

March 2019

COMMISSION CHECK IN



This information was prepared by the Kansas Real Estate Commission and emailed to Kansas real estate licensees to provide an overview of common violations. This is an example only, as different facts in a case may result in a different outcome.

Question

Mr. and Mrs. Smith work with Salesperson Terry. The Smiths do not want to sign a buyer agency agreement until they enter into an agreement to purchase a new home. Salesperson Terry shows the Smiths several properties over a six-week period. On January 1, 2019, the Smiths find the home of their dreams. After Salesperson Terry and the Smiths discuss how to get the best deal, the Smiths sign an offer with Salesperson Terry identified as a buyer's agent.

On January 3, 2019, the sellers accept the Smiths' offer. Later that day, Salesperson Terry presents the Smiths with a buyer agency agreement with a start date of January 1, 2019. Mr. and Mrs. Smith sign the buyer agency agreement and Salesperson Terry signs the agreement on behalf of the broker.

Did Salesperson Terry comply with Kansas law?

Answer

No. Kansas law requires a buyer's agent to enter into a written buyer agency agreement with a client no later than the signing of an offer to purchase.

In the scenario above, Salesperson Terry should not have assisted the Smiths as a buyer's agent because the buyer agency agreement was not in writing prior to the signing of the offer. Since the Smiths refused to sign a buyer agency agreement prior to signing the offer, Salesperson Terry should have assisted the Smiths as a transaction broker in the real estate transaction. As a transaction broker, Salesperson Terry would not advocate for the Smiths' interests.

Salesperson Terry violated K.S.A. 58-30,103(e).

K.S.A. 58-30,103(e) states, "To establish an agency relationship with a buyer or tenant, a broker shall enter into a written agency agreement with the party to be represented no later than the signing of an offer to purchase or lease."

For more information regarding requirements of seller's agents, buyer's agents, and transaction brokers, see K.S.A. 58-30,106, 58-30,107, and 58-30,113.