

**DREAM HOME REALTY  
REALTORS®**

**OFFICE POLICY MANUAL**

## MISSION STATEMENT

It is the mission of **DREAM HOME REALTY**, to profitably and ethically provide high quality professional real estate services to the home buying, home selling and real estate investing public.

## STATEMENT OF BUSINESS PRINCIPLES

The following principles form the basis for executing the mission statement of **DREAM HOME REALTY**. Licensees, management and staff of the company work as a team to accomplish the mission statement and will abide by these principles.

1. **PROFESSIONALISM:** Professionalism at DREAM HOME REALTY, means approaching the business with ethical conduct toward our customers and clients. Abiding by the **REALTOR® CODE OF ETHICS** forms the basis of that standard. Secondly, constant training and education keep us informed and at the peak of awareness for customer and client. Each licensee and employee of DREAM HOME REALTY, is pledged to these ideals.
2. **INTEGRITY:** Simply put, honesty in all business dealings is the best way to get and keep business over the long term. Simple honesty also forms the basis for the best business protection we can get. It is a simple, effective, efficient and cost effective risk reduction method.
3. **PROFITABILITY:** DREAM HOME REALTY, is in business to make profits in the course of its ordinary activity. Each licensee and staff member has a responsibility to the company to contribute to its profitability, whether it be in terms of direct production of revenue or careful expenditure of company funds.

This Office Policy Manual for DREAM HOME REALTY, is designed to guide each licensee and staff member in the most important areas of company activity. If a matter is not covered, bring it to the attention of the President/Owner for possible inclusion in future revisions. If a matter is covered, the licensee or staff member is expected to act according to this Manual. Failure to act in accord with company policy will be taken into account in future evaluations of the licensee or staff member.

**DREAM HOME REALTY** welcomes each new licensee and employee to the business of professional, ethical and profitable real estate sales.

### **EQUAL EMPLOYMENT OPPORTUNITY POLICY**

It is DREAM HOME REALTY policy to provide equal employment opportunities without regard to race, color, religion, sex, age, national origin, handicap, ancestry, or status as a Vietnam era veteran, to all qualified employees and applicants for employment. This policy applies to all areas of employment, job assignment, training, promotion, transfer, compensation, discipline and discharge. The company abides by all federal and state laws regarding employment practices, including, but not limited to the Americans with Disabilities Act.

### **POLICY AGAINST SEXUAL HARASSMENT**

Any harassment of an associate, whether licensee, employee or applicant, because of race, color, sex, religion, national origin, ancestry, age, military status or handicap is clearly prohibited and will not be condoned. Sexual harassment is one particular form of discrimination, which is illegal and violates the company's longstanding equal employment opportunity policy. DREAM HOME REALTY, maintains a strong policy prohibiting any form of sexual harassment.

No licensee, employee, staff member, customer or vendor, male or female, may sexually harass an employee, licensee or other person associated with the company by

1. Making unwelcome sexual advances or requests for sexual favors or other verbal or physical conduct of a sexually suggestive nature;  
or
2. Making submission to or rejection of such conduct the basis for employment, continued employment or any other employment decision affecting the employee; or
3. Creating an intimidating, hostile or offensive working environment by such conduct.

Any licensee or employee who has been found to have sexually harassed another licensee or employee will be subject to appropriate discipline including discharge from association or employment.

This policy applies equally to any work-related sexual harassment by or to both men and women employed by or associated with the company or who deal with the company in our business, and it is not limited to supervisor/employee or manager/licensee relations or to conduct occurring on premises or during working hours.

Any licensee or employee who believes that he/she is being or has been sexually harassed by another licensee or employee should promptly take one or more of the following steps:

1. If appropriate, discuss the situation directly with the person whom you feel is harassing you, and politely request that the person cease harassing you because you feel you do not like or welcome his/her conduct. You might also add that if such conduct does not cease altogether, you will take further steps under this procedure. (If the person involved is a customer or client, please refer the complaint to senior management instead.)
2. If you believe that some adverse employment consequence may result from your discussions with that person, or if the harassment continues, go to a higher level of supervision including any senior executive of the company. You may be required to state in writing the specific details of the harassing behavior including date, time, place and witnesses, if any.
3. An investigation of any complaint will be undertaken immediately. All complaints will be handled in a prompt, confidential manner insofar as the investigation permits. There will be no adverse action directed toward any complaining licensee or employee or witness as a result of making or supporting the complaint, unless there clearly was bad faith.

## **INDEPENDENT CONTRACTOR/EMPLOYEE AGREEMENT**

DREAM HOME REALTY, has a policy of associating with its licensees as independent contractors. Each licensee will be required to sign a standard Missouri Association of REALTORS® Broker-Salesperson agreement setting out the relationship as an independent contractor. While the exact terms of the relationship are covered in the contract, a few reminders about being an independent contractor follow.

1. **Income Taxes:** All income taxes, federal and state, are the responsibility of the licensee. The company does not withhold or pay Social Security taxes on commission earnings. Self-employment tax must be paid by the licensee.
  
2. **Unemployment Taxes:** As an independent contractor, the licensee is not covered under state or federal unemployment laws. Independent contractor real estate licensees acting under an agreement such as the Missouri Association of REALTORS® form are exempt from the unemployment laws by Missouri statute. Accordingly, DREAM HOME REALTY, does not pay unemployment taxes on the earnings of its licensees.
  
3. **Worker's Compensation:** As with unemployment taxes, an independent contractor real estate licensee signing an agreement like the Missouri Association of REALTORS® form is exempt from the worker's compensation laws by Missouri statute. Given this statute, DREAM HOME REALTY, does not cover licensees under its worker's compensation insurance policy. A licensee should check that her/his insurance, particularly health and accident insurance, is adequate.
  
4. **Automobile Insurance:** Each licensee should carry adequate automobile insurance to protect not only the licensee but also the customer or client. In today's legal climate, liability coverage of \$300,000 per person/\$500,000 per accident should be obtained. Any lesser amounts could cause unnecessary exposure of personal assets. Consult carefully with your insurance licensee. The licensee must name DREAM HOME REALTY, as an additional insured and provide the company with a certificate reflecting that status.

Each licensee is reminded that each person in the front seat of an automobile is required by law to wear a seat belt. To reduce risk, we strongly recommend that you insist that all occupants of your vehicle wear safety belts and that all children age 4 or younger sit in an approved car seat. You should also note that any infant's car

seat, (children approximately 1 year or younger) should not face forward, but should face the rear of the vehicle. In cars equipped with airbags, a car seat should never be installed in the front passenger seat but always installed in the rear seat(s). In addition, children and small adults should not sit in the front passenger seat. Airbags are known to release with such force that injury or death is possible for children and small adults.

5. The Company strongly urges you to purchase an additional personal liability policy, commonly known as an "umbrella" policy, with limits of at least \$1,000,000. These policies are commonplace and affordable. In consulting with your insurance agent, you may find that you can carry a lower limit on automobile coverage (such as the \$100,000/\$300,000 limit) and be covered by the umbrella policy for amounts over that.
6. Expenses: As an independent contractor, each licensee is expected to be in business for herself/himself. Generally, the expenses of that business will be the responsibility of the licensee. DREAM HOME REALTY, will provide the following items and/or pay for the following expenses:

**Office supply**

**Office utilities**

**Office rent**

**Yard signs and first supply of agent's riders; there is \$ 70 escrow for every sign supplied to an agent.**

**The licensee will be expected to pay for all other expenses, including these particular items:**

**business cards, personal car or corner signs, personal advertising, equipment like digital camera, supra boxes etc.**

## **CELL PHONE AND DRIVING SAFETY POLICY**

As real estate professionals, we all work out of our cars a great deal of the time. And because instant communication with our clients, other licensees and various vendors is so critical to making sales happen, we also use phones, especially cell phones, a great deal of the time. The combination of cars and cell phones, however, can be deadly - for you, for your clients and for others. DREAM HOME REALTY has, therefore, established the following policy for all salespersons and employees, which we hope will minimize the dangers that can result when cell phones are used while driving:

1. When initiating calls, pull over and stop your car before dialing.
2. When receiving calls that require more than a quick response such as "I'm running late" or "I'm on my way," tell the caller that you will call him/her back as soon as you pull over and stop your car. Most cell-phones have a means of accessing the phone number of the last caller, so you won't have to write down the caller's phone number.
3. If you absolutely must converse on your cell phone while driving, follow these tips to increase safety:
  - a. Use a hands-free device. Currently, this means either an earphone or speaker device. Place the phone where you can see it without diverting your eyes from the road for any longer than necessary.
  - b. Program emergency and frequently-called numbers into your phone.
  - c. Practice using your cell phone so you know how to use the hands-free devices, memorized numbers and other features without taking your eyes from the road.
  - d. If your phone has voice activation, which allows you to initiate calls to pre-programmed numbers by saying a word or two, use it.
  - e. Keep conversations as brief as possible. There is nothing wrong with telling a caller that it is not safe to talk and drive right now and that you will call him/her back as soon as you can do so safely.
  - f. Drive in slower lanes and increase the distance between your car and the one ahead so you'll have more time to react to problems that may occur.
  - g. Don't try to take or take notes regarding/during the conversation.
  - h. Don't engage in complex discussions that divert your attention from road and traffic conditions.
  - i. Don't answer the phone if it rings when you are in a traffic situation where your safety could be compromised. Most phones have voicemail and you can return calls once you are stopped and in a safe place.

### **USE OF PERSONAL ASSISTANTS**

A growing trend in the real estate business is for high producing licensees to use specific persons as their assistants. DREAM HOME REALTY, encourages the appropriate use of personal assistants as a tool for high earning licensees to be even

more productive. Several caveats are in order from the perspective of the company. Many of the distinctions are based on whether a licensed or unlicensed assistant is used. DREAM HOME REALTY, policies on the use of personal assistants are as follows.

1. **EMPLOYEE v. INDEPENDENT CONTRACTOR:** Whether licensed or unlicensed, the licensee must decide whether to associate with the personal assistant (hereafter "PA") as an employee or independent contractor.

If the PA is a licensed real estate salesperson or broker, the license law requires that **all** compensation for real estate services be paid through the company, regardless of employee or independent contractor status.

Serious issues of the right of control, method of payment and direction of the work exist if the licensee chooses to have an independent contractor PA. DREAM HOME REALTY, strongly urges the licensee to consult with her/his tax consultant to determine the proper procedures in making this choice. If independent contractor status is chosen, all of the issues mentioned above regarding withholding, unemployment taxes, worker's compensation and automobile insurance should be clear in the arrangement between the licensee and the PA.

If employee status is chosen, the licensee should be aware that all employment taxes, withholding reports, unemployment tax reports, worker's compensation insurance and reports and W2 forms are the responsibility of the licensee. DREAM HOME REALTY, is not a party to the arrangement between the licensee and PA and will not be responsible for any employment activities of the licensee.

2. **UNLICENSED PERSONAL ASSISTANTS:** The policy of DREAM HOME REALTY, is that unlicensed personal assistants **WILL NOT UNDER ANY CIRCUMSTANCES** do the real estate business as defined in the license law (Section 339.010(1)-(2) RSMo.). The licensee associating with the PA is strictly responsible for maintaining this policy. If an unlicensed PA does any acts, which constitute the real estate business, the licensee puts her/himself in jeopardy of disassociation. The Missouri Real Estate Commission has taken a position as to the types of things unlicensed office personnel may and may not do. Please review the section on "Functions of Unlicensed Office Personnel" to determine these items. The policy of DREAM HOME REALTY, is that unlicensed personal assistants fall in to the same category as unlicensed office personnel.

The licensee is further advised that unlicensed persons may not be paid any fees or commissions for any work done which requires a real estate license (Section 339.150 RSMo.). The company will not split commissions with an unlicensed person.

3. **LICENSED PERSONAL ASSISTANTS:** By definition, a licensed PA can do the real estate business. The license of the PA must be held by DREAM HOME REALTY, and any payments for the real estate business must come from the company. The licensed PA will be in violation of the license law (Section 339.100(11) RSMo.) if any compensation for doing licensed activities is accepted from anyone except the broker with whom associated, DREAM HOME REALTY. Please review the section of "Functions of Unlicensed Office Personnel" to determine the difference between "clerical" functions and "real estate" functions.

The easiest and cleanest way to accomplish this end is for the licensee to split commissions as they are earned with the licensed PA in whatever proportion the two parties negotiate. The amount of the split between the PA and the licensee should be specific and regular and should not vary per transaction. The company requires written agreements between the company and both licensees to delineate the relationship and also requires the PA and licensee enter into a written agreement defining the relationship and specifying the compensation arrangement.

### **OFFICE HOURS**

DREAM HOME REALTY regular office hours are 9:00 a.m. to 6:00 p.m. daily.  
**Office is opened for public every first Monday of the month 10:00 a.m. to 11:00 a.m.**  
Office is closed on weekends.

### **HOLIDAYS AND HOLIDAY HOURS**

DREAM HOME REALTY closes on the following days: New Year's Day, Thanksgiving Day and Christmas Day.

### **OFFICE OPENING AND CLOSING PROCEDURES**

**Alarm system and at least one light should be on whenever office is closed.**

### **POLICY ON CONCEALED WEAPONS**

The Company **DOES NOT** allow concealed weapons to be carried on its premises. This policy applies to all persons on the premises, including employees and licensees of the Company.

