



COMMISSION COMMENT

Fall

1996

Governor Appoints Joan M. Nigro To Commission



Joan M. Nigro

Governor E. Benjamin Nelson appointed Joan M. Nigro to a six year term on the Real Estate Commission beginning July 23, 1996. Ms. Nigro is a real estate salesperson with Home Real Estate in Omaha, Nebraska. Ms. Nigro has been licensed as a salesperson since 1986.

Joan has been very active in the REALTORS Association serving as an RPAC Trustee, a Legislative Affairs Committee member and a Board Member of the Community Alliance Program.

Joan was born in Baltimore but has made Omaha her home throughout her entire adult life. She is the Mother of three and has six grandchildren. Joan enjoys cooking, travel and politics but LOVES football, especially NEBRASKA FOOTBALL!



From left to right; Back row: Scott Moore, Jerry Schleich, John Hansen, Forrest Pollard; Front row: Fred Fletcher Jr., Joan Nigro, Kathleen Fahey

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Next Commission - Meeting

- September 18-19 Omaha
- November 13-14 TBA
- December 16-17 TBA

COMMISSION COMMENT

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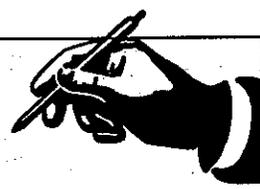
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From the
DIRECTOR'S DESK

15% Phased Out

Good news to report from the past Legislative Session!

As you know from past articles in "Commission Comment" and various talks with licensee groups over the years, the Real Estate Commission and other specified Cash Fund Agencies have been required to pay fifteen percent of the gross revenues received to the General Fund.

With the passage by the Legislature and the signing into law by the Governor of LB33, the fifteen percent payment will be phased out over the next three fiscal years. During Fiscal Year 1996-97, the payment will still be fifteen percent. In Fiscal Year 1997-98, the payment will be ten percent. In Fiscal Year 1998-99, it will be five percent and, beginning in Fiscal Year 1999-2000, the payment will no longer be made.

It is important to understand what is meant by "Cash Fund Agency". The Commission is a Cash Fund Agency which means that it must operate solely out of monies received from fees. No General fund, i.e. tax dollars, can be used to fund or to supplement Real Estate Commission activities or expenditures.

On behalf of the Commissioners, I would like to thank those real estate licensees and others who have supported us in the repeal of this payment by talking with Members of the Legislature and the Executive Branch. It has been a long struggle, but it is now behind us.

Client or Customer?

Licensees seem to be having a problem determining whether the consumer with whom they are working is a client or a customer.

The Agency Relationships Statute defines client as a seller, landlord, buyer or tenant who has entered into a brokerage relationship with a licensee. A customer is defined as a seller, landlord, buyer, or tenant in a real estate transaction in which a licensee is involved but which seller, landlord, buyer or tenant has not entered into a brokerage relationship with a licensee.

A brokerage relationship is the relationship created between the licensee and a client, who then relies on the licensee to perform real estate services as a limited seller agent, a limited landlord agent, a limited buyer agent, a limited tenant agent, or with two clients as a limited dual agent.

How can the licensee determine if the consumer is a client or a customer? The consumer is a client if the consumer relies on the licensee to represent that consumer as an agent, limited or common law. The consumer is a customer if the licensee is working with the

consumer but does not represent the consumer as a limited or common law agent.

For example:

A licensee takes a listing as the limited agent of the seller—the seller is the client.

A licensee enters into a management agreement with an owner or landlord as the limited agent of the owner/landlord—the owner/landlord is the client.

A licensee, either under the statutory provision or by written agreement, assists a prospective buyer or tenant to find a property to buy or lease as the buyer's agent. Said licensee does not have any written agreements to represent a seller or landlord of properties shown to this consumer—the buyer/tenant is the client and the sellers or landlords of the properties shown are customers.

A licensee is the limited agent of a potential purchaser who wishes to purchase a "For Sale By Owner" or a property not listed by the licensee—the owner/seller is a customer.

A licensee is the limited agent of a potential tenant interested in a "For Lease by Owner" or a property managed by another licensee—the owner/landlord is a customer.

A licensee is the limited agent of a seller or owner/landlord. A potential buyer/tenant contacts the licensee to see the property—the potential buyer/tenant is a customer.

