

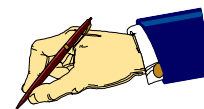


# ARKANSAS REAL ESTATE COMMISSION NEWSLETTER

APRIL 2004

FROM THE DESK OF ...

THE EXECUTIVE DIRECTOR



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## COMMISSIONERS

Mary Bassett, Chair  
Fayetteville

Debbie Rawls, Vice Chair  
Paragould

Ina Martin  
Russellville

Virgil L. Miller, Jr.  
Little Rock

Doug Smith  
Little Rock

## COMMISSION STAFF

Bill J. Williamson  
Executive Director

Gary C. Isom  
Deputy Executive Director

## NEW COMMISSIONER APPOINTED

**Douglas G. Smith** of Little Rock was appointed by Governor Huckabee to serve a three-year term on the Arkansas Real Estate Commission beginning January 2004.

Since 1987 Doug has been the Principal Broker and President of Adkins, McNeill, Smith and Associates, Realtors. He is an active member of the Little Rock Realtors Association where he has served on every committee and served as President of that organization in 1992. He was named LRRA Realtor of the Year in 1997. He is a Life Member of the Million Dollar Club.

Doug is a broker who believes in education. He is a CRS (Certified Residential Specialist), a Graduate of the Realtors Institute, an ABR (Accredited Buyers Representative), as well as a certified instructor of the National Association of Realtors' "At Home With Diversity" class.

In 2001 Doug served as President of the 6,000 member Arkansas Realtors Association. This year he is the Chairman of the Arkansas Realtors Political Action Committee. In addition, he is the organization's Federal Senate Coordinator to Senator Mark Pryor.

Doug serves as one of three Arkansas Directors to the National Association of Realtors where he serves as a long time member of the Professional Standards Committee.

Doug is a graduate of the University of Arkansas at Fayetteville. He was awarded the Bronze Star and Army Commendation Medal while serving with the 101<sup>st</sup> Airborne Division in Vietnam. In 1971 he married the former Mary Person of Wing, Arkansas (Yell County). They have a daughter, Hannah Grace, who is in the eighth grade at Dunbar Magnet Middle School in Little Rock.

## NEW CHAIR AND VICE CHAIR

The Commission at its January 2004 meeting elected **Mary Bassett**, Co-owner and Executive Broker of Bassett Mix and Associates, Inc. in Fayetteville as Chair, and **Debbie Rawls**, Executive Broker with Century 21 Chesser-Taylor Realty, Paragould, as Vice Chair.

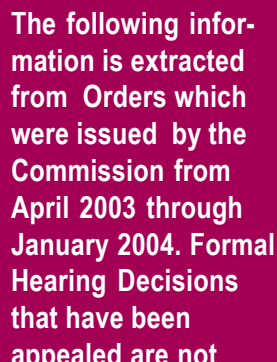


Doug Smith

## FORMAL

# Hearing

## DECISIONS



The following information is extracted from Orders which were issued by the Commission from April 2003 through January 2004. Formal Hearing Decisions that have been appealed are not listed.

**Barbara Perryman, Principal Broker, and Danny Perryman, Salesperson, Viola:** In Formal Hearing #2039 by Consent Order it was ordered that "...Respondents Barbara and Danny Perryman shall comply with the following provisions in their practice regarding auctions of real property for two (2) years from this date (4/22/03).

### I. Definitions.

a. Absolute Auction means an auction where the real property is sold to the highest qualified bidder with no minimum bid or limiting conditions. The seller may not bid personally or through an agent. Also known as an auction without reserve.

b. Auction with Reserve means an auction of real property in which the seller or his agent reserves the right to establish a disclosed or undisclosed minimum bid, to accept or reject any and all bids and to withdraw the property at any time prior to the

completion of the sale by the auctioneer. Also known as reserve auction.

### II. Nature of Auction.

a. An auction shall be with reserve, unless the property is offered without reserve using explicit terms such as "absolute" or "without reserve." In an auction with reserve, the auctioneer may withdraw the property at any time until he announces completion of the auction. In an auction without reserve, the auctioneer calls for bids on a property, that property cannot be withdrawn unless no bid is made within a reasonable time.

b. The auctioneer shall have a written agreement with the owner stating the parties' agreement regarding the terms and conditions of the auction including whether the auction will be an absolute auction or auction with reserve.