## **SMOKING POLICY**

**Smoking is prohibited in any office of DREAM HOME REALTY, including private offices, conference rooms, rest rooms and areas not normally accessible to the public.**

## **TRAINING PROGRAM AND SCHEDULE**

**Every agent is encouraged to schedule training and/or video sessions with a manager and/or to take G.R.I. courses whenever available.**

## **SALES MEETINGS/PROPERTY INSPECTIONS**

**Sales meetings are mandatory and the absence is subject to disciplinary or monetary action. Sales associates are prohibited from being present at the property home inspections at any circumstances and no exception should be made without verbal Approval from the designated broker..**

## **INQUIRIES/VISITS BY GOVERNMENT OFFICIALS**

Any inquiry by a government official, whether by telephone, letter or in person, should immediately be forwarded to the broker (sales manager). In the absence of the broker (sales manager), the name of the official and agency or department he/she represents should be obtained. Then, the President or other officer of the company should be contacted. If none of these persons are available, the person receiving the inquiry should immediately contact the company's attorney by phone and request that she/he come to the office. Unless presented with a valid search warrant signed by a federal judge or a judge of the county in which the office is located, the person receiving the inquiry should not allow any representative from a local, state or federal office to see any files or any information maintained in the office, nor should the person ever answer any questions of such a representative official unless the company's attorney is present.

## **SUBPOENAS**

If a process server appears in the office with a subpoena for the Company, any employee or licensee should accept it. Once accepted, it should immediately be turned over to the broker (sales manager). The broker (sales manager) should immediately contact the President or other officer of the company. In the absence of any of these persons, the broker (sales manager) should contact the company's attorney. If the process server asks for a specific person, only that specific person may accept the

subpoena. If that person is not in the office, the person receiving the inquiry should not volunteer any information about the person requested and should not give out home phone numbers or home addresses, even if asked. Refer the inquiry to the broker (sales manager) immediately.

### **LICENSEE SAFETY**

It is critically important that a licensee be aware of safety risks inherent in any business. The residential real estate business presents certain safety risks because of the time of day and week when much of the business is conducted. DREAM HOME REALTY has the following safety policies, guidelines and suggestions:

1. If the licensee does not know a customer, arrange a meeting at the office.
2. NEVER meet a prospect at a vacant house ALONE. ALWAYS take another person with you. DO NOT meet the prospect after dark.
3. ALWAYS let the office or someone at your home know where you will be when showing property, especially, to prospects you are first meeting.
4. When on the showing, DO NOT go to dark areas, basements, garages, or areas without multiple exits. Allow the prospect to view those areas on his/her own and stay in an area, which allows for quick exit.
5. ALWAYS drive your own car. DO NOT let a prospect you do not know drive your car. Preferably, meet the prospect at the office, tell the office your destination and expected time of return and drive separate cars to the showing.
6. USE COMMON SENSE. If something doesn't feel right or look right, trust your instincts and remove yourself from the situation.
7. Whether to use self-defense techniques and how to handle a crises if it occurs are personal decisions. Think about your choices in advance.
8. View safety videotapes and talk to your local police. The company has a videotape available on licensee safety and urges each licensee to view it regularly. In addition, the videotape is regularly shown at a sales meeting and the local police are asked to make safety presentations at a sales meeting periodically. Take advantage of these opportunities to be smart and be safe. No commission is big enough to justify personal risk!!

## FUNCTIONS OF UNLICENSED OFFICE PERSONNEL

The policy of DREAM HOME REALTY, regarding the functions and use of unlicensed office personnel follow the Missouri Real Estate Commission Rules and Regulations. The general policy is that unlicensed office personnel (secretaries, assistants, personal assistants, receptionists, accounting personnel, etc.) are to be used in a support role to the main real estate business function of the company. **UNDER NO CIRCUMSTANCES** will unlicensed office personnel be allowed to do the real estate business.

"Doing the real estate business" means doing any of the acts for which a license is required as defined in the license law (Section 339.010(1) RSMo.).

Further defining this area is Missouri Real Estate Commission Rules and Regulations Section 250-8.050. This section implicitly allows for the use of unlicensed clerical personnel to support licensed activities but strictly limits the position "to the duties normally attributed to such positions and such personnel shall not solicit or accept listings, show listed properties, negotiate real estate transactions or otherwise hold themselves out to the public as engaged in the real estate business."

In an article in the October, 1991 Missouri Real Estate Commission Newsletter, the Commission took a position as to the activities in which unlicensed office personnel and assistants can and can not engage. The list is reprinted below. While licensees and employees are reminded that this is not a rule of the Commission and thus is not binding on the Commission, it does provide guidance in interpreting these sections of the license law and rules and regulations.

"A secretary or assistant **CAN**:

1. Answer the phone and forward calls to a licensee
2. Submit listings and changes to a multiple listing service
3. Follow up on loan commitments after a contract has been negotiated
4. Assemble documents for closing
5. Secure documents (public information) from courthouse, sewer district, water district, etc.
6. Have keys made for company listings
7. Write ads for approval of licensee and supervising broker and place advertising (promotional information, newspaper ads, etc.)
8. Record and deposit earnest money, security deposits, and advance rents

9. Type contract forms for approval by licensee and supervising broker
10. Monitor licenses and personnel files
11. Compute commission checks
12. Place signs on property
13. Order items of routine repair as directed by licensee
14. Prepare flyers and promotional information for approval by licensee and supervising broker
15. Act as a courier service to deliver documents, pick up keys, etc.
16. Place routine telephone calls on late rent payments
17. Schedule appointments for licensee to show listed property.

A secretary or assistant **CANNOT**:

1. Host open houses, kiosks, home show booths or fairs, or hand out materials
2. Prepare promotional materials or ads without the review and approval of licensee and supervising broker
3. Show property
4. Answer any questions on listings, title, financing, closing, etc.
5. Discuss or explain a contract, listing, lease, agreement, or other real estate document with anyone outside the firm
6. Work as a licensee/secretary in one firm and do real estate related activities with that firm, while licensed with another firm
7. Be paid on the basis of real estate activity, such as a percentage of commission, or any amount based on listings, sales, etc.
8. Negotiate or agree to any commission, commission split, management fee or referral fee on behalf of a licensee"

### **PAYMENTS TO UNLICENSED PERSONS**

DREAM HOME REALTY, maintains a strong policy that no unlicensed person will be paid for any real estate activity requiring a license. The license law (Section 339.150 RSMo.) makes clear that an unlicensed person may not be paid for doing the real estate business. A later case, *Gilbert v. Edwards*, 276 SW2d 611 (Mo.App. 1955), makes it clear that this prohibition applies even if the person falls in to an exemption in the license law (Section 339.010(5) RSMo.). Therefore, the policy of DREAM HOME REALTY, is that it will not split commissions or fees with any unlicensed, but exempted, persons such as attorneys at law, auctioneers, receivers, trustees in bankruptcy, personal representatives, managers of apartments buildings, officers or employees of federal agencies or state government, etc.

## **BROKERAGE RELATIONSHIPS POLICY**

### **SELLER/BUYER AGENCY - Designated Agency (Transaction Brokerage with Buyers Authorized)**

DREAM HOME REALTY adopts this written policy identifying and describing the relationships in which the licensees of DREAM HOME REALTY may engage with sellers, landlords, buyers or tenants. As used in this policy, the word "Company" means DREAM HOME REALTY and its affiliated licensees.

The Company acts as seller's agents or as buyer's agents through written listing agreements or written buyer agency agreements or other written agreements for brokerage services with sellers or buyers.

In acting as seller's agents or as buyer's agents, the Company acts as a limited agent as that term is defined by the Statutes of the State of Missouri and per the duties and obligations of a limited agent of a seller or buyer as specified by the Statutes of the State of Missouri. The Company's written agency agreements include the licensee's duties and responsibilities as a limited agent of the seller or as a limited agent of the buyer.

The Company adopts the additional policy of appointing designated agents as limited agents for clients pursuant to the Statutes of the State of Missouri (known as "designated agency"). A designated agent shall be an affiliated licensee of the Company who is appointed in writing to be the limited agent of a client to the exclusion of all other affiliated licensees of the Company, pursuant to the Statutes of the State of Missouri. The appointment of a designated agent will be made in a listing agreement, buyer agency agreement, other written agreement for brokerage services or other written notice to the client. Office managers/branch managers/supervising brokers are authorized by this policy to make the appointment of designated agents on behalf of the Company.

In the event that a licensee personally represents both the seller and buyer or both the landlord and tenant in a particular transaction, that licensee shall be a dual agent and is required to comply with the provisions of the Statutes of the State of Missouri governing dual agents and the Company's policy regarding dual agents herein.

In the event that the designated broker of the Company or any of its office managers/supervising brokers learn confidential information about either party to a transaction or if such broker is consulted by any licensee involved in the transaction, such broker will be a dual agent. Such broker will also be a dual agent if the broker supervises the licensee for one side of the transaction and personally represents the other side of the transaction.

If acting as a disclosed dual agent under this policy, the dual agent in the transaction must have the consent of all parties to the transaction. The Company's listing agreements and buyer agency agreements contain permissions for the Company to act as a disclosed dual agent in the circumstances noted above.

If acting as a disclosed dual agent, the dual agent will be a limited agent for both the seller and buyer or the landlord and tenant as defined in the Statutes of the State of Missouri. The dual agent will have the duties and obligations of both a seller's agent and a buyer's agent as specified by the Statutes of the State of Missouri.

The Company will also work with unrepresented buyers to sell its listings. The Company will work with buyers to sell listings of other brokers as transaction brokers as that term is defined by the Statutes of the State of Missouri. Licensees of the Company are authorized to accept offers of cooperation and compensation made to transaction brokers either through written offers of cooperation and compensation or through unilateral offers of cooperation and compensation made in any multiple listing services in which the Company participates. Licensees of the Company acting as transaction brokers must comply with applicable law and regulations regarding conduct as a transaction broker and appropriate disclosure of transaction broker status to the buyer. Also, transaction brokerage agency is required in the transactions involving H.U.D., foreclosed and repossessed properties.

**The Company may also act as a subagent and does authorize its licensees to act in a subagency capacity upon the oral approval from the office manager.**

The Company and its designated broker **Goran Brnjic** authorize its affiliated licensees to enter into written agency agreements on behalf of the Company and its designated broker. **All agency agreements involving designated agency should be signed by the designated broker and not by the designated agent. Also, designated agency is required in the transactions involving the closed relatives.**

**Goran Brnjic** is hereby appointed as the designated broker for the company.

## **COOPERATION AND COMPENSATION POLICY**

1. COOPERATION/COMPENSATION OF BUYER'S AGENTS, SUBAGENTS AND TRANSACTION BROKERS: DREAM HOME REALTY believes it is in the best interests of the company's sellers to give property the widest possible exposure of possible showings. Because buyer's agents, subagents, and transaction brokers conduct showings in the market, DREAM HOME REALTY cooperates

and compensates all types of cooperating brokers at the same level of cooperative compensation.

2. COOPERATION/COMPENSATION OF BUYER'S AGENTS ONLY: DREAM HOME REALTY cooperates and compensates only buyer's agents. DREAM HOME REALTY policy is to inform sellers of its policy before entering into the listing agreement and secure the acknowledgment of the seller of the company's policy.
3. COOPERATION/COMPENSATION OF SUBAGENTS ONLY: DREAM HOME REALTY cooperates and compensates only subagents. DREAM HOME REALTY policy is to inform sellers of its policy before entering into the listing agreement and secure the acknowledgment of the seller of the company's policy.
4. COOPERATION/COMPENSATION OF TRANSACTION BROKERS ONLY: DREAM HOME REALTY cooperates and compensates only transaction brokers. DREAM HOME REALTY policy is to inform sellers of its policy before entering into the listing agreement and secure the acknowledgment of the seller of the company's policy.

In all cases, before entering into a listing agreement, the listing licensee must disclose to the seller:

1. The company policies regarding cooperation and the amount(s) of any compensation that will be offered to subagents, buyer agents, and/or transaction brokers.
2. If the company cooperates with buyer's agents, the disclosure must also state that buyer's agents, even if compensated by DREAM HOME REALTY, will represent the buyer, not the seller; and
3. Any potential for DREAM HOME REALTY to be a disclosed dual agent, if company policy allows disclosed dual agency.

In addition, when entering into buyer agency agreements, the buyer's agent must disclose to the buyer:

1. The company's policies regarding cooperation;
2. The amount of compensation to be paid by the client;
3. The potential for additional or offsetting compensation from other brokers, from the seller or landlord, or from other parties; and
4. Any potential for the buyer representative to act as a disclosed dual agent, e.g. listing broker, subagent, landlord's agent, etc.

These disclosures must be made under provisions of the Code of Ethics.

## **BROKERAGE RELATIONSHIPS DISCLOSURE POLICY**

Complementing the brokerage relationships policy chosen by the company are the Missouri Real Estate Commission Rules and Regulations on Brokerage Relationships Disclosure (Section 250-8.095). DREAM HOME REALTY, maintains a policy promoting discussion of brokerage relationships at the first reasonable opportunity with a customer or a client. Each agent is required to attend training and education on brokerage relationships disclosure within the company training program.

The Missouri brokerage relationships statute requires use of the Broker Disclosure Form as prescribed by the Missouri Real Estate Commission. The Broker Disclosure Form must be given to any person who has not entered into an agreement to be represented. This includes prospective sellers, buyers, landlords and tenants. The Form must be given to the person at the earliest practicable opportunity during or following the first substantial contact.

The Rules and Regulations require the licensee to give disclosure of his/her brokerage relationship on the following terms.

When acting as a **SELLER'S AGENT OR SUBAGENT**, you must disclose this status at the following times: (Initial oral disclosure is sufficient. There must also be a written confirmation, which is usually in the sale contract.)

- a. Disclose seller agency status to an unrepresented buyer no later than first showing of real estate.
- b. Disclose seller agency status to a buyer's agent or represented buyer upon first contact with the buyer's agent or buyer, whichever occurs first.
- c. Disclose seller agency status to BOTH a transaction broker assisting the buyer AND the buyer upon first contact with each.

