

**SOUTH CENTRAL KANSAS
MULTIPLE LISTING SERVICE**



South Central Kansas MLS

COMPLIANCE GUIDELINES

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South Central Kansas Multiple Listing Service

Compliance Guidelines

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South Central Kansas Multiple Listing Service, Inc.

COMPLIANCE GUIDELINES

The **South Central Kansas Multiple Listing Service, Inc. (SCK MLS)** is responsible for the enforcement of SCK MLS Rules and Regulations. These Guidelines are created to help Participants and Subscribers understand their specific responsibilities for compliance with the SCK MLS Rules and Regulations and to be aware and alert to violations, fines, consequences and hearings from actions relating thereto.

All written complaints involving violations of the SCK MLS Rules and Regulations, as well as those discovered by SCK MLS staff, will be considered by SCK MLS in accordance with these Compliance Guidelines.

All complaints of unethical conduct or requests for arbitration shall be referred to the REALTORS[®]. REALTORS[®] of South Central Kansas who participate in SCK MLS or otherwise access SCK MLS information through any Board or Association in which they do not hold membership are subject to the Code of Ethics in that Board or Association on the same terms and conditions as Association members. Discipline that may be imposed may be the same as but shall not exceed the discipline that may be imposed on Association members. Boards entering into regional or reciprocal SCK MLS agreements are encouraged to include provisions requiring signatory Boards to respect, to the extent feasible, decisions rendered by other Boards involving suspension or expulsion from membership or from SCK MLS. ..

Complaints that encompasses both a violation of the SCK MLS Rules and Regulations and unethical conduct or requests for arbitration will be separated into two issues and each handled by the appropriate adjudicator.

The words capitalized herein shall have the same meaning as given in the SCK MLS Rules and Regulations.

SECTION 1. HOW IT WORKS

Initiators of Alleged Violations

Alleged violations of the SCK MLS Rules and Regulations must be made in writing and may be initiated by:

- a. SCK MLS Participants;
- b. SCK MLS Users;
- c. Staff of SCK MLS or the REALTORS[®] of South Central Kansas (RSCK)

Statement of Amount of Permissible Fines Policy

Notwithstanding the limitations established in the National Association of REALTORS[®] Code of Ethics and Arbitration Manual or in other NAR policy, SCK MLS is authorized to impose financial penalties on Participants, Subscribers or Users as discipline for violations of SCK MLS Rules and Regulations or other SCK MLS governance provisions not greater than Fifteen Thousand Dollars (\$15,000.00).

Categories of Alleged Violations

An “Alleged Violation Reporting Form” is to be completed when SCK MLS Rules and Regulations violations are discovered by other than SCK MLS staff. These forms may be sent via mail, email, fax or delivered to SCK MLS. SCK MLS staff will investigate the alleged violation. Violations fall into one of the following categories:

- a. Minor Violations;
- b. Automatic Fine(s);
- c. Prohibited Activities;
- d. IDX Violations;
- e. VOW Violations;
- f. Lockbox Fines;

The Participants and Subscribers will be notified of any listing changes or corrections that need to be made in the SCK MLS System, with a copy to the attention of the appropriate branch office manager if applicable.

SECTION 2. MINOR VIOLATIONS

When one of the violations listed below is alleged, the SCK MLS staff will send a “SCK MLS Listing Notice to Correct” by mail to the Participant with a copy to the Subscriber (when applicable). The Participant must correct the error within three (3) business days.

Minor violations include, but are not limited to:

- a. Failure to enter a listing in the correct zone as identified by SCK MLS.
- b. Failure to report the correct sales price on a closed listing.
- c. Failure to report the correct selling office and selling agent on a closed listing.
- d. Failure to correctly report all required fields on the Data Form.
- e. Failure to disclose interest in a listed property entered into the SCK MLS system.
- f. Entries in the cooperative commission field other than a specific dollar amount, percentage, tiered (with explanation in Private Remarks) or combination thereof.
- g. Failure to provide SCK MLS with any documentation requested by SCK MLS by the end of the next business day following the request.
- h. Failure to report a correct listing expiration date.
- i. Failure to report properties that have been sold, or which may be sold separately, individually in the listing agreement and on the Data Form.
- j. Failure to properly notify SCK MLS when part of a listed property was sold.
- k. Promotion, marketing or websites included in the public remarks section.
- l. Failure to make any required change of listing within the specified time frame.
- m. Input of mobile or manufactured homes, unless being sold as a part of real property.
- n. Referring to a room as a bedroom when it does not meet local housing code for a bedroom.
- o. Failure to report the “To Be Sold” price as the asking “Price for a Model Home.”
- p. Violation of the picture branding rule.
- q. Failure to submit the required photograph or graphic representation for a listed property.
- r. Failure to update all the property information to be current at the time of closing if different from the information input at time of listing.
- s. Failure to include the SCK MLS logo on a public display whether electronically or in print of the SCK MLS Compilation or any part thereof.
- t. Failure to include in the Private Remarks section the time period and reason for a listing being unable to be shown.