### III. Auctioneer/seller bidding or purchasing auctioned property.

#### a. Written agreement.

The auctioneer shall not bid or permit others to bid on his behalf on the real property or otherwise purchase the property unless he has a written agreement with the owner permitting the auctioneer to bid on or purchase the subject property at the auction.

#### b. Auctioneer bidding.

The auctioneer shall not bid or otherwise purchase a property being auctioned, or permit others to do so on his behalf, unless he has disclosed that he may bid or may purchase the property as provided therein.

#### c. Seller bidding.

(1) In an absolute auction, the auctioneer shall not knowingly permit the seller or others on the seller's behalf to bid on the seller's property being auctioned.

(2) In a reserve auction, the auctioneer shall not knowingly permit the seller or others on the seller's behalf to bid on the seller's property being auctioned, unless the auctioneer has disclosed that the seller or others on the seller's behalf may bid on the property being auctioned as provided herein.

#### d. Notices.

(1) In order for the auctioneer or seller to bid or purchase the subject property as provided herein, the auctioneer shall cause any advertisement or other notice of an auction, whether in written, printed or electronic form, published or otherwise distributed or made available to the public or possible bidders, prior to or at the auction to include notice that the auctioneer and/or the seller, or others on their behalf, may bid or may purchase property being auctioned. Said notice shall be of such size, format, location and displayed so as to reasonably assure that this notice is communicated to those reading the notice or attending the auction.

(2) Immediately prior to opening the bidding on the subject property, the auctioneer shall announce if the seller and/or auctioneer or others on their behalf may bid on or purchase the property being auctioned. Should the auctioneer or seller, or anyone on

# FORMAL HEARING DECISIONS - CONTINUED

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behalf of either the seller or auctioneer, purchase the property being auctioned, the auctioneer shall announce the identity of the purchaser of the property when he announces completion of the auction of that property.

e. The auctioneer or others on his behalf cannot bid on or purchase the property being auctioned, and the auctioneer shall not knowingly accept a bid from the seller or others on the seller's behalf, unless all disclosures have been provided as set forth herein.

By Consent Order the Commission found that Respondents Danny Perryman and Barbara Perryman violated Arkansas Code Annotated §17-42-311 (a)(13).

It is further ordered that Respondents Danny Perryman and Barbara Perryman shall pay a monetary penalty in the amount of \$500.00 to the Commission within thirty days of the date of this Consent Order (4/22/03).

It is further ordered that letters of reprimand shall be issued to Respondent Danny Perryman and Respondent Barbara Perryman."

**Roma Isom, Salesperson, and Gerry Nash, Principal Broker, Little Rock:** In Formal Hearing #2069 the Commissioners voted that "...Respondent Roma Isom will receive a Letter of Reprimand placed in his license file. Respondent Isom will be required to take the 18-hour Salesperson Course with emphasis on contracts, with the approval of the Executive Director of the Arkansas Real Estate Commission, and the course is to be completed within six (6) months of the date of this Order

(8-25-03). In addition, Respondent Isom shall pay a fine of \$1,000.00 also payable within six (6) months of the date of this Order. Respondent Gerry Nash will receive a Letter of Reprimand placed in her license file. Respondent Nash will be required to complete the 30-hour Broker Course with emphasis on contracts. Said course with the approval of the Executive Director of the Arkansas Real Estate Commission, and the course is to be completed within six (6) months of the date of this Order (8-25-03)."

The Commission found Mr. Isom guilty of violating Arkansas Code Annotated §17-42-311 (a)(13) and Commission Regulations 8.5 (a) and 10.10 (a).

Mr. Isom did not provide Complainant with copies of the following contracts: 1) May 30, 2002 Real Estate Contract; 2) June 1, 2002 Addendum; 3) June 17, 2002 Inspection, Repair and Survey Addendum; and 4) May 30, 2002 Back Up Real Estate Contract.

He did not protect and promote the interest of Complainant as follows: 1) He did not include in the May 30, 2002 Real Estate Contract a contingency that the Program Administrator for the Pulaski County Public Facilities Board's Lease/Purchase Program had to review and approve the purchase contract to ensure it meets the program guidelines and that the Program Administrator had to approve the property as satisfactory for the Lease Purchase Program after required repairs or Complainant could not participate in the program and purchase the property.