When acting as a **BUYER'S AGENT**, you must disclose this status at the following times: (Initial oral disclosure is sufficient. There must also be a written confirmation, which is usually in the sale contract.)

- a. Disclose buyer agency status to an unrepresented seller no later than first showing of real estate.
- b. Disclose buyer agency status to a seller's agent or represented seller upon first contact with the seller's agent or seller, whichever occurs first.
- c. Disclose buyer agency status to BOTH a transaction broker assisting the seller AND the seller upon first contact with each.
- d. If there has been no contact with the seller's agent or transaction broker or seller before presentation of an offer, the buyer's agent MUST establish

first contact with the seller's agent or transaction broker and disclose buyer agency status PRIOR TO presentation of an offer.

3. When acting as a **TRANSACTION BROKER**, you must disclose this status at the following times: (Initial oral disclosure is sufficient. There must also be a written confirmation, which is usually in the sale contract.)

**A. TRANSACTION BROKER ASSISTING THE SELLER:**

Disclose transaction broker status to an unrepresented buyer no later than first showing of real estate.

1. Disclose transaction broker status to a buyer's agent or represented buyer upon first contact with the buyer's agent or buyer, whichever occurs first.
2. Disclose transaction broker status to a seller upon establishing the transaction broker relationship with the seller.
3. Disclose transaction broker status to BOTH a transaction broker assisting the buyer AND the buyer upon first contact with each.
4. If there has been no contact with the buyer's agent or transaction broker or buyer before presentation of an offer, the seller's transaction broker must disclose the transaction broker status to the buyer's agent or transaction broker when the first contact is established by the buyer's licensee.

**B. TRANSACTION BROKER ASSISTING THE BUYER:**

1. Disclose transaction broker status to an unrepresented seller no later than first showing of real estate.
2. Disclose transaction broker status to a seller's agent or represented seller upon first contact with the seller's agent or seller, whichever occurs first.
3. Disclose transaction broker status to a buyer upon establishing the transaction broker relationship with the buyer.
4. Disclose transaction broker status to BOTH a transaction broker assisting the seller AND the seller upon first contact with each.
5. If there has been no contact with the seller's agent or transaction broker or seller before presentation of an offer, the buyer's transaction broker **MUST** establish first contact with the seller's agent or transaction broker and disclose transaction broker status PRIOR TO presentation of an offer.

2. When acting as a **DUAL AGENT**, you must disclose this status IMMEDIATELY upon its occurrence to all parties to the transaction.

In light of the increasing emphasis in the industry on brokerage relationships, DREAM HOME REALTY, prefers and urges that each licensee discuss brokerage relationships

with customers and clients at the earliest possible time in the relationship to avoid later misunderstandings. All licensees must disclose not later than the time periods required by the Rules and Regulations.

### **MANDATORY BUYER AGENCY EVENTS**

It is the policy of DREAM HOME REALTY that any licensee working in the following circumstances **MUST** act as a buyer's agent and may not act as a subagent of the seller or as a transaction broker.

1. The licensee is buying property for her or himself.
2. The licensee is working with the licensee's immediate family, that is, mother, father, brother, sister, children, any of their spouses or any business owned fully or partially by any of these persons.

### **STRONGLY RECOMMENDED BUYER AGENCY EVENTS**

It is the policy of DREAM HOME REALTY that any licensee working in any of the following circumstances is strongly urged to work as a buyer's agent.

1. The licensee is working with any relative by blood or marriage not in the licensee's immediate family as defined above.
2. The licensee is working with a close friend, business associate or long term past customer or client.
3. The licensee is working in an agency capacity with a seller of a currently or previously listed property to find property to buy. The licensee may be concurrently working with the seller to sell the property and also working to buy a new property. This event also applies to a seller whose property is under contract or closed and is working to buy a new property.

### **CONFIDENTIALITY**

One of the most important statutory duties of an agent is to maintain the confidentiality of the client, whether buyer or seller. In addition, the Missouri brokerage relationship statute provides that a transaction broker has similar duties of confidentiality to the party from whom confidential information is received. The Missouri brokerage relationship statute defines confidential information. It includes information made confidential by written instruction from the client and information made confidential by the statute. The statute notes that a licensee should treat as confidential information provided by the client that may reasonably be expected to have a negative impact on the client's real

estate activity. Licensees should pay particular attention not to make unauthorized or offhand comments about a client's situation or a client's property in a way, which could be considered a violation of the duty of confidentiality. In particular, five areas are considered of particular importance. They are:

1. The lowest price a seller is willing to accept.
2. The highest price a buyer is willing to pay.
3. The motivation of either party to enter into the transaction.
4. That a client will agree to financing terms other than those offered.
5. Previous offers and counteroffers of either party.

If disclosed dual agency is offered, it is particularly important for each agent to realize that she/he must hold confidential the information of both buyer and seller, regardless of which party the particular agent is working with.

In offering disclosed dual agency and designated agency, the company and all of its associates must be sensitive to confidential information within the office and among the associates of the company. The following procedures and policies are intended to protect the confidentiality of the company's clients.

1. Associates should not discuss confidential information of the client between or among themselves.
2. Comments at sales meeting should not reveal confidential information of the client without the client's permission.
3. **Office files of listings and pending sales are confidential and may not be accessed except for authorized staff and the particular licensee involved in the listing or transaction.**
4. Fax transmissions are confidential. Office staff will distribute faxes in envelopes so as not to reveal contents to persons other than to whom the fax is addressed.
5. Telephone messages with confidential information will be distributed in an envelope.
6. Contracts, offers, counteroffers or other transactional documents will be delivered to the person addressed in envelopes. Persons other than the addressee are not authorized to open any such envelope.

## **FAIR HOUSING POLICY**

DREAM HOME REALTY, believes that fair housing policies are not just the law of the land but simply the right thing to do. DREAM HOME REALTY, maintains a strong policy upholding all federal and state fair housing laws and Article 10 of the REALTOR® Code of Ethics. In addition, DREAM HOME REALTY, requires each licensee and staff member to participate in fair housing education.

Accordingly, DREAM HOME REALTY, prohibits any licensee or staff member from discriminating against any person in the provision of any of the company's services on the basis of race, color, religion, sex, handicap, familial status, national origin or ancestry.

Among the prohibited practices which against this policy and the law are:

1. Refusing to show, sell or rent based on a person being a member of a protected class.
2. Different treatment/disparate treatment to persons of a protected class.
3. Steering: A person shall not encourage or discourage another from moving in to any area because of the race, color, religion, sex, handicap, familial status or national origin of the present residents.
4. Discriminatory advertising that expresses a preference, limitation or discrimination for buyers or tenants of a particular race, color, religion, sex, handicap, familial status or national origin.
5. Harassment (i.e., coercion, intimidation, threats or interference with a person's fair housing rights or because a party is abiding by fair housing law)
6. Applying more burdensome criteria to applicants of protected classes
7. Blockbusting: A person is prohibited from inducing or attempting to induce another to sell or rent a property by making any express or implied representations regarding the entry or prospective entry into a neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status,-national origin or ancestry.

Licensees and staff should be aware that persons with AIDS are considered handicapped and "familial status" means families with children.

## **ANTITRUST POLICY**

DREAM HOME REALTY, maintains a strong policy against any antitrust involvement by the company, its licensees or employees. Few obligations can be taken more seriously than this area. DREAM HOME REALTY, requires each person associated with the company to participate in antitrust education and acknowledge his/her understanding of these principles. Two areas are the primary antitrust focus.

1. **PRICE FIXING:** Price fixing means any agreement, setting, consent to, suggestion or implication with a competitor regarding a fee to charge. This includes fees charged to the public, fees split among brokers and fees paid to licensees. "Agreement" can be overt, covert, express or implied. It is very broad based and can even be suggested or implied by casual conversation with any competitor.

Accordingly, DREAM HOME REALTY, its licensees and staff are prohibited from discussing with any competitor, including an individual licensee, any aspect of the fees the company charges or how total fees are split. DREAM HOME REALTY, determines its charges based on the company's own independent internal analysis of its expenses, its revenue, its desired profit level and its choice of the type and level of service it desires to provide.

In any discussion with a member of the public about our charges (such as a listing appointment), the only acceptable answer about why the company charges what it does is the foregoing explanation. Do not be drawn into a discussion about company fees as "the standard rate," "the Board rate," "the typical rate" or the like. If questions arise about other company's fees, suggest that the potential client call several competitors and ask about their rates.

2. **BOYCOTTING COMPETITION:** It is also a violation of federal law to make any agreement, express or implied, with a competitor to boycott or otherwise not deal with a third competitor. For example, assume Discount Realty opens up an office. Then assume Bob Broker, a licensee with Big Bucks Broker, and Alice Licensee, a licensee with Just As Big Broker are having lunch one day and discuss the competitive impact of Discount Realty. Bob and Alice agree that Discount is a danger to their large listing portfolios and further agree that individually they will not show Discount's listings because "Something has got to be done about that price-cutting monger." This simple agreement with two licensees is an illegal boycott. Even if it were implicit and not overt, it could be construed as an illegal boycott.

DREAM HOME REALTY, prohibits any licensee or staff member from making any agreement or suggestion with a competitor, including an individual licensee, that he/she or the company will not deal with a third broker or licensee, whether it be a listing company, buyer's brokerage, discount broker or any other broker or licensee whatever.

## **COMPANY COMPUTER AND INTERNET USAGE POLICIES**

## **Use of Company Computers**

1. **Computers provided by the company in the offices or otherwise are for business use, not personal use.**
2. Occasional use of a computer for a personal letter or report is permitted, so long as the computer(s) is not needed by other persons in the office for business purposes. If a person with a business use needs the (a) computer, the person using the computer for personal use must stop and give the business user immediate access to the computer.
3. Personal data or files (such as those created under #2), may not be stored on company computers.
4. **Internet Usage – "Surfing" – "Browsing"**
  - A. Computers provided by the company in the offices or otherwise may be used for internet browsing or "surfing" for business purposes. Generally, licensees, associates and employees should not use company computers for internet browsing for personal purposes.
  - B. Occasional use of company computers for personal internet browsing is permitted on the same conditions as general use of company computers for personal purposes noted in #2 and #3 above.
  - C. Under no circumstances may company computers be used for browsing websites containing any type of inappropriate content, including content that is racial or ethnic "hate" content, excessively violent or sexually explicit content.
  - D. Under no circumstances may company computers be used for any communications with websites containing any type of inappropriate content, including content that is racial or ethnic "hate" content, excessively violent or sexually explicit content. "Communications" means any type of use of the computer to communicate, including, without limitation, "chat," "chat rooms," "instant messaging," discussion groups, list-servs or email.
5. Any communications and communication methods used via a company computer shall be appropriate and within all local, state and federal laws. Under no circumstances may company computers be used to communicate any type of inappropriate content, including content that is racial or ethnic "hate" content, excessively violent or sexually explicit content. "Communications" and "communication methods" means any type of use of the computer to communicate, including, without limitation, "chat," "chat rooms," "instant messaging," discussion groups, list-servs or email.
6. All employees, licensees and associates will obey all laws and regulations,

whether federal, state or local, in their use of company computers, whether business or personal, including use for email and internet browsing or usage. These laws include, without limitation, copyright, trademark, defamation of character, libel, slander, fraud and misrepresentation.

**7 No Privacy**

- A. As the computers and communication systems (including all networking systems) are owned by the company, all material, communications, information and usage may be monitored and regulated by the company in any way, method or manner that the company deems necessary and appropriate.
- B. No employee, associate or licensee shall retain, maintain or own any rights to any information or communication stored on or routed through company computers.
- C. No employee, associate or licensee shall have any rights to privacy as to any information, communication, activity or otherwise related to use of company computers, regardless of the reason for the use of the computer, whether business or personal.

**Email Usage Policies**

- 1. All email communications must conform to state and federal law. SEE BELOW FOR FURTHER INFORMATION ON FEDERAL AND STATE EMAIL LAWS.
- 2. **Email is a written, recorded communication and every agent should check e-mails regularly on daily bases as required by the office.**
- 3. Licensees will not use inappropriate language in any email communication.
- 4. If the licensee maintains email files on company computers, those files are not considered private or confidential and may be reviewed by company management at the company's discretion.
- 5. Any contracts which obligate the licensee because of an email communication will be the responsibility of the licensee only. If the company becomes liable for a contract made by a licensee in an email communication, the licensee will promptly reimburse the company the costs of the contract and/or the company will have the right to deduct such costs from any pending commissions due the licensee.
- 6. The licensee will not defame, slander or libel any person in any email communication.
- 7. The licensee will provide, at the request of the company, copies of any email communications the licensee possesses regarding any client, customer or

transaction involving the licensee or the company.

### **Internet Advertising**

1. All advertising, web pages, domain names, sponsorships, links, frames and other electronic media (referred to as "Internet advertising") must conform to state and federal law and to any identity standards which the company or the company's franchise has or may have in the future.
2. All Internet advertising must be approved by company management before the advertising begins. This includes personal websites and any postings of listings on any site other than the company's website, the company's franchise's website or Realtor.com.
3. All contracts for Internet advertising must be reviewed and approved by company management before the licensee enters into the contract.
4. All Internet advertising must contain appropriate content and shall not contain links to any inappropriate content nor be sponsored by any person or entity which has not been specifically approved by company management.
5. The licensee shall be responsible for all costs of Internet advertising which has been contracted for by the licensee. The licensee will not enter into any contracts for Internet advertising in the company's name and shall enter into such contracts in the licensee's individual name. If the company becomes liable for any contracts entered for Internet advertising entered into by the licensee, the licensee will promptly reimburse the company the costs of the advertising and/or the company will have the right to deduct such costs from any pending commissions due the licensee.