In a limited dual agency situation, both the buyer and the seller or the landlord and the tenant are clients. The licensee has represented both parties on an individual basis and now they come together on the same property.

In closing, think of client and customer in very familiar terms; The clerk at the Department Store represents, i.e. has a client, the owner of the Department Store—that makes you the customer.

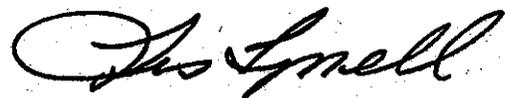
Rule Hearing Scheduled

The Nebraska Real Estate Commission has scheduled a Rule Hearing for the November Commission meeting on November 14, 1996. The location of the Hearing to be determined.

The Hearing will be on proposed rules governing negotiated rulemaking, petitioning for rulemaking; petitioning for declaratory orders; and contested cases. These rules are being promulgated based on model rules issued by the Attorney General's office for all state agencies in accordance with state statutes.

Copies of the proposed Rules may be obtained by contacting the Real Estate Commission at:

The Nebraska Real Estate Commission
P.O. Box 94667
Lincoln, NE 68509
(402) 471-2004



Les Tyrrell, Director Nebraska Real Estate Commission

Disciplinary Actions Taken by The Real Estate Commission

(Does Not Include Cases on Appeal)

95-016 - Cheryl Peterson vs. Wink Mundorf, salesperson. Order of Censure, with additional 6 hours of continuing education in the area of contract law to be completed within 12 months. (Violated Section 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a real estate salesperson.)

May 13, 1996

96-021 - Brian Schaecher vs. Teri Ann Medelman, salesperson. Stipulation and Consent Order. License suspended 30 days, commencing July 1, 1996, with an additional 6 hours of continuing education in license and contract law to be

completed within 6 months. (Violated Section 81-885.24(22) by advising buyer that offer was accepted but that sellers needed time to find a house, when, in fact, the offer was not accepted; Section 81-885.24(20) by failing to deliver within a reasonable time, a completed and dated copy of the Purchase Agreement; and Section 81-885.24(29) by demonstrating negligence to act as a salesperson.)

June 28, 1996

95-032 - Commission vs. Elizabeth T. Lube, broker. License Censured with additional six hours of continuing education in areas selected in cooperation with

the Deputy Director for Education and Licensing; said six hours to be completed by June, 1996. (Violated Section 81-885.24(29) by demonstrating negligence to act as a broker; Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public, consistent with Nebraska Real Estate License Act; and Title 299 N.A.C. Ch. 5-003.22 by failing to supervise her salesperson.) October 3, 1995. Appealed to Douglas County District Court. Court upheld censure on finding of negligence. Additional continuing education for lack of supervision was reversed.

July 31, 1996

Let's Talk Trust Accounts

August 1996

This column of the "Commission Comment" provides educational information which pertains to the License Act and Rules and Regulations and the Trust Account Manual. All licensees are encouraged to discuss this information at office meetings and share this information with the appropriate non-licensed personnel within the office so that any questions concerning policy or procedure can be eliminated prior to a visit by the Trust Account Examiner. If there are questions or comments, please contact Terry Mayrose at the Commission office. (402) 471-2004.

BROKER RESPONSIBILITY

The authority and responsibility for the proper handling of the real estate trust account rests entirely with the employing broker. It should be noted that the employing broker may delegate to anyone of his or her choosing, the authority to handle trust funds, maintain

the real estate trust account records, and even, sign checks on the real estate trust account. (This would not, however, include any person who had an interest in the funds maintained in the real estate trust account.) The employing broker, however, continues to be responsible for whatever may happen regarding the handling of the trust funds, the real estate trust account and the attendant records. Therefore, the employing broker must take an active role in supervising the acts of all persons who handle trust funds and the real estate trust account records. This could be achieved by performing at random intervals during the month, a bank reconciliation and a trial balance to ensure that the trust account is in balance and that the proper handling of trust funds is occurring.

