



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

CURT T. SCHNEIDER
ATTORNEY GENERAL

October 2, 1978

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 78- 311

Mr. John C. Powell
Director
Kansas Real Estate Commission
Room 1212 - 535 Kansas Avenue
Topeka, Kansas 66603

Re: Personal and Real Property--Real Estate Brokers and
Salesmen--Grounds for License Suspension or Revocation

Synopsis: A real estate broker or salesman while soliciting real estate who offers a "home warranty policy" to secure a lister and where the policy may also be offered for the purpose of influencing a purchaser or prospective purchaser of real property does not violate the provisions of the Kansas Real Estate Brokers' License Act, K.S.A. 58-3015(a) (15).

* * *

Dear Mr. Powell:

You ask for my opinion whether a real estate broker is prohibited by the Kansas Real Estate Brokers' License Act from offering to a prospective lister a "home warranty policy" issued by a particular real estate agency for no charge. You advise that normally such a policy would cost over two hundred dollars. Specifically you ask whether such an offer violates K.S.A. 58-3015 (a) (15) which provides that the commission is empowered to suspend or revoke the license of a real estate broker or salesman after the required hearing is conducted for

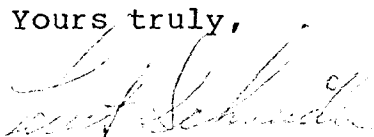
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". . . soliciting, selling, or offering for sale, real property by offering 'free lots,' or conducting lotteries, or contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property;"

The apparent focus of an offer to provide free of charge a "home warranty policy" is to influence a prospective lister to contract for the services of the real estate broker or agent making the offer and likely such benefit would in turn influence a prospective purchaser as well. Such an offer would contravene the above quoted proscribed practices provided it was done while soliciting real property by offering "free lots," "prizes" or "conducting lotteries, or contests" for the purpose of influencing a purchaser or prospective purchaser of real property. Thus, the issue becomes that of determining whether such a "home warranty policy" falls within the generally understood meaning of the four prohibited offerings.

It does not appear from the information set forth in your letter that the inherent characteristics of the "home warranty policy" to be offered can be considered reasonably to fall within the ordinary or generally understood meaning of the terms "free lots" or "prizes." Nor does it seem reasonable that making such an offer can be construed as "conducting lotteries or contests." Presumably, had the legislature intended to prohibit this type of incentive it would have clearly so provided.

Accordingly, it is my opinion that a real estate broker or salesman while soliciting real estate who offers a "home warranty policy" to secure a lister and where the policy may also be offered for the purpose of influencing a purchaser or prospective purchaser of real property does not violate the above quoted provision of the Kansas Real Estate Brokers' License Act, K.S.A. 58-3015(a) (15).

Yours truly,

CURT T. SCHNEIDER
Attorney General

CTS:JPS:kj