

# BOUNDARY LINES

A Louisiana Real Estate Commission Monthly Newsletter

# CHAIRMAN'S CORNER



There's a lot of talk from every side of the real estate industry as to what practical information licensees should know about the myriad details of listing and selling homes. For example, a licensee should know an adequate amount about the current changes and restrictions in the mortgage business because of stricter financing regulations.

Post-licensing courses attempt to educate licensees with a sufficient amount of information to allow them to make informed decisions when it comes to real estate transactions. At the Louisiana Real Estate Commission, we explore potential subject areas relevant to achieving this.

We have discussed the possibility of having post-licensing coursework include instructions on the measurement of homes. Determining accurate square footage is vital; therefore, every licensee should be trained to do this and recognize the importance of it. If the square footage of a house is incorrectly measured, pricing would also be wrong, which could cause problems for the buyer, seller and the real estate professionals involved.

If you have any suggestions regarding post-licensing topics, please email us at [info@lrec.state.la.us](mailto:info@lrec.state.la.us).

Sincerely,

*Frank A. Trapani*





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## NEW COMMISSIONER

# STERLING JOE ORY

Sterling Joe Ory owned and operated a small construction company prior to his entry into real estate sales. He specialized in unique and unusual projects, including multiple installations and exhibits at Audubon Zoo, was an authorized installer of Velux Skylights, and performed numerous residential renovations, additions and new construction.

Ory earned his real estate license in 1987 and went into real estate sales full-time. He received his Broker's license in 1995 and achieved his Certified Residential Specialist (CRS) designation in 1995 and became a broker-manager. Ory then joined a national real estate franchise and remained one of their top sales people for over ten years. He achieved their 100% Club for thirteen consecutive years, was consistently in the Top 100 agents, most often in the Top 50 in the state, and was awarded their Hall of Fame designation. Ory received the Cooperative Spirit Award twice with the organization and was the only living local member of the franchise to be awarded the Distinguished Service Award. He currently holds the designation of Historic House Specialist with the Preservation Resource Center of New Orleans.

Ory served his local Realtor organization, the New Orleans Metropolitan Association of Realtors, for seven years and was the 2010 President. He is currently Ex-Officio of the organization. He was recently elected to serve as the 2012 Regional Vice-President of La. Realtors for his region. In 2010, Ory was the host President for the N.A.R. Annual Convention in New Orleans. He worked extensively with La. Realtors, the N.A.R., elected officials and local judges to re-instate the National Flood Insurance Program (four lapses in 2010), and to resolve the collapse of the Conveyance Office of the Clerk of Court that resulted in the near total shutdown of real estate sales in Orleans Parish for over two months. He has held numerous posts both with his local board and with La. Realtors.

In March of 2011, Ory opened his own real estate company, Joe Ory, Inc./ Sterling Realty Group. He looks forward to working with the commission to ensure the best possible atmosphere for our agents and the public. Ory hopes to be an asset to the commission as he learns the nuances of the position.

Ory is married to Nancy M. Ory, and they have a twenty-year-old daughter, Kelle Lauren, who attends Loyola University in New Orleans.

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# Don't Forget...

**A**nnual continuing education requirements consist of twelve (12) hours of coursework. Licensees eligible for post-licensing education may count eight (8) hours of their post-licensing coursework to meet the annual continuing education hours requirement. However, they will still need to take the four (4) hour mandatory course for the year.

# THE EVERY OTHER ELEMENT OF ADVERTISING

## RULES, REGULATIONS AND RECOMMENDATIONS

LOUISIANA REAL ESTATE LICENSE LAW STATES THAT ADVERTISING CANNOT BE “MISLEADING OR INACCURATE.” Within real estate, determining what is considered misleading or inaccurate can be problematic. Real estate advertising requires attention to certain details that might not be necessary (or even applicable) when advertising for another type of business.

The Louisiana Real Estate Commission has created a set of guidelines—which has also been condensed to a two-page checklist—to help ensure licensees’ advertisements do not fall under the shadows that would constitute misleading or inaccurate advertising. These documents address certain potential issues like web-based advertising, necessary broker information on ads and team advertising. You may find both the guidelines and the checklist on our website, under the “[Advertising](#)” tab.

The Commission has approved a new “Cite and Fine” system for dealing with advertising and other common violations. The citation system, to be implemented October 20, 2011, will work much like a traffic ticket. Violators will be given/mailed a form in which they have the option to either pay the fine (\$75 for first-time offenders), or attend a hearing to plead their case. If a licensee attends a hearing and is found guilty of a violation, commissioners agreed that his or her name should be posted in the newsletter and on the website.

The LREC has launched a campaign to educate licensees about their advertising in hopes that many will clean up their ads to align with rules and regulations rather than having to pay a fine starting October 20, 2011.

All licensees will be contacted concerning the coming enforcement and to remind them of where they find the guidelines and the checklist.

Next year’s mandatory continuing education requirement will focus on advertising and social media to ensure licensees’ marketing efforts are in compliance with the law as well as the rules and regulations.



# IMPORTANCE OF MAINTAINING CONTINUOUS ERRORS & OMISSIONS COVERAGE

THINGS YOU SHOULD KNOW DURING YOUR CAREER AND WHEN YOU RETIRE

BY: ALYSON CAMPBELL

Rice Insurance Services Company, LLC (RISC) administers real estate licensee errors and omissions (E&O) insurance policies issued by Continental Casualty Company in twelve states that require licensees to maintain such coverage. While the policies vary from state to state, it is uniformly important to maintain continuous coverage. That means having no gaps, not even one day, between when one policy period ends and the next begins. Real estate commissions in states that require licensees to carry E&O coverage may issue fines and penalties if you do not maintain continuous coverage. Further, failure to maintain continuous coverage will cause you to lose coverage for professional services performed before the policy's effective date.

