EXHIBIT

15b

# Teams Task Force
## Regulatory Issues to be Addressed

The use of teams by affiliated licensees has not been officially recognized by Legislature in the License Act or agency statutes or the Nebraska Real Estate Commission in its rules or regulations. However, as the practice becomes more widespread there are a number of issues which have arisen relating to the operation of teams under the Act. This document is an attempt to identify some of those issues for possible future study. It has been developed as somewhat of a "laundry list" with as many issues as possible identified. The Commission will need to determine which issues need to be specifically addressed and how. Please note that this document does contain references to certain jurisdiction's team statutes and regulations These references should be viewed as references to *examples* and not policy *recommendations.*

It should also be noted that any task force or group charged with coming up with recommended or suggested policies for team recognition or regulation may want to do some further research or surveys on team practice before proceeding.

1. **Recognition of Teams by the NREC**—The threshold question, if the Commission were to recognize teams they would at the very least want to have teams names and team membership recorded. The regulations would also need to address specifics of how such names and membership would be recorded, including who would be responsible for reporting the names and any changes.

2. **Agency –** Should all membership on a team affect or determine the capacity in which they act for the client (see British Columbia (VI))? For example, should all members be deemed to be acting in the same capacity, i.e. if one member of a team is acting as seller's agent, should all team members be deemed to be seller's agents? Etc.

3. **Agency Disclosure Information Form** – Policy would have to be established as to how the teams or team members are identified on agency disclosure forms.

4. **Advertising –** Please see the proposed team advertising policy which will be distributed along with this paper. There are several issues which should the Commission choose to address them, would probably require a rule and regulation or possibly statutory change. Such requirements would include- registering team names with the NREC, or as an alternative, registering team names with a broker, requiring teams to get approval in writing from their broker (see Louisiana, Ch. 19, §1909) before advertising as such, etc.

5. **Team Supervision –** Should teams have designated leaders with supervisory authority and responsibility under license law (see Louisiana, Ch. 19, §1903) or under the Rules and Regulations of the NREC? If so, how does that level of supervisory authority and responsibility compare to that of the Designated Broker? Can the team leader be named for "failure to supervise" or other violations in an NREC complaint involving one of his or her team members?

6. **Team Policies and Provisions** – Should/must a team have written policies and procedures for those aspects of its operations that are unique to teams? Or should these all be covered by the written policies and procedures of the Designated Broker?

7. **Offices** – Do all team members have to office in the same office of the designated broker? May a team maintain its own office separate and distinct from a branch or main office of the brokerage (see Maryland Part V, §17-548). Or is a separate, dedicated "team office" merely another branch office of the designated broker? If it is not so deemed, how is the "team office" signed, and advertised?

8. **Compensation** – Should a team leader be able to determine and distribute compensation?

9. **Dissolution of Teams or Transfer of Team Members** – If a team is dissolved or a team member transfers to a different broker what are the consequences to current clients?

10. **Brokerage Relationship** – Do all team members need to work for the same broker? (see Louisiana, Ch. 19, §1903). Can a "team member" conduct some of his/her business under the team as a team member and some of his/her business NOT under the team, as a "regular agent" of the Designated Broker, or must a licensee clearly have one status or the other but never both at the same time?

11. **Team leader's license is suspended or Revoked** – If the team leader's real estate license is not active or revoked, can the team continue to operate as the team during that period? If not, do the team members simply become "regular" licensees of the designated broker? If so, does the team need a new team leader before they can continue to operate?

# Selected Regulations Related to Advertising and Teams

## Nebraska Advertising

**003** Advertising shall include all forms of identification, representation, promotion, and solicitation disseminated in any manner and by any means of communication to the public for any purpose related to licensed real estate activity. All advertising shall be under the direct supervision of the broker, and in the name the broker is conducting business as recorded with the Commission. Advertising which is contrary to Sections 003 to 006 of these regulations shall constitute misleading or inaccurate advertising under Section 81-885.24(2) of the Nebraska Real Estate License Act.

**003.01** Each broker who is operating as an independent broker or sole proprietorship, without being a corporation or limited liability company or filing a trade name, shall advertise in his or her name as recorded with the Commission and include the word(s) "Broker" or "Real Estate Broker", e.g. Sara Stone, Broker or Sara Stone, Real Estate Broker.