2) Mr. Isom signed Complainant's name as Buyer on the following documents without her oral or written permission: (a) June 1, 2002 Addendum; (b) June 17, 2002 Inspection, Repair and Survey Addendum; (c) May 30, 2002 Back Up Real Estate Contract; 3) Respondent Isom did not advise Complainant that Seller had refused to repair certain items found by the home inspection. He did not present a copy of the Inspection, Repair and Survey Addendum signed by Seller Hudspeth to Complainant for her consideration; 4) He did not advise Complainant that the Pulaski County Public Facilities Board had decided not to purchase the property and denied Complainant's Lease/Purchase Program request; and 5) Mr. Isom did not advise Complainant that the May 30, 2002 Real Estate Contract had expired and that he had prepared and presented a Back Up Real Estate Contract to the Seller.

The Commission found Ms. Nash guilty of violating Commission Regulation 10.4 (b).

Ms. Nash as Principal Broker did not exercise strict supervision of the real estate activities of Respondent Isom in this transaction. Ms. Nash reviewed and signed the June 1, 2002 Addendum to the May 30, 2002 Real Estate Contract knowing that the transaction was contingent on approval by the Program Administrator of the Pulaski County Public Facilities Board but did not instruct Respondent Isom to include a contingency in the Real Estate Contract that accurately stated the requirements and status of the above-referenced financing program in regard to Complainant's offer on the subject property.

# FORMAL HEARING DECISIONS - CONTINUED

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**Judy B. Gerber, Executive Broker, Conway:** In Formal Hearing #2071 by Consent Order the Commissioners ordered that "...Respondent Judy B. Gerber shall successfully complete a six hour real estate broker course in contracts, approved in advance by the Commission's Executive Director, within six (6) months of the date of this Order (10/13/03)."

**David A. Goff, Salesperson, Bentonville:** In Formal Hearing #2072 the Commissioners ordered that "...Respondent David Goff is to receive a Letter of Reprimand in his license file. Respondent Goff is required to take a 30-hour real estate Broker Course, said course with the approval of the Executive Director of the Arkansas Real Estate Commission. Said course is to be completed within six (6) months of the date of the Order (10/20/03) with no eligibility for scholarship funds. Respondent Goff is ordered to pay a fine of \$1,500.00, payable within six (6) months of the date of the final Order."

The Commission found Mr. Goff guilty of violating Arkansas Code Annotated §17-42-311 (a)(4) and Commission Regulations 8.4 and 8.5 (a).

Mr. Goff's conduct in inserting his own social security number on Complainant's April 5, 2002 electronic bid and submitting said bid to First Preston which resulted in First Preston rejecting Complainant's bid because of the wrong social security number constitutes failure to promote his client's interest.

Mr. Goff submitted two electronic bids to HUD in which he represented that he had received proper earnest money to hold on behalf of HUD and the April 8, 2002 Sales Contract in which he represented that the purchaser had paid \$1,000.00 earnest money when in fact Respondent did not receive any earnest money from or on behalf of the Complainant until on or after April 10, 2002. Mr. Goff's representations to HUD regarding receiving Complainant's earnest money were substantial misrepresentations pursuant to Arkansas Code Annotated §17-42-311 (a)(4).

Respondent Goff did not disclose his agency relationship to Complainant in writing.

A Recovery Fund Hearing was held. Pursuant to Arkansas Code Annotated §17-42-401 et seq., the Commission ordered Mr. Goff to pay the Complainant damages in the amount of \$90.00.



**Barbara Crook, Salesperson, Little Rock:** In Formal Hearing #2073 by Consent Order the Commissioners ordered that "...Respondent shall successfully complete the six-hour real estate post license course "From Contract to Closing," approved in advance, in writing, by the Commission's Executive Director, within six (6) months of the date of this order (1/12/04). The course cannot be used to meet the continuing education requirement and does not qualify for scholarship funds."

**Joyce L. Goodman, Principal Broker, Corning:** In Formal Hearing #2076 the Commissioners ordered that "...a letter of reprimand be placed in Respondent Goodman's file; and that she shall not conduct any property management during the period of probation...until that probation has ended. Respondent Goodman is ordered to pay a fine of \$500.00 to the Commission within thirty (30) days of her receipt of this Order. Respondent Goodman is ordered to attend an Executive Director approved 30-hour broker course within six (6) months of the date of this Order (1/28/04) and Respondent Goodman is not eligible for a scholarship."

The Commission found Ms. Goodman guilty of violating Arkansas Code Annotated §17-42-311(a)(3).

Ms. Goodman was convicted of a crime involving fraud.