- u. On a listing that is for the sale of improvements on leased land, failure to include in the Public Remarks that the sale is of improvements on real property that is leased and the lease will be assigned to the purchaser in the transaction, as well as stating the number of years remaining on the lease.
- v. Failure to disclose in the Public Remarks section of the listing any additional fees and or costs associated with the real estate transaction, if they have not been previously disclosed in the MLS.

Minor Violations - Fines

When an “SCK MLS Listing Notice to Correct” has been sent to a Participant, the correction must be made within three (3) business days from the date of the notice. If the violations are not corrected, the following may occur.

- The correction will be made by SCK MLS staff if the software does not permit the User to make the change.

If correction is to be made by Participant and is not corrected within three (3) business days (for the first violation), Participant will be retroactively charged a fine of Twenty-Five dollars (\$25.00) per calendar day from the date of the SCK MLS Listing Notice to Correct. See Section 7 Escalating Fines And Repeat Offenses for information on subsequent violations.

- If a Participant desires to explain any extenuating circumstances for failure to comply, a letter **MUST** be **RECEIVED** by SCK MLS before the end of the three (3) business day grace period to possibly avoid being fined otherwise the fine will be imposed.

The fine is per offense and billed to the Participant.

SECTION 3. AUTOMATIC VIOLATIONS AND FINES

When one of the violations listed below is found, the SCK MLS staff will send a notice of violation to the Participant by mail, and the following fines will immediately be assessed.

Violations that are not corrected by the Participant within three (3) business days after notification will be charged the fines below plus \$100.00 per day thereafter until the correction is made.

If a Participant desires to explain any extenuating circumstances for failure to comply, a letter **MUST** be **RECEIVED** by SCK MLS within three (3) business days of the date of the violation notice.

- a. Failure to input a new listing into SCK MLS System within three (3) business days.
\$50.00 per calendar day after the allowed three (3) business day grace period, not to exceed \$250.00.
- b. Failure to submit, when requested, a copy of the listing agreement showing the seller refuses to permit the dissemination of the listing in the SCK MLS System
\$50.00 per calendar day information is not received by SCK MLS.
- c. Failure to secure written consent from owner of data, photographs or other information submitted for inclusion in the SCK MLS System.
\$1,000.00 per photo, virtual tour, image, graphic representation or other information.
- d. Unauthorized dissemination of personal seller information including but not limited to “alarm codes” “children at home” “elderly at home” “gate codes”. This applies to the individual Participant or Subscriber who is in violations of this rule.
\$1,000.00 per infraction

- e. Unauthorized physical access to listed property. This applies to the individual Participant or Subscriber who is in violation of this rule.
\$1,000.00 fine per infraction
- f. Unauthorized use or dissemination of Participant's or Subscriber's or user's SCK MLS login information. This includes distribution of issued system password or granting access to the system once logged in. This applies to the individual Participant or Subscriber who is in violation of this rule.
\$5,000.00 fine per infraction
- g. Entering a property into the SCK MLS Compilation without a valid signed listing agreement.
\$1,000.00 fine per listing
- h. Unauthorized use of SCK MLS Compilation listing information, statistical or comparable reports of the SCK MLS System. This applies to the individual Participant or Subscriber who is in violation of this rule.
\$5,000.00 fine per infraction
- i. If an individual has been granted a SCK MLS exemption as described in Section 14 of the SCK MLS Rules and Regulations and then uses SCK MLS in any way to list, sell, show or appraise residential property, such exemption will automatically be revoked.
Participant shall pay a sum equal to the actual fees that would have been incurred going back to the effective date of such exemption, not to exceed twelve (12) months, plus a \$300.00 penalty fee. Re-application for exemption will not be permitted for six (6) months from date the exemption was revoked.
- j. Failure to obtain seller's written consent prior to entering a status change relating to an amendment to the Participant's listing agreement.
\$500 fine per infraction. Fine will double every 48 hours until corrected, up to a maximum of \$2000.