## **FEDERAL AND STATE EMAIL LAWS**

### **Missouri Unsolicited Email Law**

Missouri's Unsolicited Commercial Email law requires that a sender of unsolicited commercial email must comply with certain provisions and include certain content in the message and subject line.

However, an exemption exists for a person in a licensed trade or profession who is attempting to set an appointment for actions relating to the licensed trade or profession. The Missouri law does not apply in most circumstances for real estate licensees.

However, the federal "CAN-SPAM" law has largely pre-empted the Missouri law and is described in the article in the next section.

## **FEDERAL “CAN-SPAM” LAW**

The following article is excerpted from REALTOR.org. It is an excellent summary of the Federal “CAN-SPAM” law. It is the policy of DREAM HOME REALTY that the provisions of the CAN-SPAM law as described in this article are required to be followed by all licensees.

### **Overview**

On Tuesday, December 16, 2003, President Bush signed S. 877, the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, or the “CAN-SPAM Act of 2003” (“Act”). The Act creates a single national standard designed to control the growing problem of deceptive or fraudulent commercial e-mail. This legislation was largely sought by retailers, marketers and Internet account providers seeking a single set of rules that would apply nationwide and preempt 35 state spam laws. The Act does not ban commercial e-mails but rather outlines a series of practices that must be followed when sending commercial e-mails. The Act does ban certain fraudulent or deceptive practices and criminalizes techniques used by spammers to avoid detection. The Act also calls upon the Federal Trade Commission (“FTC”) to prepare a report to Congress within 6 months containing a plan and timetable for creating a Do-Not-E-mail (“DNE”) Registry and addressing the feasibility, problems and issues involved in the creation of such a Registry. The Act does not require the FTC to create a DNE Registry. State laws exclusively regulating use of electronic mail to send commercial messages are preempted by the Act. However, the Act does not preempt state laws or portions of state laws that prohibit falsity or deception in any electronic mail message or attachment to such an e-mail.

### **I. Scope of and Required Email Practices**

#### **What emails are covered by the Act?**

The Act applies to all “commercial e-mails”, whether solicited or unsolicited. The Act defines commercial emails as “any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service.”

While the Act does not define “primary purpose” or “commercial product or service,” the Act does require the Federal Trade Commission (“FTC”) to issue regulations by January 1, 2005 on how to determine the primary purpose of a message.

## **What information does the Act require senders of commercial emails to include in their emails?**

The Act requires all commercial emails to include:

- a legitimate return e-mail and physical postal address,
- a clear and conspicuous notice of the recipient's opportunity to “opt-out,” that is, to decline to receive any future messages,
- a mechanism that may be used or an e-mail address (active for at least 30 days after message transmission) to which a recipient may send a message requesting not to receive any future e-mail messages from the sender,
- a clear and conspicuous notice that the message is an advertisement or solicitation, and
- clear notice in subject heading if messages include pornographic or sexual content.

## **Does the Act contain an exemption from the above requirements for e-mails sent to those individuals or firms with whom the sender has an existing business relationship?**

No, the Act does not exempt e-mails to recipients with whom the sender has a prior or existing business relationship, as many of the State laws do. Instead, the Act exempts only “transactional or relationship messages” from complying with these practices.

## **What is a “transactional or relationship message”?**

A “transactional or relationship message” is an electronic mail message the primary purpose of which is:

- (1) to facilitate, complete, or confirm a commercial transaction that the recipient has previously agreed to enter into with the sender;
- (2) to provide warranty information, product recall information, or safety or security information with respect to a commercial product or service used or purchased by the recipient;
- (3) to provide information with respect to a subscription, membership, account, loan, or comparable ongoing commercial relationship involving the ongoing purchase or use of products or services offered by the sender to the recipient;
- (4) to provide information directly related to an employment relationship or related benefit plan in which the recipient is currently involved, participating, or enrolled, or;
- (5) to deliver goods or services, including product updates or

upgrades, that the recipient is entitled to receive under the terms of a transaction that the recipient has previously agreed to enter into with the sender.

The Act provides that the FTC may, by regulation, modify the definition of “transactional or relationship message” to expand or contract the categories of messages that are treated as commercial e-mails under the Act.

**Are there any circumstances where a commercial e-mail does not have to include the notice that the message is an advertisement or solicitation?**

Yes. If the recipient has given their prior consent to receive commercial e-mails from the sender, the sender does not have to include the clear and conspicuous notice that the e-mail is an advertisement or solicitation. Such messages must, however, include notice of the recipient's opportunity to decline to receive other messages from the sender and the sender's physical postal address.

**Must the sender honor an opt-out request made by a recipient?**

Yes, the Act requires that senders honor all opt-out requests. If a recipient makes a request to not receive commercial mail messages from the sender, it is unlawful for the sender to send another commercial electronic mail message at any time after ten days from the receipt of the original message unless the recipient has consented to receive e-mails subsequent to the first request to not receive commercial e-mails. Senders are also prohibited from selling, leasing exchanging or otherwise transferring for any purpose, disclosing the e-mail address of any recipient who has opted-out once the opt-out request has been received.

**Can the sender offer a menu of opt-out options?**

Yes. A sender of commercial e-mails may give recipients a menu of options from which to choose the types of commercial e-mail they no longer wish to receive, as long as the menu includes an option to receive no further commercial email communications of any kind from the sender.

**Would e-mails sent by the listing agent or broker to a seller who has listed their home for sale, or by an agent or brokerage to a prospective buyer, be considered transactional or relationship messages?**

In either case, as long as the broker or agent has established a service relationship with the client, such as listing the property for sale or entering into a buyer's broker agreement with an interested buyer, such communications between broker/agent and customer/client are probably covered. Other messages, such as those that solicit sellers or buyers who are not presently firm clients, are probably not covered. ...

**II. Deceptive And Other Egregious Practices Are Expressly Prohibited**

**What does the law prohibit?**

The Act also prohibits the most egregious spam practices including: e-mail harvesting (email addresses gathered by computer programs that search public areas on the Internet to compile, capture, or otherwise "harvest" lists of e-mail addresses from web pages, newsgroups, chat rooms, and other online destinations); dictionary attacks (a technique to create as many possible letter combinations for e-mail addresses at large ISPs or e-mail services, hoping to find a valid address); sending bulk spam from a computer accessed without authorization; sending bulk spam through open relays (open mail servers are configured to accept and transfer email on behalf of any user anywhere, including unrelated third parties and so an "open relay" in your e-mail server allows any e-mail sender anywhere to pass messages through your server and onto the ultimate recipients); falsifying header information; using deceptive subject lines; registering for 5 or more e-mail accounts using false registration information; and using these accounts to send bulk spam.

...

**Is there a safe harbor?**

There is no safe harbor. However, in actions taken by state AGs and ISPs, courts are permitted to consider whether defendants have implemented and followed commercially reasonable compliance procedures in setting the level of damages.

How do these new rules affect existing state spam rules?

The Act preempts all state laws that expressly regulate commercial e-mail messages, except to the extent that the state laws regulate falsity or deception. State laws are preempted even if they are more stringent than

the Act; thus, California's new anti-spam law is largely preempted.

## **FEDERAL AND STATE "NO CALL" LAWS & COMPANY POLICIES**

Both the State of Missouri and the federal government have adopted "No Call" laws or rules that affect the Company's business and licensee's activities. Licensees must follow these No Call policies strictly.

### **Missouri No Call Law**

Missouri's No Call law provides that a telemarketer may not call a number that has been registered.

However, an exemption exists for a person in a licensed trade or profession who is attempting to set an appointment for actions relating to the licensed trade or profession. The Missouri law does not apply in most circumstances for real estate licensees.

The website for the Missouri No Call law is:  
<http://www.ago.mo.gov/nocalllaw/nocalllaw.htm>

However, the federal No Call rules do apply to Missouri licensees and the Company's policies are set out in the next section.

### **Federal Do Not Call Rules**

The federal No Call rules are administered by 2 federal agencies, the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC). There are NO exemptions under the federal rules for real estate licensees. All DREAM HOME REALTY licensees must strictly comply with the federal rules.

The FCC Rule covers both interstate and intrastate calls. Real estate licensees are considered telemarketers and make telephone solicitations under the definitions in both the FCC and FTC rules.

A telephone solicitation is defined as the initiation of a telephone call for the purpose of encouraging the purchase of goods or services. Real estate licensees make many types of calls that may fit this definition of telephone solicitation. Some of the common calls for real estate licensees that fit this definition are:

1. FSBO calls
2. Expired listing calls
3. Cold call prospecting

No telephone solicitation/telemarketing calls are allowed to a residential telephone subscriber:

1. Before 8 a.m. or after 9 p.m.
2. Registered on the Federal Do Not Call List.
3. Registered on the DREAM HOME REALTY company specific Do Not Call

List.

Consumers may register their telephone numbers with the FTC's Do Not Call database. Consumers may also request that their number be placed on the DREAM HOME REALTY company specific Do Not Call List (DNC). More information below is included about the administration of the company DNC list.

Once a consumer registers their number on the Federal DNC List, a licensee may not make a telephone solicitation call to that number unless:

1. You have the prior, express, written permission to call them at that number.
2. OR, you have an "established business relationship" with that registered consumer.

"Established business relationship" is defined by the Federal Rules as:

"The term established business relationship means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis of the subscriber's purchase or transaction with the entity within the eighteen (18) months immediately preceding the date of the telephone call or on the basis of the subscriber's inquiry or application regarding products or services offered by the entity within the three months immediately preceding the date of the call, which relationship has not been previously terminated by either party."

For real estate licensees, "established business relationship" will usually mean:

1. A closed transaction within the 18 months prior to your call; OR
2. An inquiry about property or about our services to you or the office within the 3 months prior to your call.

In addition, if any consumer that is called, whether with permission or not on the Do Not Call List or within any of the exceptions discussed above, make a request to be put on the company's Do Not Call List, that request must immediately be honored.

DREAM HOME REALTY procedures to comply with these rules are as follows:

1. The Company has appointed Goran Brnjic as the coordinator of activities under the Do Not Call Rules. This coordinator maintains the Company specific Do Not Call List and handles the procedures for obtaining the federal Do Not Call List on a **QUARTERLY** basis.

2. No telephone solicitations are allowed before 8 a.m. or after 9 p.m. whether or not the called person is on the Do Not Call List.
3. No telephone solicitations are allowed to any person on the Federal Do Not Call List.
4. No telephone solicitations are allowed to any person on our company Do Not Call List.
5. As part of the company's regular training program, all licensees are required to attend company training about these procedures to comply with the Federal and State Do Not Call rules and law.
6. DREAM HOME REALTY policy is that the Company does not sell, rent, lease, purchase or use the national do-not-call database, or any part thereof, for any purpose except compliance with the Do Not Call rules and laws and to prevent telephone solicitations to telephone numbers registered on the national database. The company purchases access to the relevant do-not-call data from the administrator of the national database and does not participate in any arrangement to share the cost of accessing the national database, including any arrangement with telemarketers who may not divide the costs to access the national database among various client sellers.
7. If you make a telephone solicitation to a telephone number that is NOT listed on the DNC database or on the company DNC database, you must still comply with the following:
  - a. Identify yourself.
  - b. Identify the company (DREAM HOME REALTY).
  - c. State your telephone number
  - d. Immediately honor any "Do Not Call" request and report the Do Not Call request to the Company Do Not Call Coordinator for inclusion on the company specific DNC list.

## **PERMISSIBLE CALLS**

The following telephone solicitation calls are permissible if the conditions described are followed:

1. A call to a business number. The rules apply only to residential subscribers.
2. A call to a person who has given prior, express, written permission. Prior, express permission is defined as:

"... Such permission must be evidenced by a signed, written agreement between the consumer and [company] which states that the consumer agrees to be contacted by this [company and licensee] and includes the telephone number to which the calls may be placed;" (Emphasis added.)

**OPTIONS FOR COMPANY TO CHOOSE (MORE THAN 1 MAY APPLY):**

- A. The Company has Permission Forms available that the consumer can sign to allow calls to be made. A consumer may revoke the permission at any time and if they do so, the procedure for placing that number on the company Do Not Call list must be followed.**
  - B. The Company includes the express permission in its listing agreement and buyer agency agreement. Any client who signs the listing agreement and buyer agency agreement may then be called for purposes of telephone solicitation. If a client tells the licensee to put the client on the company Do Not Call list, that request must be honored in the manner described earlier. For any person who has not signed a representation agreement, licensees should use the Permission Form described above.**
3. Calls to a client/customer within 18 months of the closing of a sale or lease transaction with that client/customer.
4. Calls to a prospect who has made an inquiry to you or the office about property or about brokerage services, **IF** the inquiry was made within the past 3 months. Licensees who make calls on this basis **MUST** keep a written record or log that records the date of the first inquiry of the prospect. If the licensee does not have a written record or log of the initial inquiry, calls may not be made to that prospect.

**NOTE ABOUT OPEN HOUSE SIGN IN SHEETS:** At the present time, the use of Open House sign in sheets as a method of obtaining express, written permission is not legally clear. Before using an Open House sign in sheet as an express permission, you should consult with your legal counsel. Likewise, telephone solicitations to prospects who sign Open House sign in sheets on the basis of the prospect having made an "inquiry" are not clear. Consult your legal counsel as to the appropriate language that might be included on an Open House sign in sheet related to further telephone solicitations of those prospects.

**NOTE ABOUT CALLS BASED ON BUYER AGENCY AGREEMENTS:** It is also not legally clear if calls by buyer agents searching for property for their buyer clients can be made. It would seem that calls to property owners by buyer agents who are looking for suitable property for their buyer client would not be engaged in telephone solicitation because the buyer agent is not calling to sell or offer to sell

brokerage services (i.e. a listing solicitation) to the property owner. Clarification is being sought by the National Association of REALTORS® on this point. You should consult with your legal counsel as to whether your company will allow these calls.