The employing broker is also responsible for notifying the Real Estate Commission when a new trust account is established for real estate sales, property management, or the combination of both. The trust account per Neb. Rev. Stat. 81-885.21 (1), must be maintained in a bank, non-interest bearing checking

account in this state (Nebraska), in the name of the broker or the name under which the broker is doing business. The account must be designated (per bank records), as a "Trust Account" and the brokers are reminded to periodically review the bank statements to ensure that the heading "Trust Account" appears in the title of the account and not just on the checks and deposit slips.

Brokers are also reminded that Neb. Rev. Stat. 81-885.21 (2), requires each new trust account established by a broker, be registered with the Real Estate Commission on forms provided by the Commission office. This form identifies the name of the bank, account title, account number and, per Neb. Rev. Stat. 81-885.21 (3), authorizes the Commission to examine the trust account annually or at such time as the Commission may direct.

Brokers are also requested to notify the Commission office, in writing, whenever a real estate trust account is closed. Such notification should include the name of the bank, the account number, and the date the account was closed.

REQUIREMENTS FOR "ESTIMATED" BUYER CLOSING COST STATEMENT

The "estimated" buyer closing cost statement must be prepared on residential properties with one to four dwelling units; lots; and, new construction. The "estimated" buyer closing cost statement must be prepared, signed and dated by the buyer, when the offer is written, and again if a counter-offer is accepted by the buyer. The broker is required to maintain a complete and signed copy of the original offer estimate and the counter-offer estimate, if there is a counter-offer, in the transaction file.

EXEMPTIONS: Agricultural; Commercial; and Residential properties with five or more dwelling units.

REFERENCE: Rules and Regulations of the Nebraska Real Estate Commission, Title 299, N.A.C. 5-003.11

EXAMINER'S OBSERVATION: This rule became effective on January 31, 1995. Many licensees complete the "estimated" closing cost statement for the buyer when the offer is written, but fail to complete another "estimated" closing cost statement when a counter-offer is presented and accepted by the buyer. Licensees also must complete an "estimated" closing cost statement for the buyer on lots and new construction. These are exemptions for the seller only, not the buyer. The statement must be signed and dated by the buyer and the broker for the selling company must maintain a complete and signed copy in the transaction file.

REQUIREMENT FOR "ESTIMATED" SELLER CLOSING COST STATEMENT

The "estimated" seller closing cost statement must be prepared on residential properties with one to four dwelling units when the offer is accepted. The

seller must sign and date the "estimated" closing cost statement and the broker must maintain a complete and signed copy in the transaction file.

EXEMPTIONS: New construction; Lots; Agricultural; Commercial; and, Residential properties with five or more dwelling units.

REFERENCES: Rules and Regulations of the Nebraska Real Estate Commission, Title 299, N.A.C. 5-003.10

EXAMINER'S OBSERVATION: This rule has been in effect since November 30, 1993 and probably receives the most deficiencies in the trust account program. "Estimated" seller closing cost statements made at times other than those required in the Rules and Regulations, such as at the time of listing, are not required to be completed or retained under the Rules and Regulations but may be completed and retained in accordance with office policies. The Seller must sign and date the "estimated" closing cost statement and the listing broker must retain a complete and signed copy in the transaction file.

REQUIREMENT FOR SELLER PROPERTY CONDITION DISCLO- SURE STATEMENT

Effective January 1, 1995, each seller of residential property with one to four dwelling units, must complete a "Seller Property Condition Disclosure Statement" which is a written disclosure of the real property's condition. This "statement" must be completed by the seller to the best of the seller's belief and knowledge as of the date the statement is completed and signed by the seller.

The disclosure statement shall be delivered by the seller or the listing agent to the purchaser or the agent of the purchaser on or before the effective date of any contract entered into after January 1, 1995, which binds the purchaser to purchase the real property. The purchaser must acknowledge in writing, receipt of the disclosure statement.

EXEMPTIONS: Transfers: 1) Pursuant to a court order, a foreclosure sale, or a sale by the trustee under a power of sale in a deed of trust; 2) By a trustee in bankruptcy; 3) To a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustee or successor in interest; 4) By a mortgagee, a beneficiary under a deed of trust, or a seller under a land contract who has acquired the real property at a sale conducted pursuant to a power of sale under a deed of trust, at a sale pursuant to a court-ordered foreclosure, or by a deed in lieu of foreclosure; 5) By a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust except when the fiduciary is also the occupant or was an occupant of one of the dwelling units being sold; 6) From one co-owner to one or more other co-owners; 7) Made to a spouse or to a person or persons in the lineal line of consanguinity of one or more of the transferors; 8) Between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree; 9) Pursuant to a merger, consolidation, sale, or transfer of assets of a corporation pursuant to a plan of merger or consolidation filed with the Secretary of State; or 10) To or from any governmental entity.