SECTION 4. PROHIBITED ACTIVITIES

When one of the prohibited activities listed below is found, SCK MLS will send a notice by mail to Participant and Participant must correct what can be corrected within three (3) business days. The prohibited activities will incur a fine to the Participant by SCK MLS for the following:

- a. Sharing a listing filed with SCK MLS with any broker or firm that is not a Participant of SCK MLS without the prior consent of the listing Participant.
- b. A Participant other than the listing Participant places a "For Sale" sign on a property.
- c. A Participant other than the listing Participant places a "Sold" sign on a property prior to closing without the listing Participant's authorization.
- d. A Participant, other than the listing Participant, advertises a listing without the listing Participant's written consent.
- e. Failure to include an offer of compensation expressed as a flat dollar amount or a percent of sales price, whose sum of the compensation fields is greater than zero (0).
- f. Input of a listing that is co-exclusive with a broker or firm that is not a Participant of SCK MLS.
- g. Failure to accurately report a listing's under contract status within three (3) business days after acceptance of such contract.

Prohibited Activities - Fines

The Prohibited Activities listed above will be charged \$250.00 plus \$50.00 per calendar day after notice has been provided until the prohibited activities cease and are corrected at the direction of SCK MLS.

If a Participant desires to explain any extenuating circumstances for failure to comply, a letter must be sent to SCK MLS before the end of the three (3) business day's grace period to possibly avoid being fined otherwise the fine will be imposed..

SECTION 5. IDX WEBSITE DISPLAY VIOLATIONS

Failure to abide by Section 12 of the SCK MLS Rules and Regulations, as may be amended from time to time, will result in the following fines.

If an SCK MLS Listing Notice to Correct has been sent to a Participant, the violation must be corrected or the IDX content must be taken offline within the five (5) business day grace period. Violations that are not corrected within five (5) business days after notification will be charged as follows:

\$1,000.00 per infraction plus \$25.00 per calendar day thereafter until the correction is made

If a Participant desires to explain any extenuating circumstances for failure to comply, a letter **MUST** be **RECEIVED** by SCK MLS **BEFORE** the end of the five (5) day grace period to possibly avoid being fined otherwise the fine will be imposed.

SECTION 6. VIRTUAL OFFICE WEBSITES (“VOW”) VIOLATIONS

Failure to abide by Section 12 of the SCK MLS Rules and Regulations, as may be amended from time to time, with regard to a VOW will result in the following fines:

a. Failure to abide by the Virtual Office Website (VOW) Rules and Regulations regarding the operation of the VOW:

\$1,000.00 per infraction plus \$25.00 per calendar day thereafter until the correction is made

b. Failure to abide by the Virtual Office Website (VOW) Rules and Regulations regarding a display violation. Correction and compliance must be made within seventy-two (72) hours. Violations not corrected within seventy-two (72) hours will be charged as follows:

\$1,000.00 per infraction plus \$25.00 per calendar day thereafter until the correction is made

At the end of the seventy-two (72) hours after notice to Participant, the VOW Content feed shall be suspended until Participant's VOW is corrected and compliant as noticed on the Notice to Correct. Suspension of the VOW Content feed will occur for one or more of the following:

- (1) Display of Content that should not be displayed as set forth in the Notice to Correct.
- (2) No registration process for consumers.
- (3) Transfer of SCK MLS Content to any third party without SCK MLS authorization
- (4) Refusal to allow SCK MLS access to Participant's VOW for evaluation and compliance.

A Participant may avoid a fine by taking their VOW website offline until correction or compliance is accomplished.

If a Participant desires to explain any extenuating circumstances for failure to comply, a letter **MUST** be **RECEIVED** by SCK MLS **BEFORE** the end of the seventy-two (72) hour grace period to possibly avoid being fined otherwise the fine will be imposed.

SECTION 7. ESCALATING FINES AND REPEAT OFFENSES FOR MINOR VIOLATIONS

Repeat violations carry escalated fines to the Participant for such repeat correctable violations.

- 1st time offense – Notice to correct will be sent with a three (3) business day grace period. If not corrected within the grace period, a fine of the initial fine amount will be issued.
- 2nd time offense within one (1) year: Notice to correct will be sent with a three (3) business day grace period. If not corrected within the grace period, a fine double of the initial fine will be issued.
- 3rd time offense within one (1) year: 3 times initial fine
- 4th (or more) time offense within one (1) year: 4 times the initial fine and incurring agent must attend the MLS Rules and Regulations class within 90 days or MLS membership will be suspended until such time as they attend the class.

The fine schedule is per incurring Participant, Subscriber or User per offense and is billed to the Participant. Note that the one (1) year term is defined as the calendar year.

SECTION 8. LOCKBOX VIOLATIONS AND FINES

Lockbox violations are as follows and incur the following fines:

a. Subscriber or Participant must remove a lockbox from closed, expired or withdrawn properties within twenty-four (24) hours of request for removal by SCK MLS. If the lockbox is not removed within the specified time, SCK MLS will, with the written request of the selling agent or the homeowner, remove the lockbox

\$100.00 fine

b. No Participant or Subscriber shall attach, mark or in any way disclose the PIN on any lockbox entry device.