## **WEBSITE RESOURCES FOR THE DO NOT CALL RULES**

**FTC Homepage for Do Not Call List: [www.ftc.gov/bcp/online/edcams/donotcall](http://www.ftc.gov/bcp/online/edcams/donotcall)**

**FCC Homepage for Do Not Call List: [www.fcc.gov/cgb/donotcall/](http://www.fcc.gov/cgb/donotcall/)**

**To register a number on the Do Not Call list: [www.donotcall.gov](http://www.donotcall.gov)**

## **LISTING PROCEDURES**

DREAM HOME REALTY, accepts listings and seeks to build an inventory of available merchandise for sale to buyers of homes and investment real estate. It offers the merchandise directly to the public and by cooperating with other licensees, whether they are buyer's agents, subagents or transaction brokers (as per prior policy in this manual).

Listings not only represent "the merchandise on the shelf" but also present a significant area of risk. Statistically, at least two-thirds of all claims filed against real estate licensees involve claims of misrepresentation, fraud and/or breach of fiduciary duty. It is at the listing level that many of these claims originate. As a listing company, it is imperative that DREAM HOME REALTY, develop clear policies to reduce the risk of later claims from oversights and exposures at the time of listing. The following policies apply to all listings taken by DREAM HOME REALTY.

**1. TYPES OF LISTINGS:** In accord with the REALTOR® Code of Ethics, DREAM HOME REALTY, urges the exclusive listing of property, unless it is contrary to the best interests of the owner. Open listings may be accepted (Option 1:) at the licensee's discretion **OR** (Option 2:) only with consent of a manager or broker of the company. Net listings are not accepted as such would be a violation of Missouri Real Estate Commission Rules and Regulations. (Section 250-8.090(4)). A net listing is one in which the owner agrees to let the licensee keep any sale proceeds over a "net" price the owner wants for the property.

### **2. COMMISSION POLICIES:**

- a. Rates and prices charged for services to the public are:**
  - (1) Charges to sellers for listings 5.0-7.5%**  
**No listing bellow 5% is allowed without verbal approval from the designated broker.**
  - (2) Charges to sellers of "For Sale By Owner" 1-7.5%**

- (3) Charges to clients for handling transactions 1-3%.**
- c. **Compensation offered to subagents 40-60% of the full commission on company's listings and at least 2.7% of the purchase price**
- 1. **Compensation offered to buyer's agents 40-60% of the full commission on company's listings and at least 2.7% of the purchase price**
- 2. **Compensation offered to the company's licensees 70-80% of the broker's (DREAM HOME REALTY, INC) commission on all licensee's sales.**

### **3. OTHER LISTING TERMS:**

**An agent owner is not allowed to put the property he/she has any part of the ownership in as For Sale By Owner. If listed, he/she does not have to charge the service fee. However, the office portion of the listing commission is set to be 0.6% at all times. The same applies if agent lists the property of close relatives.**

### **4. DISCLOSURE OF ADVERSE MATERIAL FACTS:**

Missouri statutes require the disclosure to any customer all "adverse material facts" known by the licensee. (Note: There is a difference in the duty of a limited agent to also disclose facts which "should have been known" and the duty of a transaction broker to disclose facts of which the transaction broker has actual knowledge. Even though this difference exists in the statute, all licensees should take great care to disclose adverse material facts within the reasonable expertise of the typical real estate licensee. A good rule of thumb is "When in doubt, disclose.") Adverse material facts are defined as facts related to the physical condition of the property not reasonably ascertainable or known to a party which negatively affects the value of the property. However, the statute also adds a list of the types of facts included in adverse material facts, some of which do not have a connection to the physical condition of the property. These matters include:

- 1. Environmental hazards affecting the property;
- 2. Physical condition of the property which adversely affects the value of the property;
- 3. Material defects in the property;
- 4. Material defects in the title to the property;
- 5. Material limitation of the party's ability to perform under the terms of the contract.

**5. SELLER DISCLOSURE STATEMENTS:** Seller Disclosure Statements (also sometimes called "Property Condition Reports") are a detailed statement by the seller of his/her knowledge of the condition and features of the property. DREAM HOME REALTY, has a policy of urging the use of seller disclosure statements to clarify and declare the condition of the property at the time of listing. A licensee should request a disclosure statement on every listing. It is in the best interest of the seller to complete a

disclosure statement because it can avoid future misunderstandings with a buyer as to what the seller's knowledge of the condition of the property was at time of listing.

In addition, it is a valuable risk reduction tool for DREAM HOME REALTY and assists the company in complying with its obligations to disclose adverse material facts. By the seller making accurate, factual statements as to his/her knowledge of the property, later controversies as to "who said what" can be minimized.

A listing licensee should be careful to keep the seller disclosure statement current. If the information becomes inaccurate because the property's condition has changed, a seller (and licensee!) could have liability for allowing known inaccurate information to be given to buyers.

Some sellers may refuse to sign a seller disclosure statement. In Missouri, there are no state or federal laws, which require a seller to execute such a statement. DREAM HOME REALTY, **(WILL) (WILL NOT)** accept a listing for which a seller refuses to complete a seller disclosure statement. If a seller will not complete a disclosure statement, she/he can be counseled that completion can be a protection for her/him in that a buyer would have difficulty in claiming an oral representation in conflict with a written representation. Also, a seller should be reminded that the vast majority of properties are sold with completed seller disclosure forms. Her/his failure to have such a disclosure form available to buyers could place the property at a competitive disadvantage and bring into question the credibility of the property.

Particular note should be paid to lead based paint disclosures. Federal law requires certain disclosures on properties built prior to 1978 about the hazards of lead based paint and require that the buyer be given the opportunity for inspections for lead based paint. Licensees must strictly comply with the terms of the federal lead based paint disclosure statute and attend training on this topic. Federal penalties for failure to comply with the statute are significant, including fines up to \$10,000 per occurrence.

In certain situations, "representatives," such as personal representatives of estates, trustees and corporate owners may not be willing to complete a disclosure statement. In that event, the licensee should have an uncompleted disclosure statement form signed by the representative clearly indicating the lack of personal knowledge by the signer. However, a statement that the person "hasn't lived in the property" alone is not an absolute indicator that the person has no knowledge of any of the conditions in the property. An owner of investment property likely has knowledge of some conditions on the property because of what was reported to them by tenants. A personal representative of an estate who is the child of the deceased very likely may have some knowledge of the property because of conversations about the property that the deceased parent may have had with the child. Any seller should complete the disclosure statement with any information that they may have, including information given to them by another person.

In completing the disclosure statement, the seller her/himself **MUST** fill in the form. An DREAM HOME REALTY licensee **MAY NOT** complete the form on behalf of a seller, unless it's in an interpreting manner. If a licensee completes the form, much of the benefit of this risk reduction technique is lost.

In general, the licensee may rely on the statements of the seller. The Missouri brokerage relationships statute states that the licensee owes no duty to conduct an independent inspection of the property for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of any statement made by the client or any independent inspector.

However, a licensee may not ignore suspect items on the seller disclosure statement just because the seller completed it. If a licensee, in his/her reasonable judgment and expertise, suspects that a statement is not accurate, the licensee should seek further information from the seller. An example might be a seller who states that there has been no water in a basement in which there are obvious water stains and cracks. A licensee's best course is to seek further information from the seller as to the exact nature of their statements and then accurately convey this information to any prospective customer, in accord with the obligation to disclose adverse material facts.

In addition, a licensee should pay particular attention to inclusions and exclusions in the sale of the property and verify the seller's intention. For example, if an owner checks off that the master bedroom draperies will not be sold with the house, the licensee should verify that this is the seller's intent and then make clear in any promotional material mentioning draperies that the master bedroom draperies are excluded.

Also, it is very important to make sure the exclusion is expressly specified in the contract. The seller disclosure statement is not usually incorporated into the terms of the contract. Thus, a licensee should not rely on the seller disclosure statement to control the contract but must make sure that the exact understandings of the parties are reflected in the sale contract.

Another example of proper licensee procedure involves using reasonable diligence to observe matters in the seller disclosure statement. If an owner states in the disclosure statement that there has never been any water in the basement and the licensee notices brown water stains in one corner of the basement, the licensee must question the owner about the accuracy of the statement. Again, a licensee may not ignore her/his reasonable, normal, real estate licensee knowledge and information because an owner represents otherwise.

**5. ACCURACY OF LISTING INFORMATION:** Several "traps" of liability exist in taking a listing. These are covered below. Each DREAM HOME REALTY, licensee should take careful note of these hazard areas and be particularly diligent in handling these issues.

A. ROOM COUNTS: DREAM HOME REALTY, licensees must be careful to accurately represent the number of rooms, bedrooms and bathrooms in a property. Generally, questions of whether an area constitutes a room, bedroom or bathroom are resolved by determining whether an appraiser would count the area as such. For example, basement rooms, which are below grade, are not generally considered rooms, bedrooms or bathrooms for appraisal purposes. Another example is that a room normally must have a closet to be considered a bedroom. Also, "walk-through" rooms are not usually considered separate bedrooms. These ambiguous areas can be denoted by a symbol such as a "+" sign after the room count (e.g. 8+ rooms, 4+ bedrooms) or highlighted in remarks for the property or other descriptive information.

B. ROOM SIZES: The licensee should personally measure each room. DO NOT take room sizes from a former listing company's form. Be cautious about taking room sizes from plans. There may have been construction changes not reflected on the plans. Measure room sizes to feet and inches. **(NOTE: Many MLS systems do not allow input of room sizes to feet and inches. In such case, round inches to the nearest foot, e.g., 7 feet 7 inches rounds to 8 feet but 7 feet 5 inches rounds to 7 feet.)**

C. LOT SIZE: Lot size and acreage should only be determined from an accurate survey, the owner's real estate tax bill or the county tax records. The licensee should NOT attempt to measure lot size on her/his own.

D. TAXES: Taxes should be determined from county tax records or the owner's tax bill. The licensee should not rely on the statements of the owner as to tax amounts.

E. MODERNIZATION INFORMATION: Often, good selling features about a property are the updates or upgrades made by the owner. In order to accurately advertise these items, DREAM HOME REALTY, requires that the owner verify any information given to us before it can be used in any promotional material on the listing.

Items such as "new" roof, "new" air conditioner, "new" furnace, "new" bathroom, "new" kitchen, etc. are misnomers because of the difficulty in defining what "new" means. Substantiation of the information means the owner must supply DREAM HOME REALTY, with receipts, canceled checks or other proof of payment of upgraded or rehabbed items. Once provided, then DREAM HOME REALTY, will accurately advertise and promote these good selling features with language like "New roof, 1998", "New furnace, 2000", "Kitchen remodeled, 1999".

If it is not possible to substantiate modernized features, they can be advertised or promoted as "Newer" or "Recent", as in "Newer furnace" or "Recently remodeled bathroom".

6. SIGNATURES: Missouri Real Estate Commission Rules and Regulations require written listing agreements signed by "all owners" (Section 250-8.090(3)(A)(11)).

In addition, DREAM HOME REALTY, desires that listing agreements be enforceable in every possible situation to ensure that the company and licensee will be paid under the terms of the listing agreement. Because of these factors, licensees must secure listing agreements with the proper signatures before the listing will be promoted or advertised in any way. Licensees should be especially aware in the several situations below.

A. SPOUSAL SIGNATURES: A spouse must ALWAYS sign a listing agreement unless certain conditions exist, as follows:

- (1) A waiver of marital rights given by the non-signing spouse exists and a copy is provided to DREAM HOME REALTY.
- (2) A quitclaim deed made to the signing spouse has been executed and recorded by the spouse not signing and a copy is provided to DREAM HOME REALTY.
- (3) A prenuptial agreement waiving the non-signing spouse's rights exists, a copy of the prenuptial agreement has been given to DREAM HOME REALTY, and legal counsel for DREAM HOME REALTY, has consulted with a title company to determine the validity of the prenuptial agreement.

Most often, these questions come up when the property is titled only in the "selling" spouse's name and the "non-selling" spouse claims that he/she has no interest in the property. Typical situations are a widowed person who has remarried or a divorced person who has remarried. The spouse not on the title ALWAYS has a marital interest under the Probate Code of the State of Missouri and MUST sign the listing agreement unless one of the three exceptions noted above exists.

B. PROPERTY IN ESTATE: When property is in an estate, ALL heirs AND spouses must sign. If a Personal Representative (Executor) has been named, it is possible that the Personal Representative has authority to sell the property. The licensee must secure a copy of the part of the will or court decree that empowers the Personal Representative to sell property. The power of sale granted the Personal Representative by a will may not be acceptable to a title company until the time to file a will contest has expired, which is six months after the first publication of notice of Letters of Administration being issued. Management or legal counsel for DREAM HOME REALTY will consult with a title company to determine if the power to sell in the will is acceptable.

C. TRUSTEES: If a property is held by a trust, the trustee will normally be empowered to sell. However, the licensee must secure a copy of the part of the trust which empowers the trustee to sell because some trusts require the signatures of more than one trustee to sell as in the case of an individual and corporate trustee (bank). The trustee's spouse does not sign the listing agreement because the trustee is acting in a representative capacity.

D. SELLER INCAPACITATED: If a seller is not mentally competent to sell, a guardian must be appointed by the Probate Court and the guardian must obtain a court order to sell the property. Until such time, the property cannot be sold even if a child, sister, niece, nephew, etc. is also on the title. Also, if a property is jointly owned in this fashion, the spouse of the "second signer" (child, sister, niece, nephew, etc.) must also sign the listing contract. It is possible that a properly drawn Durable Power of Attorney may provide a means to sell this type of property. However, before relying on the Durable Power of Attorney, a title company should be consulted to determine whether the company will insure the title based on the existing Durable Power of Attorney. Also, refer to the paragraph on Powers of Attorney, below.