RISC's policies, like most E&O policies, are claims-made and reported policies. Four dates are important in determining whether a claim will be covered under a claims-made and reported policy: (1) the policy's retroactive date, (2) the date of the professional services giving rise to the claim, (3) the date the claim is made, and (4) the date the insured reports the claim to the insurance company.

RISC's policies' retroactive dates are established separately for each insured licensee. The retroactive date is the date the licensee first obtained and, from which, has continuously maintained E&O coverage. Any gap in coverage will terminate the previously-established retroactive date and the new retroactive date will be the date the licensee reestablishes coverage.

Coverage is considered under the policy in effect the date the claim is made. RISC's policies only cover claims that relate to professional services provided on or after the retroactive date. That means for a claim to be covered, the insured must have coverage on the date the claim is made, have had coverage on the date of the professional services, and have continuously maintained coverage between the date of the professional services and the date of the claim. If the licensee has not maintained continuous coverage during that time, then the policy's retroactive date would not go back to the date of the professional services, and there would be no coverage for the claim. Further, the claim must be timely reported to the insurance company.

### **Example: Failure to Timely Renew Coverage**

Ms. Agent first purchased E&O coverage when she obtained her real estate license on May 1, 2006. The effective dates of her 2006 policy were May 1, 2006 to January 1, 2007. Ms. Agent timely renewed coverage in 2007 and 2008, which policies had effective dates of January 1, 2007 to January 1, 2008 and January 1, 2008 to

January 1, 2009, respectively. The retroactive date of her 2007 and 2008 policies was May 1, 2006, because that was the first date Ms. Agent obtained E&O coverage and she had maintained it continuously from that time.

Ms. Agent forgot to timely renew her coverage in 2009 and did not pay her premium until April 1, 2009. Therefore, her 2009 policy's effective dates were April 1, 2009 to January 1, 2010. Ms. Agent did purchase coverage timely in 2010 and 2011, so her policies' effective dates for those years were January 1, 2010 to January 1, 2011 and January 1, 2011 to January 1, 2012, respectively. Ms. Agent's retroactive date was no longer May 1, 2006, because she had not continuously maintained coverage since that time. The retroactive date of her 2009, 2010, and 2011 policies was April 1, 2009.

Shortly after obtaining her license, Ms. Agent represented a buyer in a real estate transaction that closed August 1, 2006. On February 1, 2011, the client sued Ms. Agent alleging that Ms. Agent's professional services in the 2006 transaction were negligent and damaged the client. Ms. Agent timely submitted the complaint to her insurance company and asked the company to hire an attorney to represent her in the lawsuit. Ms. Agent was upset to learn the claim is not covered, because the professional services took place before her policy's retroactive date. For purposes of this example, assume the lawsuit would otherwise be covered under the policy.

In this example, the claim arose on February 1, 2011, so coverage is considered under Ms. Agent's 2011 policy. As discussed above, the 2011 policy's retroactive date is April 1, 2009, because that is the date from which Ms. Agent continuously maintained coverage. The transaction closed on August 1, 2006, more than two years before the retroactive date. Even though Ms. Agent had E&O coverage when the transaction closed and when the claim arose, the claim is not covered, because the applicable policy does not cover conduct that occurred before its retroactive date. Ms. Agent's failure to timely renew coverage in 2009 caused her to lose coverage for any transactions that occurred prior to April 1, 2009.

In the example above, Ms. Agent had a three-month gap in coverage. However, the result would be the same if the gap was one day. Thus, it is important to timely renew your coverage each year.

### **Protect Yourself**

In light of the serious consequences of even a one-day gap, RISC currently offers reinstatement of coverage for licensees who fail to timely renew in certain situations. Reinstatement means that the effective date of the licensee's individual coverage will be backdated and deemed to be the inception date of the applicable group policy. This helps licensees maintain continuous coverage and prior acts coverage. If you fail to timely renew, call RISC immediately to see if you qualify for reinstatement of coverage. Reinstatement is only allowed in certain situations, so do not rely on it. The best way to protect yourself from situations like Ms. Agent's is to always renew your coverage and pay your premium on time. Further, real estate commissions in states that require E&O coverage may issue fines and penalties for a licensee's failure to timely renew regardless of reinstatement, because reinstatement does not change the fact that the licensee was without coverage for a period of time.

*Your insurance coverage is important. Please take the time to read and understand your policy's coverage provisions, conditions, and exclusions. To obtain sample copies of RISC's policies, visit their website, [www.risceo.com](http://www.risceo.com), or call their administrative office at (800) 637-7319, extension 1.*

# OUR FACE ON FACEBOOK

The LREC is all about being at the forefront of law changes, current events, communications strategies, etc. We pride ourselves on being an upbeat, up-to-date agency.

**[ TO BORROW THE WORDS OF OUR EXECUTIVE DIRECTOR, WE LIKE FIRST! ]**

So, after weighing the pros and cons, and doing some exhaustive research, the LREC has decided to take our communications strategy to a new level, the digital level: Facebook.

And with future improvements to our website and the addition of a Twitter account, the digital doors will be opened to allow the LREC to communicate more efficiently in this modern, technological real estate world. Facebook will serve as an extraordinary tool for communicating rule changes, newsletters, etc., as well as an interactive tool for licensees, the public and LREC staff members alike. Also, this will further enhance the image of the LREC because people can get a glimpse of what actually goes on at LREC.

So, click the link below and “Like” us!



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