Kansas City	138	96	70%	42	30%	82	32	39%	50	61%	220	128	58%	92	42%
ReeceNichols Training	26	16	62%	10	38%	17	8	47%	9	53%	43	24	56%	19	44%
Kansas Association of Realtors	60	30	50%	30	50%	29	18	62%	11	38%	89	48	54%	41	46%
Kansas Real Estate School	14	8	57%	6	43%	11	5	45%	6	55%	25	13	52%	12	48%
RSCK School of Real Estate	7	3	43%	4	57%	6	3	50%	3	50%	13	6	46%	7	54%
Training Partners	7	4	57%	3	43%	2	0	0%	2	100%	9	4	44%	5	56%
Career Education Systems - Wichita	86	44	51%	42	49%	65	22	34%	43	66%	151	66	44%	85	56%
Washburn University	1	0	0%	1	100%	2	1	50%	1	50%	3	1	33%	2	67%
PDH Academy	7	0	0%	7	100%	13	5	38%	8	62%	20	5	25%	15	75%
Kansas City Kansas Community College	0	0	0%	0	0%	1	0	0%	1	100%	1	0	0%	1	100%
<b>Total</b>	<b>662</b>	<b>450</b>	<b>68%</b>	<b>212</b>	<b>32%</b>	<b>338</b>	<b>164</b>	<b>49%</b>	<b>174</b>	<b>51%</b>	<b>1,000</b>	<b>614</b>	<b>61%</b>	<b>386</b>	<b>39%</b>

# **DIRECTOR'S REPORT**

# MEMO



DATE: October 19, 2020  
TO: Kansas Real Estate Commission Members  
FROM: Erik Wisner, Executive Director  
RE: Director's Report

Jayhawk Tower  
700 SW Jackson Street, Suite 404  
Phone: 785-296-3411 Fax: 785-296-1771  
krec@ks.gov  
www.krec.ks.gov

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## Fiscal

- The real estate fee fund balance as of Sept. 30, 2020 is \$1,018,781 up \$38,601 from July 1, 2020.
  - Revenue. Real estate fee fund receipts for FY21 are \$285,032. This is 1% lower than original estimates.
  - Expenditures. Real estate fee fund expenditures for FY21 are \$230,202. This is 4% or \$48,385 lower than original estimates.
- Background investigation fee fund receipts for FY21 are \$37,500. This is 5% higher than estimates. The balance as of September 30, 2020 is \$12,304 up \$512 from July 1, 2020.
- Real estate recovery fund receipts for FY21 are \$3,664. The balance as of Sept. 30, 2020 is \$296,216 up \$3,098 from July 1, 2020.

## Legislative and Policy Issues

- Transaction Identification and Trust Account Regulations
- ARELLO Meeting Update
- KAR Meeting Update

## Dates and Events

- 2020 Commission Meeting Dates (Third Monday of the month unless *italicized*)
  - *December 7*
- 2021 Possible Commission Meeting Dates
  - Feb. 15
  - Mar. 29 (three weeks earlier due to ARELLO conference)
  - May 17
  - Jun. 21
  - Jul. 19 (possible offsite meeting in north central Kansas)
  - Aug. 30 (two weeks later due to budget deadline)
  - Oct 18
  - Dec 6 (two weeks earlier due to the holidays)

- Staff Presentations
  - Lawrence Board of Realtors, October 15 (Wendy) Webinar
  
- Other Events
  - Oct. 27, 2020—KREC Educators Meeting (Virtual)
  - Oct. 27-Nov. 4, 2020—Pearson Test Development Meeting (Virtual)
  - Nov. 2-16, 2020 --NAR Annual Meeting (Virtual)
  - Jan. 12-14, 2021--ARELLO Leadership Conference (Sanibel Island, FL)
  - Apr. 14-17, 2021—ARELLO Mid-Year Meeting (San Antonio, TX)
  - June 2021--ARELLO Dist. 2/3 Meeting—(Kansas City, MO)

# Real Estate Commission (Fund 2721 - Fee Fund)

## Cash Balance Report

For the Year Ending  
Cash at Beginning of Year

6/30/2021

**\$ 980,180.65**

### Revenue

Licenses Business	\$	275,136.50	
Recovery of Current FY Exp	\$	-	
Clerical Services	\$	135.00	
Fines/Penalties/Forfeitures	\$	9,760.13	
Other Nonrevenue Receipts	\$	-	
<b>TOTAL REVENUE</b>			<b>\$ 285,031.63</b>

### Expenditures

Salaries & Wages	\$	193,064.77	
Contractual Services	\$	37,023.65	
Commodities	\$	113.62	
Capital Outlay	\$	-	
<b>TOTAL EXPENDITURES</b>			<b>\$ 230,202.04</b>

Less Acct. Pay		(16,229.02)	
Less Payroll Sharp		-	
Transfer		-	
Less FY20 Expenditures		-	

**Ending Cash Balance**

**\$ 1,018,781.22**

## Cash Balance Report (Fund 2721 - Hospitality)

For the Year Ending  
Cash at Beginning of Year

6/30/2021

**\$ 1,000.00**

### Expenditures

Salaries & Wages	\$	-	
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### Real Estate Commission (Fund 2721) REVENUE