**003.02** Each broker, when operating under a franchise, shall clearly set forth in all advertising, in addition to the franchise name, the name under which the broker is doing business as recorded with the Commission and, if applicable, registered with the Secretary of State.

**003.03** Each broker who is operating under one or more trade names as registered with the Secretary of State and recorded with the Commission will advertise in the trade name(s) as recorded. The broker is not required to identify all trade names on each advertisement but must advertise, without exception, in the name of one of the trade names as registered with the Secretary of State and as recorded with the Commission. This section applies to independent brokers, sole proprietorships, franchises, corporations, partnerships, limited liability companies, or any other entity authorized by law under which a broker may be operating a real estate business.

**003.04** Each broker who is operating under a corporation will advertise in the name of the corporation as registered with the Secretary of State and recorded with the Commission. If the corporation also registers one or more trade names with the Secretary of State, such trade name(s) shall be recorded with the Commission, and the corporation may advertise in either the corporate name or the trade name(s).

**003.05** Each broker who is operating under a limited liability company will advertise in the name of the limited liability company as registered with the Secretary of State and recorded with the Commission. If the limited liability company also registers one or more trade names with the Secretary of State, such trade name(s) shall be recorded with the Commission, and the limited liability company may advertise in either the limited liability company name or the trade name(s).

**003.06** If registered and recorded names have in their titles, "Co.", "Inc." or the like, such designations may be excluded from advertising, provided that such exclusion is likely to neither deceive nor confuse the public with regard to the identity of the real estate business being advertised.

**004** A broker shall not advertise to sell, buy, exchange, rent, or lease real property in a manner indicating that the offer to sell, buy, exchange, rent, or lease such real property is being made by a private party not engaged in the real estate business, and no advertisement shall be inserted in any publication where only a post office box number, telephone number, or street address appears.

**005** Every salesperson, associate broker, and broker is prohibited from advertising under his or her own name the offering for sale, purchase, or exchange of any real property unless he or she is the owner thereof. Every licensee, when advertising his or her own property for sale, purchase, or exchange must disclose in such advertising that he or she is a licensed real estate salesperson, associate broker, or broker.

## Nebraska Supervision

**003** Actions demonstrating negligence, incompetency, or unworthiness under Section 81-885.24(29) of the Nebraska Real Estate License Act shall include but not be limited to the following:

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**003.22** Failure by a designated or employing broker to supervise his or her associate brokers and salespersons.

## Nebraska Branch Office

**012** A branch office is any location, other than the main office of a real estate business, where: 1) one or more licensees spend a substantial amount of time transacting real estate business requiring a license; and 2) such licensee(s) advertises that they can be contacted for real estate business purposes; and 3) such licensee(s) maintains what would, in the normal business context, be considered a business office. Nothing in this Section should be construed to include the advertising of a home phone number and address by a licensee in the alphabetical listing of subscribers section, or white pages, of the telephone directory to come within the branch office definition. A model home utilized as an office on a temporary basis would not be considered a branch office.

## British Columbia

### (VI) Teams and Agency

Some licensees operate as teams. Whether under designated agency or brokerage agency, members of these teams typically share information with respect to the various persons to whom they provide real estate services. That is the essence of the team concept. As a result, these teams are not able to separate their agency relationships, whether under brokerage agency or under designated agency. For example, if John Smith and Wendy Chang are a team, John cannot act as designated agent for the seller and Wendy as designated agent for the buyer in relation to the same trade. The team may be able to treat one or the other as a customer so long as an agency relationship hasn't already been established with that person. Otherwise, the team will have to seek the consent of both clients to act as limited dual agents.

## Louisiana:

### Chapter 19. Real Estate Teams and Groups

### §1901. Definitions

A. For the purpose of this Chapter, team or group shall mean a collective name used by two or more real estate licensees, who represent themselves to the public as a part of one entity that performs real estate license activities under the supervision of the same sponsoring broker.

### §1903. Sponsorship

A. Team or group members shall be sponsored by the same broker and, if applicable, shall conduct all real estate license activity from the office or branch office where their individual license is held.

B. Licensees shall not form a team or group without written approval from the sponsoring broker.

C. The sponsoring broker shall designate a member of each approved team or group as the contact member responsible for all communications between the broker and the team.

### §1905. Team or Group Names

A. Team or group names shall not contain terms that could lead the public to believe that the team or group is offering real estate brokerage services independent of the sponsoring broker. These terms shall include, but are not limited to:

1. real estate;

2. brokerage or real estate brokerage;

3. realty;

4. company.