REFERENCES: Neb. Rev. Stat. 76-2,120; Rules and Regulations of the Nebraska Real Estate Commission Title 299, N.A.C. 5-003.23 through 5-003.25.

EXAMINER'S OBSERVATION: The trust account examiner's are reporting that the completed Seller Property Condition Disclosure Statement being maintained by the broker in the transaction file, in many instances, is not signed and dated by the purchaser. The purchaser must acknowledge, in writing, receipt of the disclosure statement. Licensees should note that the Seller Property Condition Disclosure Statement is mandated by a separate section of law and is not a part of the Nebraska License Act. The Commission does not enforce the Seller Property Condition Disclosure Law. It is enforced through the court's action. However, Title 299, Chapter 5-003.23

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through Chapter 5-003.25 of the Commission Rules and Regulations set out, in addition to the separate statute, a licensee's responsibility pertaining to this disclosure.

BROKER NOTIFICATION NOT REQUIRED

Trust account examiners have received many inquiries relating to advance notification of trust account examinations, scheduling appointments, and performing examinations at a specific time of the year.

Effective August 1, 1990, the Real Estate Commission adopted a policy of not giving advance notice of trust account examinations. Trust account examiners are to make unannounced visits to each designated broker on an annual basis or at the discretion of the Commission. If the trust account examiner has made several attempts to contact the broker, the examiner may make telephone contact with the broker and possibly schedule an appointment, but this should not be considered routine procedure.

As of June 30, 1996, the trust account division had approximately 1450 trust accounts to examine on an annual basis, assuming each broker had only one trust account. (Several brokers maintain in excess of 50 trust accounts.) It would be virtually impossible to honor requests to examine trust accounts at specific times of the year and keep the trust account program on any kind of a schedule.

The Commission is aware that unannounced visits by the trust account examiners may be inconvenient, at times, for brokers. The Commission and the examiners are very appreciative of cooperation extended to the trust account examiners during a trust account examination.



1997 Renewal Time Approaches

In September, all persons holding a Real Estate Broker or Salesperson license will receive a renewal notice along with a partially completed renewal form for use in renewing their license for 1997. If you do not receive your renewal within the first two weeks of September, please contact the Real Estate Commission as soon as possible. In order for mail to be deliverable, the Post Office must have the names of all persons receiving mail at that address.

Because November 30, 1996, falls on a Saturday this year, Renewal Application materials for salespersons and brokers, along with the proper fees and, if needed, proof of continuing education and errors and omissions insurance, must be received in the Office of the Nebraska Real Estate Commission, 1200 N' Street, Suite 402, PO Box 94667, Lincoln, NE 68509, by no later than 5:00 P.M. (CST) the next business day, which will be, Monday, December 2, 1996. Renewals postmarked on December 2, 1996, will be accepted as meeting the deadline.

LICENSES HELD ON INACTIVE STATUS MUST BE RENEWED EACH YEAR. Renewal forms and renewal instructions specific to inactive licenses will be mailed along with all others and are subject to the same deadlines as described in this article.

NO RENEWALS WILL BE ACCEPTED UNLESS THEY ARE ON THE COMPUTER PREPARED FORMS WHICH HAVE BEEN SUPPLIED, AND ARE FILLED OUT COMPLETELY AND SIGNED BY THE LICENSEE.

Any salesperson or broker who fails to file an application for renewal of a license and pay the renewal fee by the December 2 date, as provided in the Nebraska Real Estate License Act and Neb. Rev. Stat. 49-1203, may file a late renewal application with all required information included and must pay, in addition to the renewal fee, the sum of twenty-five dollars for each month, or fraction thereof, beginning with the third day of December; Provided that such late application is filed before July 1 of the

ensuing year, i.e. by 5:00 P.M. (CDT) June 30, 1997.