First Violation \$300.00 per violation

Second and Future violations (within a twenty-four (24) month period) \$600.00 per violation

c. No Participant or Subscriber key access code shall be used, nor shall any XpressKEY or eKEY be loaned to another person for the purpose of entering a home on a lockbox other than the authorized Participant or Subscriber, unless that person is a valid keyholder with the same level of access.

First Violation \$1,000.00 per occurrence

Second violation thirty (30) day suspension of XpressKEY or eKEY.

SECTION 9. LIQUIDATED DAMAGES

Damages suffered by SCK MLS from access to SCK MLS Services and/or Compilation by an unauthorized third party as a result of disclosure of Participant's or Subscriber's user name and password would be speculative and difficult to quantify. In the event that any disclosure of Participant's or Subscriber's user

name and password results in access to, commercial exploitation of or unauthorized use of SCK MLS Services and Compilation by an unauthorized third party, regardless of whether such disclosure is intentional, negligent or inadvertent, Participant or Subscriber shall be liable to SCK MLS, at SCK MLS's option, for liquidated damages in an amount not to exceed Five Hundred Thousand Dollars (\$500,000.00).

SECTION 10. FAILURE TO PAY FINES

Failure to pay a fine assessed for a Minor Violation noticed by SCK MLS within thirty (30) days incurs an additional fine of \$100.00. Every thirty (30) days thereafter, another \$100.00 fine will be assessed for non-payment. Failure to pay accumulated fines of \$300.00 or more may result in the termination of access to SCK MLS Services for the incurring Participant or Subscriber.

Failure to pay fines assessed for Automatic Violations, IDX website display violations, VOW violations or Lockbox Violations will result in a notice from SCK MLS advising incurring Participant or Subscriber of SCK MLS' intentions to terminate incurring Participant's or Subscriber's services if such outstanding fines are not paid within ten (10) days of such notice.

When SCK MLS Services are terminated for such non-payment of fine(s), the SCK MLS Service will be reinstated only upon payment of such fine(s) and only if the Participant or Subscriber fulfills all obligations imposed by SCK MLS, Participant's or Subscriber's Association or the MLS Committee for reinstatement.

SECTION 11. COMING SOON VIOLATIONS

When one of the violations listed below is found, the SCK MLS staff will send a notice of violation to the Participant by mail, and the following fines will immediately be assessed.

- a) Failure to input a Coming Soon listing into the MLS system within one (1) business day after commencement of Coming Soon advertising .
\$500 fine to the listing agent and \$500 fine to Participant per occurrence
- b) Failure to have a valid signed listing agreement with a future start date of not more than seven (7) calendar days in the future before entering a Coming Soon listing into the MLS.
\$1000 fine per occurrence
- c) Failure to properly execute the required Coming Soon Waiver form and upload it into the documents section of the Coming Soon listing within one (1) business day after the input of a Coming Soon listing.
1st offense in calendar year \$250 + \$50/day until complied with
2nd offense in calendar year \$500 + \$100/day until complied with
3rd offense in calendar year \$1,000 + 150/day until complied with
- d) Failure to place a Coming Soon sign or sign rider on the property within one (1) business day after listing input or failure to remove the Coming Soon sign or sign rider within one (1) business day after the listing is changed to Active status.
\$50/day until complied with
- e) Failure to input the required main exterior photo of a Coming Soon property within one (1) business day after listing input.
\$25/day until complied with
- f) Allowing a showing, listing preview or an open house to be held during the Coming Soon period any anyone, including the seller.
\$1000 fine to the listing agent and \$1000 to the Participant.

SECTION 12.
COMPLIANCE PANEL HEARING

Any Participant or Subscriber, having reason to believe that a fine imposed on that Participant or Subscriber by SCK MLS is without merit, may request a hearing before the SCK MLS Compliance Panel within twenty (20) days of notification of the imposition of the fine (see Section 9 of the Rules and Regulations). The hearing will be conducted in accordance with provisions of the SCK MLS By-Laws and Rules and Regulations and the procedures as laid out in the NAR Code of Ethics and Arbitration Manual.

If the Compliance Hearing does not take place within 60 days after the deadline for submitting the Notice of Right to Challenge Tribunal Members form, the Participant or Subscriber is deemed to have waived their right to a hearing and payment of the imposed fine is to be paid in full within 7 calendar days. A late fee of 20% will be imposed if payment is not received within those 7 calendar days.

SECTION 13.
RECORDS

SCK MLS staff will retain records of all complaints and their disposition from SCK MLS compliance hearings for a period of one (1) year.