### §1907. Team or Group Leaders

A. The sponsoring broker shall be responsible for all license activity of team or group members sponsored by the broker.

B. The designated contact member of each team or group shall maintain a current list of all team or group members, which shall be provided to the sponsoring broker upon formation of the team or group and immediately upon any change thereafter.

C. A current record of all team or group names, and the members thereof, shall be maintained by the sponsoring broker in a manner that can be made readily available to the LREC upon request, including record inspections.

**§1909. Team Advertising**

A. A team or group name shall not be used in advertising without the written approval of the sponsoring broker.

B. The term "team" or "group" may be used to advertise real estate license activities provided that:

1. the use of the term does not constitute the unlawful use of a trade name and is not deceptively similar to a name under which any other person or entity is lawfully doing business;
2. the team or group is composed of more than one licensee;

3. the advertising complies with all other applicable provisions of this Chapter and LAC 46:LXVII.Chapter 25 of these rules and regulations.

C. An unlicensed person shall not be named, acknowledged, referred to, or otherwise included in any team or group advertising.

**§1911. Disputes**

A. The commission shall not intervene or become otherwise involved in team or group disputes, including those pertaining to financial obligations that are the result of a business relationship between a team or group, team or group member, branch manager, sponsoring broker, or any combination thereof, including the payment of commissions and dues to professional organizations. Such disputes shall be settled by the respective parties or by a court of competent jurisdiction.

**Chapter 25. Advertising; Disclosures; Representations**

**§2501. Disclosures and Representations**

E. A group or team name may be used in an advertisement only with the approval of the sponsoring broker. Any person listed as a group or team member in the advertisement must be a licensee sponsored by the sponsoring broker.

G. If allowed by the sponsoring broker, the salesperson or associate broker may include in the advertisement:

3. a group or team name, as long as the advertising complies with all other applicable provisions of this Chapter and LAC 46:LXVII.Chapter 19 of these rules and regulations; and

4. a slogan that may not be construed as that of a company name.

## Maine

**1. Advertising**

4-A. **Advertising by Real Estate Brokerage Agencies**

Real estate brokerage advertisements must contain the trade name as licensed by the Commission of the real estate brokerage agency that placed the advertisement. The trade name of the agency must be prominently displayed or presented. In an advertisement that appears on or is sent via the Internet, the trade name of the agency that placed the advertisement must prominently appear or be readily accessible.

In addition, the designated broker may authorize an advertisement that includes the name, telephone number, slogan, logotype or photo of an affiliated licensee or group or team of affiliated licensees as part of the brokerage services being offered by the real estate brokerage agency. The affiliated licensee or group or team of affiliated licensees may not independently engage in real estate brokerage.

## Maryland

PART V. PROVISION OF REAL ESTATE BROKERAGE SERVICES THROUGH A TEAM
Md. BUSINESS OCCUPATIONS AND PROFESSIONS Code Ann. § 17-548 (2014)

§ 17-548. Conducting of real estate brokerage activities

Team members must conduct all real estate brokerage activities from the office or branch office where their licenses are displayed as provided in § 17-317 of this title.

## Oregon:

OAR 863-015-0125(11):

(11) A licensee may use the term "team" or "group" to advertise if:

(a) The use of the term does not constitute the unlawful use of a trade name and is not deceptively similar to a name under which any other person is lawfully doing business;

(b) The team or group includes at least one real estate licensee;

(c) The licensee members of the team or group are associated with the same principal broker or property manager;

(d) The licensee members of the team or group use each licensee's licensed name as required under section (3) of this rule;

(e) If any non-licensed individuals are named in the advertising, the advertising must clearly state which individuals are real estate licensees and which ones are not; and

(f) The advertising complies with all other applicable provisions of ORS chapter 696 and its implementing rules.

Comment: Complaints that we receive regarding the use of these terms have much to do with the prominence of the "Team" or "Group" name in relationship to the registered business name by which the licensee is associated. i.e. a yard sign which advertises a "Team" or "Group" name where the registered business name is less than 1/3 of the overall signage.

Our laws describe this notice to the public as "Prominently displayed, immediately noticeable, and conspicuous in all advertising". The ambiguity of these words and their interpretation may possibly lead some to have a difference of opinion in determining whether an licensee is within compliance or not, leading to complaints that at times end in closed cases with no action taken.