												Income Statement				
												For the Year Ending: 06/30/2021				
		ESTIMATE	July '20	August '20	September '20	October '20	November '20	December '20	January '21	February '21	March '21	April '21	May '21	June '21	YTD	
Revenue																
421110	Licenses Business	\$ 1,197,500.00	\$ 71,624.00	\$ 69,723.00	\$ 133,789.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 275,136.50	23%
	AF App Fees	\$ 30,000.00	\$ 1,742.00	\$ 3,366.00	\$ 4,000.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,108.50	30%
	AC Activation Fee		\$ 1,647.00	\$ 2,119.50	\$ 2,416.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,183.00	
	OB Orig BR Licenses	\$ 22,500.00	\$ 472.50	\$ 1,732.50	\$ 1,102.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,307.50	15%
	OS Orig Slsp Licenses	\$ 160,000.00	\$ 13,237.50	\$ 20,025.00	\$ 29,025.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 62,287.50	39%
	BF Broker Renewal Fees	\$ 255,000.00	\$ 17,202.50	\$ 11,812.50	\$ 26,617.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 55,632.50	22%
	SF Slsp Renewal Fees	\$ 645,000.00	\$ 36,337.50	\$ 28,012.50	\$ 67,725.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 132,075.00	20%
	LF Late Ren Fees	\$ 35,000.00	\$ 270.00	\$ 1,170.00	\$ 900.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,340.00	7%
	TR Transfer Fee		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	MISC (AC,CF/DP,NC,OC/CR/IR,CC/OO,BC)	\$ 50,000.00	\$ 715.00	\$ 1,485.00	\$ 2,002.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,202.50	8%
	Refunds		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
420400	Clerical Services	\$ -	\$ 30.00	\$ 60.00	\$ 45.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 135.00	
454090	Fines/Penalties/Forfeitures	\$ 15,000.00	\$ 2,100.88	\$ 2,561.25	\$ 5,098.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,760.13	65%
469010	Recovery of Prior FY Exp		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
469090	Other Nonrevenue Receipts		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	<b>Gross Revenue</b>	<b>\$ 1,212,500.00</b>	<b>\$ 73,754.88</b>	<b>\$ 72,344.25</b>	<b>\$ 138,932.50</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 285,031.63</b>	<b>24%</b>
																<b>% Received 24%</b>

### Real Estate Commission (Fund 1000) 10% to SGF

												Income Statement			
												For the Year Ending: 06/30/2021			
		ESTIMATE	July '20	August '20	September '20	October '20	November '20	December '20	January '21	February '21	March '21	April '21	May '21	June '21	YTD
Revenue															
421110	Licenses Business		\$ 6,291.00	\$ 7,747.00	\$ 14,865.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 28,903.50
454090	Fines/Penalties/Forfeitures		\$ 349.12	\$ 288.75	\$ 1,502.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,139.87
	<b>Gross Revenue</b>	<b>\$ -</b>	<b>\$ 6,640.12</b>	<b>\$ 8,035.75</b>	<b>\$ 16,367.50</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 31,043.37</b>
															Bal until \$100K met \$ 71,096.50



# Real Estate Commission (Fund 2722)

## Cash Balance Report

For the Year Ending  
Cash at Beginning of Year

6/30/2021

<b>\$ 11,792.21</b>
---------------------

### Revenue

Other Nonrevenue Receipts	\$ 37,500.00	
<b>TOTAL REVENUE</b>		<b>\$ 37,500.00</b>

### Expenditures

Salaries & Wages	\$ -	
Contractual Services	\$ 36,988.00	
Commodities	\$ -	
Capital Outlay	\$ -	
<b>TOTAL EXPENDITURES</b>		<b>\$ 36,988.00</b>

---

Less FY18 Items	\$ -
Less Accounts Payable	\$ -
Less Payroll SHARP	\$ -
Less Transfer	\$ -

<b>Ending Cash Balance</b>	<b>\$ 12,304.21</b>
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# Real Estate Commission (Fund 7368)

## Cash Balance Report

For the Year Ending  
Cash at Beginning of Year

6/30/2021

<b>\$ 293,118.44</b>
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**Revenue**

Average Daily Balance Interest	\$	164.07		
Other Nonrevenue Receipts	\$	-		
Recovery of Prior FY Exp	\$	3,500.00		
<b>TOTAL REVENUE</b>			<b>\$</b>	<b>3,664.07</b>

**Expenditures**

Salaries & Wages	\$	-		
Contractual Services	\$	567.00		
Commodities	\$	-		
Capital Outlay	\$	-		
<b>TOTAL EXPENDITURES</b>			<b>\$</b>	<b>567.00</b>

Less FY19 Items	\$	-		
Less Accounts Payable	\$	-		
Less Payroll SHARP	\$	-		
Less Transfer	\$	-		

<b>Ending Cash Balance</b>			<b>\$</b>	<b>296,215.51</b>
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