Every individual licensee is responsible for the renewal of his or her own license. However, some firms have a practice of holding renewals until they have collected all the renewals of the licensees with the firm and then submitting them to the Commission all together. There are two general approaches to this "bundling" practice. One, all renewals for the firm are collected, with individual checks attached to each renewal, and then all renewals for the firm are sent, under one cover, to our Office. Two, all renewals for the firm are collected with the firm writing one check to cover the total amount needed to renew all licensees in the "bundle" and then they are sent, under one cover, to our Office. Both practices can cause situations to occur where late penalty fees can accrue, if the "bundled" renewals are not sent considerably early, to allow for the review and processing to take place prior to December 2.

In the first scenario, the licensee may have turned his/her renewal and check into the firm a month or more in advance. The "bundle" arrives at the Commission Office a day or two before the deadline. In processing, it is found that questions have not been answered; the form is unsigned; proof of continuing education or errors and omissions insurance is needed; and/or an individual licensee's check is not correct. The individual licensee will owe a late penalty fee if the correction cannot be made prior to December 2 at 5:00 P.M.

In the second scenario, the licensee had turned his/her check and form into the firm a month or more in advance and the "bundle" arrives at our Office on or close to the deadline. Again, the review process finds that an individual application, or more than one, is incomplete or proof of continuing education or errors and omissions insurance is needed. This time, however, if the correction cannot be made by the deadline, all renewal applications covered by the single check are late and the late penalty fee accrues to all the renewal applications.

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The processing of renewal applications, as the volume of renewals received increases near the deadline, can be as long as a week to ten days. This being the case, the return of the individual application or "bundled" applications, by mail, in and of itself, will cause late penalties to occur. Therefore, we encourage each of you, and those of you who "bundle", to mail your renewals early and not wait until the last minute.

It should also be pointed out that the License Act provides that the issuance of an insufficient funds check may be grounds for denial or revocation of a license - this includes the renewal of a license.

REMEMBER:

LICENSE RENEWAL FEES CANNOT BE COMBINED WITH TRANSFER FEES OR EXAMINATION FEES. PLEASE SEND SUCH REQUESTS AND THE APPROPRIATE FEE UNDER SEPARATE COVER.

RENEW EARLY! MAKE SURE THAT THE APPLICATION IS COMPLETED FULLY AND SIGNED. MAKE SURE YOUR CHECK IS ENCLOSED AND IN THE CORRECT AMOUNT. IF ACTIVE, DO NOT FORGET ABOUT THE ERRORS & OMISSIONS INSURANCE AND CONTINUING EDUCATION.

1997 Group Errors & Omissions Insurance

Upon completion of negotiations, the Nebraska Real Estate Commission has agreed to renew the contract with Williams Underwriting Group, Inc. to serve as the Program Administrator for the Nebraska group professional liability policy. Again, this year, the Carrier of the Nebraska Group Policy will be St. Paul Fire and Marine Insurance Company.

The 1997 policy will have the same terms, conditions and price as the 1996 Group Policy. Therefore, the premium for the full year of 1997 will remain \$71.00.

Equivalent Coverage

Nebraska Statutes allow that errors and omissions insurance may be obtained through other qualified Insurance Carriers providing equivalent policies. Complete information regarding this option is available from the Real Estate Commission office and is made a part of the annual real estate license renewal mailing. Verification of current errors and omissions insurance coverage must be kept on file at the Real Estate

Commission office. When enrolled in the Nebraska Group Plan verification is made directly from Williams Underwriting Group, Inc. to the Commission. When enrolled in an equivalent insurance plan, it is the responsibility of the individual licensee to provide verification of such coverage on the mandated certification form to the Commission (please refer to the renewal procedures included in your renewal mailing).

While it is important that you have options regarding your source of errors and omissions insurance. It is equally important, particularly because of the difference in documenting coverage to the Commission as discussed above, that you can correctly identify on your renewal form the option you have exercised as either the State Group Plan or an equivalent plan. **Please be aware that for 1997 the only source and insurance carrier of the commission-offered State Group errors and omissions insurance policy is through Williams Underwriting Group, Inc. with St. Paul Fire and Marine Insurance Company as the insurance carrier.**

Florida Women To Pay \$427,000 For Lying To African Americans And Families About Housing Availability

(Editor's note: reprinted with permission from the June 1996 issue of the NATIONAL FAIR HOUSING ADVOCATE.)