# AREC STAFF MEMBERS FEATURED

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From left Angela Thomas, Ashley Mullins, Mary Rogers

The Commission would like to welcome aboard three excellent additions to our staff.

**Mary Rogers** has joined AREC as an Accountant. Mary comes to this office from the Arkansas Medical Board, where she served as an Accounting Assistant for four years. All total, she has ten years in state government, primarily in the accounting field. Mary attended Phillips County Community College where she studied accounting and data processing. Her experience and education has made the transition go very smoothly, both for her and for the Commission.

Mary lives in North Little Rock with her husband, Tom and two dogs, Buffy and Bandit.

**Angela Thomas** accepted an Administrative Secretary's position for AREC after having worked in a similar position for the Arkansas Insurance Department for two years. Angela has over eighteen years experience in state government where she has acquired a substantial amount of accounting and secretarial experience. Angela obtained a Diploma in Computer Programming from Southern Technical College and is currently working toward a Bachelors Degree in Computer Information Systems from the University of Arkansas at Little Rock.

Angela lives in Little Rock and has one daughter, Shena, who also works in state government.

**Ashley Mullins** was recently employed as a Secretary II. Ashley earned a Bachelors Degree in Computer Information Systems from the University of Arkansas in Little Rock in 1992. After gaining experience in the financial and service industries, Ashley elected to pursue a career in state government by joining the Arkansas State Plant Board in June 2002. During the interview process, it became obvious that Ashley's experience at the State Plant Board would make for an easy transition to her new position at the Real Estate Commission.

Ashley lives in Little Rock with her husband Brant, two daughters, Faith and Charity, along with three dogs and five cats.

AREC is most fortunate to have added Mary, Angela and Ashley to the staff of the Real Estate Commission.

## Update Your TRUST ACCOUNT

Has the bank where your firm's Trust Account is maintained changed its name or address?

Has the name or account number changed for your firm's Trust Account?

If you responded "Yes" to any of these questions, contact AREC for a "Trust (Escrow) Account Information" form or visit our web site at [www.arkansas.gov/arec](http://www.arkansas.gov/arec) and click on "AREC Forms."



**ARKANSAS REAL ESTATE COMMISSION**  
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## REVISIONS TO INCOME TAX REGULATIONS

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*Reprinted from Nebraska Real Estate Commission Newsletter.*

[Editor's note: The Department of the Treasury, Internal Revenue Service, has requested that we bring to your attention the following information and references regarding Treasury Decision (TD) 9082.]

For those involved in transactions involving foreign persons, the purpose of this article is to bring to your attention changes to the regulation regarding the use of taxpayer identifying numbers (TIN) for foreign persons. For several years, the Internal Revenue Service, through statute and regulation, has imposed a withholding obligation on the buyer or other withholding agent when a United States real property interest is acquired from a foreign person. A foreign person is identified as a non-resident alien individual, a foreign corporation that does not have a valid election to be treated as a domestic corporation, a foreign partnership, a foreign trust or a foreign estate. As a general rule, the buyer or withholding agent is required to withhold a percentage of the sale price. Then, the buyer or withholding

agent is required to file the monies withheld and various forms with the United States Department of Treasury.

On November 4, 2003, new regulations went into effect that require foreign transferors of the United States real property interest to provide their taxpayer identifying number on withholding tax returns, applications for withholding certificates and other documents filed with the Department of the Treasury when a foreign person sells United States real estate. The TIN is the social security number or employer identification number. Without the TIN, the application or withholding tax returns will be considered incomplete and will not be processed by the Internal Revenue Service. Amounts withheld must still be reported and paid to the Internal Revenue Service on the withholding forms even if the appropriate TINs are not provided. However, the receipt showing payment will not be stamped or mailed until after the TIN has been received. Without the stamped receipt, problems may arise regarding proof of payment and responsibility for payment.

The commentary from the Internal Revenue Service states that it should not cause a delay if a foreign taxpayer has not obtained a TIN as the TIN requirement under the regulations will accelerate the time to obtain a TIN. There is currently a process in place to obtain an employer identification number without delay by facsimile.

The notice received from the Department of the Treasury of this regulation change states that if anyone has any questions, he or she may contact Juan Santiago at 215-516-7648. The information for this article came from the Internal Revenue Service website, [www.irs.gov](http://www.irs.gov). The Internal Revenue Service website lists the contact for further information as Robert W. Lorence, Jr., 202-622-3860.

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