E. DIVORCES: A person is NOT legally divorced until a court so orders. A person "in the process of divorce" cannot sign the listing agreement alone. The spouse must also sign, regardless of whether the spouse is living on the premises or the couple has a "legal separation." Once divorced, the person may sign alone. However, if the county records continue to show the property in both names, the licensee must secure a copy of that part of the divorce decree which awards the property to the signing spouse for DREAM HOME REALTY, files.

F. POWERS-OF-ATTORNEY: A Power-of-Attorney is acceptable for signature on a listing contract. However, not all powers-of-attorney authorize the sale of real estate. A copy of the recorded Power-of-Attorney authorizing the sale of real estate must be secured for the files of DREAM HOME REALTY. Section 442.360 RSMo. requires a Power-of-Attorney for the sale of real estate to be recorded.

**7. SELLER NET PROCEEDS CALCULATIONS:** It is the policy of DREAM HOME REALTY to calculate estimated net proceeds for sellers as often as appropriate. The first estimate should be given on the listing call or as soon as possible after listing the property. Even though some information may not be available, such as exact loan balances or prepayment penalties, the licensee should use all existing information to prepare as accurate an estimate as possible and note any missing information.

When information becomes available, estimated net proceeds should be recalculated. This is particularly appropriate when an offer is presented and when each new offer or counteroffer is received.

Many reasons exist for using seller net calculations. First, it is an important service to a client. Secondly, it is important for DREAM HOME REALTY, to know whether it is likely that there are sufficient proceeds to pay off the indebtedness on the property and the real estate commission. Finally, the company must know whether the seller of the property can deliver marketable title. If the indebtedness exceeds the listed price, immediate discussions must occur with the seller and the lenders to determine whether the property can be sold with clear title given the level of indebtedness.

Note also that, as a possible material limitation on the client's ability to perform the transaction, this condition may be considered an adverse material fact to be disclosed to the customer.

Estimated Seller Net Proceeds Calculation forms are available in each office.

8. **LOCK BOX PROCEDURES:** DREAM HOME REALTY, as part of the local Board of REALTORS® common lock box system, encourages the use of lock boxes on all listings as a safe, secure, efficient tool in marketing property. Specific permission from the owner must be obtained on each listing before installing a lock box. Forms for this purpose are in each office. **(NOTE: Many local boards or companies have automatic authorizations or "check-off" authorizations in the listing contract. If such is the case, no separate form is required.)**

9. **OPEN HOUSE PROCEDURES:** The "how-to" of holding open houses, etc., is covered elsewhere in DREAM HOME REALTY, training programs and manuals. However, DREAM HOME REALTY, must maintain a policy that adequately informs owners of their responsibilities in consenting to open houses. Licensees must strongly recommend to owners that they take common sense precautions with any valuables in the house during the time of the open house. This includes removal of all jewelry boxes, collectibles of value, (sentimental or dollar value), small audio or video equipment or other items that may be of value. Owners should also be informed that their homeowner's insurance company is the responsible party for any losses on an open house.

As in all other areas, a licensee may not act carelessly or recklessly. If for no other reason, a licensee must be diligent in conducting an open house to maintain good business relations and rapport with the owner.

10. **INTERNAL VERIFICATION PROCEDURES:** DREAM HOME REALTY, maintains a system of checking and verifying both listing contracts and documents and sale contracts and documents for accuracy, enforceability and compliance with Missouri Real Estate Commission Rules and Regulations. Each licensee is expected to cooperate fully and promptly with any requests for verification, further information or correction of any oversights in the documents.

For other related policies, see the section on Risk Reduction Policies.

## BUYER QUALIFICATION POLICY

Whether acting as a licensee assisting seller or buyer, qualifying the buyer is a critical step in completing a property transaction. DREAM HOME REALTY, strongly recommends that each licensee become knowledgeable through company training and offered continuing education programs about properly qualifying a buyer as to her/his financial ability to purchase a property. Financial qualification has two major parts, as follows.

1. **LOAN QUALIFICATION:** Determining whether a buyer is financially able to purchase any property (and ultimately the property in which the buyer is interested) is part of total real estate transaction process. While there may be times when financial qualification information is difficult to obtain, such as in the case of a buyer of a luxury home, the licensee should take steps to determine financial qualification. Some of these steps may include:

- a. Completion of a financial qualification form.
- b. Setting up a meeting with a lender and buyer to discuss financial ability to qualify for a loan.
- c. Providing necessary information to a buyer so that she/he can respond as to whether she/he can get a loan.

2. **ESTIMATED CLOSING COSTS:** The second type of financial qualification which accompanies loan qualification (and in many cases is a part of loan qualification) is estimating closing costs. DREAM HOME REALTY, has a policy of strongly encouraging its licensees to become educated through company and/or board/association training and education about estimating closing costs.

Do not use rules of thumb such as 2-5% of the purchase price. The spread of costs is too great in such estimates to be sufficiently accurate. For a first time buyer with little cash, a one-half percent difference in closing costs can mean the difference between purchasing and not purchasing.

Do not use computerized closing cost estimating programs unless previously approved and authorized by DREAM HOME REALTY. The programs may or may not take local costs and variations into account. In addition, the programs that allow for local costs may require that the licensee input the costs. If the licensee desires to use such a program, management of DREAM HOME REALTY, will approve its use and review the local costs being input.

Lender closing costs are generally reviewed in loan qualification procedures. One note of caution is in order. Some lenders unbundle services and charge for each service. These so-called "extra" costs are in addition to origination fees and points. They may include charges for "processing fee", "underwriting fee", "lender's closing fee" (apart

from title company closing fee), "notary fees", "document preparation fee", "courier fee", etc., totaling \$500.00 or more on a single closing.

A lender should be asked what her/his "extra" fees are at the time closing costs are estimated and not at time of commitment or closing.

## **PROPERTY INSURANCE ISSUES**

Recently, an increasing number of real estate transactions have been affected by the lack of availability and/or unaffordability of insurance to cover the property that is being bought or sold. In the past, securing property insurance was considered routine. It was not unusual to call the insurance agent a few days or a week before closing and have the insurance issued with little more than that phone call.

Today, the property insurance environment has dramatically changed and continues to do so. The Company strongly urges buyers to address the property insurance issues seriously and early in the transaction process. Use the available company brochures and association literature about insurance issues. Here are some important tips for buyers to consider about this new insurance environment:

1. Don't wait to secure insurance. As soon as the offer is accepted, have the buyer call their insurance agent and arrange for coverage. If the buyer is shopping around, the buyer should try to pick an insurance company/agent before writing an offer. Then, when the offer is accepted, they will know who to call. If the buyer has not picked an insurance company or agent by the time the offer is accepted, have them do it immediately after the offer is accepted.
2. Consider using an "insurability" contingency in the offer. If the Association contract form does not include an insurance contingency, the Company has a standard insurance contingency rider available to include with the offer.
3. Consider buying an "Insurance Score" report. Similar to a "credit score," the buyer's "insurance score" is used by many insurance companies in deciding whether to extend insurance coverage. The components of the insurance score may vary from company to company, but usually include a composite of the buyer's credit score and their past record of filing insurance claims on other properties they have owned or rented. One company offering Insurance Score Reports is Choice Trust. Their web address is [www.choicetrust.com](http://www.choicetrust.com). A Choice Trust Insurance Score Report costs about \$15.
4. Consider obtaining a "CLUE" Report for the property the buyer currently owns. "CLUE" means "Comprehensive Loss Underwriting Exchange." CLUE is a database of insurance claims on properties throughout the United States. Insurance companies contribute claims information about properties they have insured and thus a record of claims as to each property that has been insured by

a contributing company has been built over the past 10 to 12 years. Generally, claims over the past 5 years are available through the CLUE database. Similar to insurance scores and buyers, CLUE Reports are used by insurance companies to decide whether to insure a property. If a CLUE Report reveals that a property has had "too many" past claims or certain types of claims (such as water damage), many insurance companies will not insure the property. Unfortunately, there is no standard among insurance companies about what are "too many" claims to result in a denial of coverage. CLUE Reports can be obtained at the Choice Trust website, [www.choicetrust.com](http://www.choicetrust.com). A CLUE Report costs about \$15. The best time to get a CLUE Report for the buyer's own property is before they put it on the market and before they write an offer to buy a new property. If the buyer's current property's CLUE Report reveals significant insurability issues, this may affect their buying decision.

5. Consider asking the seller of the property the buyer is interested in buying for a CLUE Report for their property before writing an offer to buy. Only the owner of the property can order a CLUE Report.
6. When buying insurance, ask the insurance agent if the binder or policy can be cancelled by the insurance company after it has been issued. Some binders and policies give the insurance company up to 60 days to cancel the policy for any reason, including information revealed in a CLUE Report. This 60 day period may extend after the closing date. Cancellation of insurance after closing could cause serious problems with the lender.
7. Even if property insurance is available, it may be significantly more expensive than in the past. Property insurance premiums have risen substantially overall in the recent past. Also, a property that has an unfavorable CLUE Report may be insurable, but only at a significantly higher premium. Buyers with low insurance scores may also be required to pay higher premiums to secure property insurance.

## SALE CONTRACT POLICY

1. **SALE CONTRACT COMPLETION:** As a member of the Safety First Board of REALTORS®, DREAM HOME REALTY, uses the standard contract form available through the Board. Missouri Real Estate Commission Rules and Regulations (Section 250-8.140), Missouri Supreme Court decision Hulse v. Criger, 247 S.W.2d 855 (Mo.banc 1952) and Article 13 of the REALTOR Code of Ethics govern a licensee's conduct in this respect.

DREAM HOME REALTY, adheres strictly to these provisions. Accordingly, a sample sale contract formbook is available to all licensees of the company. Licensees must use the approved language and fill-ins included in the sample contract book. If a situation is not covered, a licensee is not authorized to alter a form or add language without prior approval from company legal counsel that can be obtained through company management. Company management maintains a file of pre-approved clauses for situations not covered by the forms book.

Likewise, any amendments or supplements to sale contracts must be written on available Supplement or Amendment to Sale Contract forms. These forms provide for most typical amendments and changes to sale contracts such as changes to closing dates, possession dates, loan commitment dates, loan terms, waivers of financing, building, structural or mechanical inspections, etc. If a licensee requires unusual language, she/he must consult company management who will consult with legal counsel to determine whether the appropriate language can be approved.

Missouri Real Estate Commission Rules and Regulations are specific as to the types of standard forms that can be used by a licensee. The rule specifies contracts, brokerage relationships disclosures, property management agreements, listing agreements, warranty deeds, quit claim deeds, trust deeds, notes, security instruments and leases, prepared or approved by the company's counsel or by counsel for a trade association of which the broker is a member, or by a Missouri state or local bar association. Even though the rule states that this list is "not limited to" these items, DREAM HOME REALTY, takes a conservative position as to any documents not on the list. Accordingly, DREAM HOME REALTY, does not have and will not have forms not on the list, such as power of attorney forms and waiver of marital rights forms. The company believes that this type of document is too "open-ended" in effect and requires giving advice and counsel which by its nature likely ventures into the arena of giving legal advice. If a customer or client asks us to prepare one of these forms, the licensee should ask the customer or client to seek the advice of her/his own legal counsel.

2. **SALE CONTRACT TERMS:** Several areas of contract terms are traps of risk for the unsuspecting licensee. DREAM HOME REALTY, maintains policies regarding these areas to reduce risk and heighten awareness. These are covered below.

a. **EARNEST MONEY:** Several concerns regarding earnest money are involved. First is the "how much" issue. The company cannot maintain a policy that requires any specific amount of earnest money, as the company and licensee are not parties to the contract. However, if the company represents the seller, the advice to the seller will be that sufficient earnest money is very important in that it shows how "earnest" a buyer is. The company has seen many cases where low earnest money has resulted in a buyer simply defaulting on the contract and forfeiting the low amount of earnest money, banking on the fact that it is unlikely that a seller would sue. It has also seen many cases where sufficient earnest money (4-7% of the offer price or more) has kept an anxious buyer in a contract to closing because of the prospect of losing a substantial amount of earnest money.

If the company represents the buyer, the classic approach to buyer representation might suggest to provide the lowest possible earnest money in every case. However, the buyer's agent is cautioned that this may not serve the best interests of the buyer in all cases. For example, because earnest money indicates how "earnest" a buyer is, or how "strong" an offer is, a buyer may be put at a competitive disadvantage if low earnest money is offered in a situation where the buyer's offer is competing with one or more other offers. As in all other situations, if the company represents the buyer, its job is to give the buyer the best of the agent's and company's expertise, advice and talent that may include advice that on first impression does not follow the "typical" rules.

A second earnest money issue deals with what can be accepted as earnest money. Missouri Real Estate Commission Rules and Regulations (Section 250-8.130) require that only negotiable items, usually meaning cash or cash equivalents, be accepted as earnest money unless agreed by the seller in writing.

**The policy of DREAM HOME REALTY, is that only checks and money orders are accepted as earnest money without further permission from the seller. The company's policy regarding the rule is that items such as post-dated checks are not acceptable. The company will not hold checks even if not post-dated. Any checks or money orders given to DREAM HOME REALTY, will be delivered to the escrow agent account immediately upon an accepted contract and not later than the 10 banking days after acceptance provided in the Missouri Real Estate Commission Rule. Licensees must promptly have funds to the broker for deposit. The Rule does not allow for a holding period but requires prompt deposit, not later than the 10-day period.**

A corollary issue occasionally arises regarding acceptance of a credit card or line of credit check (Visa, MasterCard, American Express, home equity loan). While it is arguable that these "checks" are negotiable, DREAM HOME REALTY, takes a conservative position regarding these instruments and strongly discourages their use. The primary reason for this policy regards the difficulty in determining whether this instrument has "cleared". There is no easy way to determine whether the line of credit has been exhausted or overdrawn and upon presentation, will be rejected. In addition, a lender may require that such balances be paid off before loan approval or closing.