The owner and former manager of a southern Florida apartment complex agreed to pay a record \$427,000 to settle a Justice Department lawsuit that alleged they refused to rent to Blacks or families with children. The settlement is the largest so far in the 33 fair housing cases filed by the Justice Department in its nationwide fair hous-

ing program.

Under the settlement, which was filed in the U.S. District Court in Miami, Lola Jacobson, the owner of the Village at Dadeland Apartments in Kendall, Fla., agreed to pay \$50,000 to help locate the victims of discrimination at the complex, \$200,000 to compensate those victims, and \$125,000 to local fair housing agencies in the Kendall area. In addition, Jacobson and Eva Feinstein, the former rental manager, will pay a total of \$52,000 in civil

penalties and fines to the United States Treasury for their discriminatory actions.

Owner and Manager Lied to Blacks and Families

According to the suit, both Jacobson and Feinstein lied to African-Americans and families with children about the availability of rental units at the Village at Dadeland. By misleading

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Disabled Man Wins Rent-Free Apartment for Life After Being Steered by Maryland Apartment Complex

(Editor's note: This article is reprinted with permission from the June, 1996 issue of the NATIONAL FAIR HOUSING ADVOCATE.)

The owners and managers of Wheaton Place Apartments in Silver Spring, Maryland, have agreed to settle a disability discrimination lawsuit filed by Jack Wright, the Fair Housing Council of Greater Washington and the Washington Lawyers' Committee for Civil Rights & Urban Affairs. Wright is deaf, blind and has Usher's Syndrome.

Wheaton Place has agreed to furnish Wright with an apartment for life, rent-free, at Wheaton Place. The two bedroom apartment at Wheaton Place has been estimated by the defendants to have a lifetime value of \$340,000 and a present value of \$169,000. In addition, the owners of Wheaton Place have agreed to pay \$160,000 in compensatory damages.

This "apartment-for-life" settlement represents the largest fair housing settlement to date in the nation filed by a private fair housing agency and an individual victim of housing discrimination

based on disability.

Wright, a Montgomery County resident, applied to live at Wheaton Place Apartments in January of 1993. Wright selected the complex because of its convenient location. It was close to both public transportation and shopping centers. Wright made it clear to the rental agent at the apartment complex that he was capable of independent living, and even offered to pay, in advance, the full expenses of one year's rent.

The agent refused Mr. Wright's offer, citing that the apartment complex does not have any facilities for the handicapped, and recommended a nearby complex that did have such facilities.

Wright contacted the Fair Housing Council of Greater Washington. When they filed a Federal lawsuit in December of 1994, Wright and the Fair Housing Council of Greater Washington argued that Wheaton Place Apartments, and its managers and owners, intentionally discriminated against Wright by denying him housing because of his disability and by steering him to alternate housing in violation of the Fair Housing Act.

Fair Housing on the Web

Many licensees have regularly accessed fair housing information, including the *National Fair Housing Advocate*, through the HUD home page on Internet, which is found at www.hud.gov. The *Advocate* can now be accessed directly at www.fairhousing.com. Although a private publication, the *Advocate* is supported by a HUD grant and offers several sources of current information dealing with fair housing issues.

The *Advocate* home page provides entry to the HUD Infogram and HUD Guidance Notices concerning fair housing laws and interpretations. Articles, press releases and newsletters from other fair housing groups are also available, as well as a listing of upcoming meetings and events related to fair housing. Readers can also review recent issues of the *Advocate* newsletter.

The *Advocate* home page is continually updated. A recent review showed new listings within the past 72 hours. The Fair Housing Council, which publishes the *Advocate* can also be reached at 1-800-558-3247.

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these apartment seekers, the Village at Dadeland violated their rights under the Fair Housing Act.

After receiving complaints of both racial and family status discrimination throughout southern Florida, the Justice Department launched an investigation. The Justice Department used testers to uncover evidence of a pattern of discrimination at the Village at Dadeland and other complexes. The Department later filed lawsuits against seven southern Florida complexes. The settlement with the Village at Dadeland was the first in Florida.