B. **INCLUSIONS AND EXCLUSIONS:** As covered in the section on Seller Disclosure Statements, the contract is the primary method to determine what is being sold with the property. Do not rely on the Seller Disclosure Statement as to the inclusions and exclusions in a contract. It is not normally made a part of the contract.

This area is of great importance for risk reduction purposes. Personal property inclusions and exclusions cause a great number of the disputes in a sale contract and can be expensive for an unwary licensee. As a general rule, try to keep the contract free from personal property matters. Not only do these matters "clutter" the real estate aspects of the transaction, but also they may affect the maximum loan amount depending on the loan-to-value ratio.

Some common problem areas the company is familiar with are as follows:

1. Loose laid carpet that resembles tacked down carpeting.
2. Draperies, curtains, window treatments, etc., especially as to which may be excluded (e.g. master bedroom draperies which match the bedspreads).
3. Stoves/ranges (check contract for inclusion in printed matter)
4. Portable dishwasher
5. Refrigerator (Even if built-in.)
6. Burglar alarms (Be sure to determine whether leased or owned and whether any continuing service fees apply.)
7. Outside mailbox and post (Typically "fancy" or ornate mailboxes and posts which a seller may want to remove.)
8. Swimming pool equipment and pool equipment.
9. Porch swing
10. Bathroom mirrors
11. Farm equipment
12. Riding lawn mower
13. Fireplace equipment and/or screen
14. Gas lights or BBQ's (Be sure to check whether these are paid off.)
15. Above ground pool
16. Hot tub or spa
17. Swag lights
18. Book shelves (Watch shelves where brackets are attached and wood shelves are not.)
19. Special showerheads
20. Playhouse/tree house
21. Special or ornate door knockers
22. Water softener (Check whether leased or owned.)
23. Central vacuum equipment (hoses, nozzles, etc.)
24. Stained glass (Even though usually attached, can sometimes have sentimental value to seller who intends to remove.)
25. LP gas tanks (Check whether leased or owned.)
26. Fireplace logs

27. Ben Franklin stove
28. Fireplace inserts (May or may not be attached.)
29. Satellite dish and converter boxes/units.
30. Under counter appliances (Microwave, coffee maker, can opener, radio)
31. Basketball hoop
32. Garage door opener controls

This list certainly does not address all of the possible problems. For example, the company is also aware of a seller who removed a flagstone walk that was obviously attached to the property. Be aware of the potential hazards in this area and act with caution, making sure inclusions and exclusions are clear in the contract. Licensees are cautioned not to use simple statements in the address section of the contracts stating "per MLS sheet" or "per MLS #XXXX." These create confusion as to what MLS sheet and when the MLS sheet was run.

C. "AS-IS" CONTRACTS: Often, listings may be offered in "as-is" condition. This term is unclear, at best. The policy of DREAM HOME REALTY, is to clarify the meaning of this term so that the parties have a clearer understanding of the intentions of the other.

Accordingly, a form is available in each office that the licensee should use in any "as-is" contract. The parties must initial one of the three options and sign the form. The three options are explained below.

1. The property is sold exactly as seen. Any building, mechanical or structural inspection is waived by the buyer. The seller will make no repairs or corrections.
2. While the property is being sold "as-is", the buyer is entitled to a building, mechanical or structural inspection to determine status of the property. This option includes a right of the buyer to cancel the contract if the results of the inspections are unsatisfactory.
3. While the contract states the property is being sold "as-is", the buyer is entitled to all rights allowed in the building, mechanical or structural inspection clauses of the contract, including the right to ask for repairs. Typically, this option may be selected if the seller's statement of "as-is" is simply intended to convey the seller's position that it is unlikely the seller will repair any requested items.

In addition, Missouri Real Estate Commission Rules and Regulations (Section 250-8.110(6)) are clear that an "as-is" sale does not relieve the licensee of the obligation to disclose material facts and adverse material facts of which he/she has knowledge or which are readily available to him/her relating to the condition of the property.

3. **SALE CONTRACT NEGOTIATION:** The techniques and principles of sale contract negotiation (the "how-to") are covered in the company's and Board's training programs. Each licensee is encouraged to take full advantage of these resources to improve her/his skill in this area vital to success in this business.

Aside from sale contract negotiation techniques, DREAM HOME REALTY, maintains policies that are directed to the legal and ethical aspects of contract negotiation. These are listed below.

A. **PRESENTATION OF OFFERS:** In accord with the Code of Ethics, the Missouri brokerage relationships statute and Missouri Real Estate Commission Rules and Regulations (Section 250-8.100), DREAM HOME REALTY, require the licensee to present all offers to the seller until closing and all counter offers to the buyer, regardless of how many offers received and regardless of the order in which the offers were received. DREAM HOME REALTY, urges any licensee involved in a multiple offer situation to contact management to review the proper procedures.

Whether acting as an agent or transaction broker, the company will always be guided by lawful instructions of the client in any multiple offer situation. While the company believes that the following procedures protect the client, the client may choose to give the company other lawful instructions. The licensee should inform the client, whether seller or buyer, of the customary procedures for handling multiple offers so that the client may determine whether the client wishes to give the licensee or company different instructions.

The Code of Ethics requires that the listing agent, in response to inquiries from buyers or cooperating brokers shall, with the sellers' approval, divulge the existence of offers on the property.

In the event of multiple offers on one property, DREAM HOME REALTY, follows a policy, with the seller's approval, of notifying all offerors that his/her offer is in competition with other offers as well as giving the opportunity to change the offer.

The seller should be advised that an exception to this policy exists if the seller has a currently effective counter offer in possession of a buyer. In that event, we encourage the seller not give the licensee permission to disclose the competition to the second or later offeror until the seller has had the opportunity to examine the second offer. This gives the seller the ability to determine whether he/she desires to revoke her/his counter offer to the first offeror to negotiate with the second offeror.

The licensee should not reveal any terms of the offer to any other party including expiration time of the offer, price, closing dates, earnest money amounts, financing types, amounts or dates or other terms.

If a seller-client gives instructions to the licensee to reveal the terms of competing offer, the licensee should consult management as to the appropriate procedures. In general, the disclosure of terms is not illegal or unethical but it may not be in the best interests of the seller-client. Management will likely want to consult with legal counsel before proceeding and, at a minimum, secure the instructions in writing from the seller.

If multiple offers exist and the listing licensee has written one of those offers, the policy of DREAM HOME REALTY, in such circumstance is that the listing licensee may not present any of the offers. In this case, a sales manager or broker (or other DREAM HOME REALTY, licensee if management is not available) must be asked to present the multiple offers.

If a listing licensee has already presented an offer from another licensee and a buyer of the listing licensee asks to write a competitive offer, the policy of DREAM HOME REALTY, is that the listing licensee must ask the sales manager, broker or other DREAM HOME REALTY, licensee to write the offer for the listing licensee's customer. The listing licensee's prior knowledge of the first offer could be seen as influential or biased if the listing licensee's customer should be successful in negotiation.

In general, whenever the listing licensee has knowledge of an offer presented, or could use information he/she has to the detriment of one of the competing parties, DREAM HOME REALTY, strongly recommends that a third party licensee, such as a manager, broker or other licensee, become involved to assist in the negotiations. Standard of Practice 1-6 of the REALTOR® Code of Ethics requires that all offers be presented objectively and as quickly as possible.

A final issue regarding presentation of offers regards whether an oral offer must be presented. Missouri Real Estate Commission Rules and Regulations and the brokerage relationships statute speak to presentation of all written offers. However, the REALTOR® Code of Ethics speaks only of submitting all offers to the seller.

In accord with the law and in the spirit of the Code, DREAM HOME REALTY, has a policy of giving the seller client all material and relevant information of which the licensee has knowledge. In accord with this policy, if a customer insists on an oral offer, the company believes that the seller is entitled to that information.

The company recognizes that such an oral offer alone is most likely unenforceable under the laws of Missouri. However, it is prudent to tell the seller what the licensee knows, that is, an oral offer was made by this party and it is unknown whether the party will ultimately be willing to commit the offer to writing. At this point, a seller may choose to make a written offer to sell and thereby initiate the contract process him/herself.

**B. TIMING OF PRESENTATION:** DREAM HOME REALTY, also strongly supports and maintains a policy to present all offers and counter offers as quickly as possible. The REALTOR® Code of Ethics and Missouri Real Estate Commission Rules and Regulations (Section 250-8.100) provide the standards in this area. The Rules and Regulations use the term "promptly" as to tendering offers and counter offers and the Code states offers must be submitted "as quickly as possible."

The policy of DREAM HOME REALTY, is that these terms are to be interpreted to mean "immediately" or "as soon as humanly possible". As an example, a listing licensee's receipt of an offer should immediately generate a telephone call to the owner to determine when the seller is available for presentation of the offer. Once contacted, the seller can then instruct the listing licensee as to when to present the offer. The critical point is that DREAM HOME REALTY, believes that the listing licensee **MUST** make a diligent effort to contact the seller immediately upon receipt of the offer - not an hour later, not when the licensee finishes lunch, not after the licensee shows property.

In the case of buyers, the same principles apply with equal weight. Whether buyer's agent, subagent or transaction broker, these same principles should be followed. Missouri Real Estate Commission Rules and Regulations and the Code speak to "promptly" tendering any counter offer to the buyer with no reference of client-agent relationship.

This is an extremely simple yet very important risk reduction technique. Every DREAM HOME REALTY, licensee should consider this of prime importance. The obvious danger in not taking this issue seriously is that the offeror can revoke/withdraw her/his offer at any time prior to a valid acceptance. DREAM HOME REALTY, does not want to be in a position of defending an action where an offer was withdrawn before a seller was contacted or diligent efforts to contact the seller were not made.

These issues are common, daily events that the licensee should learn to handle with skill and ease. The licensee's ability to understand and deal with these issues will act as a significant risk reduction method and contribute to a licensee's successful practice of the real estate business.

## ADVERTISING POLICY

The specific procedures for advertising properties with DREAM HOME REALTY, are found in other training materials. These procedures, such as where and when properties are advertised are subject to change. The policies stated here primarily regard the legal and risk reduction aspects of advertising.

The following policies apply to all property listed with DREAM HOME REALTY.

1. DREAM HOME REALTY, adheres strictly to the Missouri Real Estate Commission Rules and Regulations regarding the definition of advertising. Section 250-8.070(1) defines advertising as "any communication, whether oral or written, between a licensee ... and the public."

2. No property will be advertised in any way without a signed written listing agreement on file with the broker (sales manager). The listing agreement in the hands of the licensee is not sufficient. If a listing licensee has a listing he/she wants to advertise, the original or a fax of the original must be in the hands of the broker (sales manager).

3. One party listing agreements (also called "one-shots" or "one-time listings") will not be discussed, orally or in writing, with any person outside of DREAM HOME REALTY licensees unless a signed one party listing agreement is obtained. To do otherwise is advertising the property in possible violation of the Rules and Regulations.

4. A listing which is due to expire by the publication date of a newspaper or magazine ad will not be inserted into the ad unless a written extension of the listing is received by the broker (sales manager) before the deadline for placing the ad.

5. Similarly, advertising about property posted on the Internet must remain current. A currently effective listing agreement is required at any time a property ad appears on the Internet.

6. No price changes or other substantive changes to the listing will be advertised unless a written change of the price or other appropriate information is received by the broker (sales manager) before the deadline for placing the ad.

7. Information on features of the property will not be advertised as "new" unless substantiated by written receipts or other evidence of payment from the owner showing the date the work was done. If the verification is received, it will be advertised with the appropriate date. If the verification is not received, the listing licensee must use other words such as "newer" or "recent" to describe the feature.

Licensees should take special care to follow these same rules in the use of "special feature" sheets. If a licensee does not follow this policy regarding any information

sheets or other documentation/advertising the licensee prepares, the licensee will be solely liable for any errors or omissions that later cause any losses.

8. "For Sale" signs and lock boxes will be removed immediately upon expiration or withdrawal of a listing.

9. According to the REALTOR® Code of Ethics, prior to closing, only the sold sign of the listing broker is allowed on the listing, unless the listing licensee consents otherwise. DREAM HOME REALTY policy allows the cooperating broker to post a sold sign with the written permission of the buyer after the closing. Per the Code of Ethics, either the listing broker or the cooperating broker may claim to have sold the property in advertising and representations to the public.

10. Personal advertising by individual licensees is encouraged. Any personal advertising must be approved by the broker (sales manager). Missouri Real Estate Commission Rules and Regulation (Section 250-8.070(4)) require that the salesperson include the company name and broker's telephone number if the salesperson's name and/or telephone number is used. This policy covers all types of salesperson advertising, including personal sign riders, business cards, car signs, homes magazine ads, classified ads, direct mail solicitations, specialty items (key chains, pens, pads, etc.), newsletters, farming materials, neighborhood newsletters, billboards, internet advertising etc. This list does not include all possible types of salesperson advertising. One possible problem may exist in the use of a salesperson's first name only in advertising. While the Rules and Regulations do not specifically address this issue, DREAM HOME REALTY believes that the Rule's and Code's use of the term the salesperson or licensee's "name" means the full name of the person and not just a first name, initials, or a first name with last initial. Without the full name, the public cannot identify the person doing the advertising. Without further clarification from the Real Estate Commission, use of first names, initials, or first name with last initial only in salesperson advertising is not allowed.

11. Any advertising containing financial terms of the offering must comply with federal Truth-in-Lending laws, also known as Regulation Z. Regulation Z requires that all of the terms of the financing be stated if any of the "triggering terms" are used. "Triggering terms" are terms such as the amount of down payment ("10% down"), the amount of any payment ("Only \$550 per month"), the period of repayment ("40 year loan available") or the number of payments ("Only 48 monthly payments).

If any of these terms are used, the following disclosures are required:

- a. Amount or percentage of down payment.
- b. Terms of repayment.
- c. Annual Percentage Rate, stated and calculated as such.

Use of any interest rate in advertising is not allowed. Only the Annual Percentage Rate, stated and calculated as such is allowed. Therefore, a property cannot be advertised as having a "7% assumable VA loan."

Not all terms trigger Regulation Z disclosure. Some examples of terms that can be used without triggering Regulation Z disclosure are "No down payment", "Financing Available" or "Special Financing", "Assumable Loan".

## **RISK MANAGEMENT POLICY**

DREAM HOME REALTY, advocates and encourages the concept of risk reduction. The strong majority of claims filed against real estate licensees and brokers allege some misrepresentation or fraud. The trend of the law in the real estate industry is for more and more disclosure. Accordingly, DREAM HOME REALTY, has the following policies regarding risk reduction and disclosure.

1. **COMPLIANCE WITH ALL LAWS, RULES AND REGULATIONS:** As a licensee of DREAM HOME REALTY, each person assumes the obligation of strict compliance with all laws, rules and regulations which govern real estate licensees in the State of Missouri.

2. **COMPLIANCE WITH THIS POLICY MANUAL:** As a licensee of DREAM HOME REALTY, each person agrees to comply with all policies as stated in this manual and its additions, changes and amendments as from time to time published by management of the company. Failure to comply with the policies herein subjects the licensee or staff member to disciplinary action that may include termination of association with the company.

3. **PHYSICAL CONDITION OF THE PROPERTY:** In accord with the REALTOR® Code of Ethics, Missouri Real Estate Commission Rules and Regulations, the Missouri brokerage relationship statute and Missouri common law, the policy of DREAM HOME REALTY, is to disclose to all appropriate parties any known material physical conditions or defects of a property and any adverse material facts. This applies whether DREAM HOME REALTY, is the listing licensee, subagent, buyer's agent or transaction broker.

Physical conditions on the property may include water in the basement, foundation cracks, drainage problems, defects in any of the major systems of the property (electrical, plumbing, heating, cooling), environmental conditions on or near the property, roof problems, etc.

As previously stated, adverse material facts which are known or which should have been known by the licensee are required to be disclosed. Adverse material facts are defined as facts related to the physical condition of the property not reasonably ascertainable or known to a party which negatively affect the value of the property.

Remember that the statute also adds a list of the types of facts included in adverse material facts, some of which do not have a connection to the physical condition of the property. The list includes:

1. Environmental hazards affecting the property;
2. The physical condition of the property which adversely affects the value of the property;
3. Material defects in the property;
4. Material defects in the title to the property;
5. Material limitation of the party's ability to perform under the terms of the contract.

4. PSYCHOLOGICAL "STIGMAS" ON THE PROPERTY: These include whether homicide or other felony, or a suicide occurred on the premises or if an occupant or former occupant of the real property has or had AIDS or any HIV positive condition. The "psychological impact" statute in Missouri that became effective in 1991 provides that no cause of action may be brought against a real estate licensee or broker for failure to disclose to a buyer or other transferee of real property that the real property was a psychologically impacted real property. Although this statute protects a licensee for failure to make a disclosure, it does not prohibit disclosure. Likewise, the Code of Ethics does not require disclosure in situations where state law defines these factors as not material. (As mentioned above, Missouri statutes do provide that these facts are not material.)

The 1988 amendment to the Fair Housing Act includes a person with AIDS, HIV, or other related illness as a handicapped person. The Act likely prohibits a licensee or broker from disclosing that the occupant or the former occupant of a dwelling suffered or suffers from AIDS. Therefore, it is the policy of DREAM HOME REALTY, that a licensee should not make an unsolicited comment that the current or former occupant has or had AIDS. Further, if an inquiry is made by the buyer as to whether the occupant has AIDS, the licensee shall not respond to such a question. The licensee should state to the effect "it is the policy of DREAM HOME REALTY, not to answer that type of question one way or the other since it is not material and may violate the Fair Housing Act." If the buyer persists, the licensee shall state, "if that information is important to you, you must determine that information yourself."

Because of the practical problems of the inevitable "disclosure" of these factors (often by the neighbors), the policy of DREAM HOME REALTY, is to discuss with the seller the inevitability of this disclosure and to recommend disclosure of psychological factors other than AIDS, HIV, or related illnesses that may have an impact on a purchaser's decision to buy. Recent violent crimes or suicides are specific examples of such events. If, after this discussion, the seller instructs the company not to disclose these factors, the company will comply with such request and rely on the protection of the Missouri statute.

PROPERTY ON WHICH METHAMPHETAMINE HAS BEEN PRODUCED

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The procedures discussed in the previous section about psychologically impacted properties DO NOT apply in the case of a property on which methamphetamine has been produced. While this type of property may appear not to have any physical impact upon it, the characteristics of methamphetamine are such that the drug has serious potential effects on both the physical structure of the property and the ground itself.

Missouri statutes require that the present or past existence of meth labs on any property sold, leased, or transferred must be disclosed, as follows:

1. Applies to the sale, rental, exchange, lease or any other transfer of real property.
2. Applies whether the property had a structure on it or not – improved or unimproved property.
3. Requires that the owner, seller, landlord or other transferor make the disclosure.
4. Applies if methamphetamine is or was produced on the premises or on the property.
5. Requires a written disclosure that methamphetamine was produced on the property.
6. Applies only if the owner, seller, landlord or other transferor has/had knowledge of the prior methamphetamine production.
7. Disclosure required regardless of whether the persons involved in the production of the methamphetamine were convicted for such production.

*Revised Statutes of Missouri, Sections 441.236, 442.606*

441.236. In the event that any premises to be rented, leased, sold, transferred or conveyed is or was used as a site for methamphetamine production, the owner, seller, landlord or other transferor shall disclose in writing to the prospective lessee, purchaser or transferee the fact that methamphetamine was produced on the premises, provided that the owner, seller, landlord or other transferor has knowledge of such prior methamphetamine production. The owner shall disclose any prior knowledge of methamphetamine production, regardless of whether the persons involved in the production were convicted for such production.

442.606. 1. In the event that any parcel of real property to be sold, exchanged or transferred is or was used as a site for methamphetamine production, the seller or transferor shall disclose in writing to the buyer or transferee the fact that methamphetamine was produced on the premises, provided that the seller or transferor had knowledge of such prior methamphetamine production. The seller or transferor shall disclose any prior knowledge of methamphetamine production, regardless of whether the persons involved in the production were convicted for such production.

The Missouri Association of REALTORS® has a form for the required disclosure.

5. DOCUMENTATION OF DISCLOSURE: As is apparent, DREAM HOME REALTY, advocates full disclosure in appropriate circumstances. However, all the disclosure in the world does no good if it cannot be proven. While it would be ideal to have every single disclosure as to every material item disclosed to the parties in writing with their acknowledgment of the disclosure, such is not usually possible.

DREAM HOME REALTY, preferred policy is to have just such a written disclosure and acknowledgment as in the case of a Seller Disclosure Statement or Property Condition Report.

Recognizing that this ideal cannot be attained in every situation, the policy of DREAM HOME REALTY, is that the licensee should document in his/her own personal notes and files each item that is disclosed in a transaction.

This simple policy can reduce risk and potentially save many thousands of dollars. It assumes that the licensee has a regular, systematized method of organizing and keeping files. This is vitally important to a good documentation procedure.

While the company does not require a licensee to use any one method, it does provide standardized files/folders/envelopes for licensees to use in each transaction. Licensees are strongly encouraged to use this organization system, as it has been developed to keep track of details, act as a transaction checklist and risk reduction method.

Disclosure is great, but documentation of the disclosure is the glue that seals the cracks.

6. USE OF EXPERTS & "RECOMMENDATIONS": DREAM HOME REALTY, maintains a strong policy that licensees not go beyond her/his area of expertise regarding a transaction. The company strongly recommends that a licensee advise the use of an expert in situations where appropriate. For example, if questions arise with a buyer about the adequacy of the electrical system, the licensee should advise that a building inspector, engineer or licensed electrician be consulted.

However, an equally strong policy exists in **NOT** recommending any particular inspector, engineer, electrician or other expert. While advising that AN expert be used is a good risk reduction technique, the benefits of this technique are lost if a specific expert is recommended. Recommendation of a specific expert could lead to liability if the expert fails to do her/his job and the licensee was negligent in recommending that person.

The policy of DREAM HOME REALTY, is to give the names of three experts in each field whenever asked for a recommendation. Do not fall into the trap of responding to a customer/client saying, "Yeah, but which one do you really recommend?" The licensee should be firm in having the customer/client make the choice.

Some licensees have found a helpful tool in keeping several sample reports from various building/mechanical inspectors, engineers, roofers, etc. When the customer/client asks for a recommendation, the licensee gives the customer/client the samples and suggests that they choose the style and cost of the expert that fits their style and needs the best.

A related issue is ordering the report. The policy of DREAM HOME REALTY, is that the licensee should not order the report if at all possible. The company recognizes that certain situations require the licensee to place the order, but, in general, the licensee should have the customer/client place the order. This removes the company and licensee from any involvement in the selection process and reduces the liability of possible negligence in "recommendation" of an expert. In addition, the licensee should not under any circumstances allow the report to be put in the licensee's name. It should always be addressed to the buyer, preferably at the buyer's current residence or business address.

7. TRAINING: As stated in other parts of this manual, training and education are integral parts of any risk reduction and professionalism program. All licensees are expected to complete the company's initial training program and are strongly encouraged to take advantage of company, board and association education programs.

8. USE OF LEGAL COUNSEL: Whenever a licensee believes she/he requires legal assistance, the broker (sales manager) should be contacted. The company has legal counsel for appropriate legal questions and problems. In addition, the Missouri Association of REALTORS® provides a free Legal Hotline for legal educational information for the designated broker of the company. The earlier a legal question or problem is brought to the attention of management, the earlier the problem can be solved. The company's position is that wisely spent legal fees early in a problem can save many thousands of dollars if a formal complaint or lawsuit arises.

#### 9. ERRORS AND OMISSIONS INSURANCE:

DREAM HOME REALTY carries errors and omissions insurance in the amount of at least \$ 250,000 with a deductible of \$ 2500. All licensees and staff of the company are covered by the policy. **The policy is paid by the licensees at \$ 50 per year as a co-payment. The agent's share is subject to change in the case of rate increase.**

Errors and omissions insurance generally covers the negligent acts of the insured. It does not cover all possible damages for which the company could be liable. For example, no errors and omissions insurance covers punitive damages. For other exceptions, contact the broker (sales manager) for a copy of the policy.

Errors and omissions insurance does cover defense costs, that is, the legal fees involved in defending a claim against the company or licensee. This is very valuable coverage.

The policy of DREAM HOME REALTY, is that each licensee must notify the broker (sales manager) as soon as the licensee is aware of a possible claim against the licensee/broker. "Possible claim" means the potential of a disagreement that could lead to a lawsuit against the company or licensee. Only in this way can the company properly invoke the errors and omissions coverage, if necessary.

10. COMPLAINT HANDLING PROCEDURES: One of the simplest and most cost effective risk reduction methods is a good complaint handling process. Accordingly, DREAM HOME REALTY, establishes the following procedures for handling complaints.

A. If the complaint comes to a licensee involved in a transaction, the licensee will be the primary contact person to handle the complaint with whatever management assistance the licensee requires. At a minimum, the licensee should notify the broker (sales manager) of the complaint and the licensee's progress with the complaint.

B. If the complaint comes in without specifying a licensee, the broker (sales manager) will handle the complaint. If a specific management person is requested (such as "I want to speak to the President!"), the person answering the call should courteously direct the call to the requested person, if available, or the broker (sales manager) in the requested person's absence. The caller should **ALWAYS** be assisted in some way. The person taking the call should not say, "Oh, she isn't here right now." or "You'll have to call him later." or "Please call her office." It is very important to handle an aggravated or upset caller with the utmost courtesy and care.

C. Whoever takes the complaint, the key factor in handling the call is to **LISTEN** to what the caller's complaint is. The most appropriate and helpful thing the call handler can do is give the person filing the complaint a full and fair airing of her/his grievance. Many times, simple listening to the complaint does much to alleviate the caller's frustration. Sometimes, being listened to is all the person really wants. **ACTIVE LISTENING** is critical.

D. Usually, the most successful way to handle the initial complaint call is to validate the caller's concerns. In general, it is best not to challenge the caller or become defensive. **GET THE FACTS!!** Simply try to get all necessary information from the caller's perspective, even if the complaint handler knows it may not be 100% accurate. Remember to document the conversation in writing. Make notes or write a memo about the conversation as soon as possible.

E. Usually the call can be ended by assuring the caller that the matter will be investigated. The complaint handler should tell the caller what he/she can expect. For example, "Mr. Smith, I would hope you understand that I need to do some research. I will look in to the matter, discuss it with Suzie and get back to you by Tuesday." The caller should always be told what the complaint handler will do and by when. **THEN DO IT!!**

The basic risk reduction techniques in this manual can contribute significantly to the safe and successful practice of the real estate business for DREAM HOME REALTY, and each licensee. The company appreciates each licensee's and staff member's enthusiastic endorsement of these concepts.

SAMPLE OFFICE POLICY MANUAL  
BUSINESS ITEMS LIST

**Subject to update when necessary.**