During the investigation, the

Department of Justice contracted with Housing Opportunities Project for Excellence (HOPE), inc., a local fair housing organization in the Miami area. The Justice Department used testers trained by HOPE to investigate the alleged discrimination.

The \$125,000 portion of the settlement intended to fund rental clinics in southern Florida will go to HOPE. According to the Justice Department, the rental clinics which HOPE will operate are intended to give home seekers "a true, nondiscriminatory choice in housing and will provide information about all of the rental options available in the community."

Deval L. Patrick, Assistant Attorney General for Civil Rights, said, "No Americans should ever be denied homes due to the color of their skin." He said that the settlement against Jacobson and Feinstein was the largest settlement against an individual apartment complex.

Patrick went on to say that the Justice Department's fair housing testing program has produced 33 fair housing lawsuits which have resulted in 18 settlements and judgements totaling more than \$2.4 million in monetary relief for damages, penalties, and promoting fair housing.

Fleet Will Pay \$4 Million in Settlement for Charging "Overages" to Blacks and Hispanics

(Editor's Note: This article is reprinted with permission from the June, 1996 issue of the NATIONAL FAIR HOUSING ADVOCATE.)

Fleet Financial Group's mortgage subsidiary will pay \$4 Million to settle Justice Department claims that it charged Blacks and Hispanics higher interest rates and loan fees than comparably qualified White home seekers.

In May, Fleet agreed to establish a \$3.8 million settlement fund to compensate the 600 Black and Hispanic customers who obtained mortgage loans from branches in Westbury, N.Y., and Woodbridge, N.J., between August 1, 1993 and June 1, 1994. Fleet promised to spend an additional \$200,000 for community outreach and education programs, including a new monitoring system that will ensure that its branches adhere to its new policy of fair pricing without regard to race or national origin.

From the settlement fund, Fleet will pay up to \$15,000 to the 600 minority borrowers who paid higher fees and interest, or overages, on mortgage loans. The amount of each individual customer's settlement will depend on the amount of the overage they paid to Fleet.

Overages Charges to Minorities More Often Than Whites

The Justice Department lawsuit claimed that Fleet's branches in Westbury and Woodbridge charged overages to Blacks and Hispanics for home mortgage loans far more often than to similarly-situated White borrowers.

Assistant Attorney General Deval Patrick said that an overage generally refers to the price paid by the borrower in excess of any minimum price set by a financial institution. He said that loan officers of many companies have the discretion to charge rates and fees higher than the minimum; any amount obtained above the minimum price is an overage. Loan officers typically receive some or all of the excess price that they charge. It is not common knowledge among the American public that such mortgage charges are negotiable.

The Justice Department began its investigation in the fall of 1995 after both the Federal Reserve Bank of Boston and the Federal Reserve Board in Washington found problems in the lending practices of the mortgage company. The Justice Department sued Fleet for violation of the Fair Housing Act and the Equal Opportunity Act.

Based on the investigation, the Justice Department's suit claimed that from January 1993 to June 1994, Fleet's Westbury and Woodbridge branches gave its loan officers the discretion to charge its customers higher prices, which provided extra commissions to the loan officers who charged overages. The branches also gave the loan officers discretion to

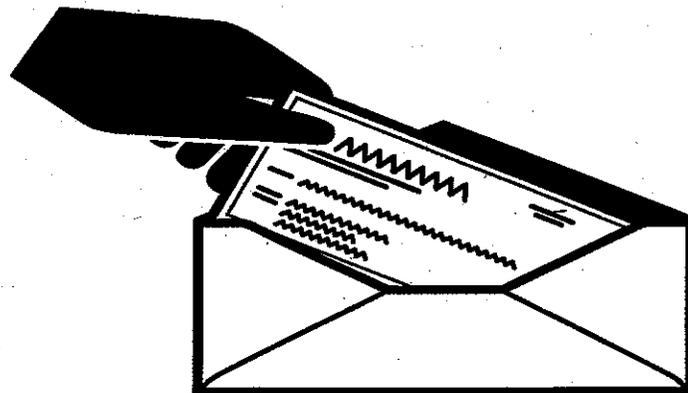
charge an amount that was less than the minimum price, or granting underages.

Disparities in Pricing Did Not Occur "By Chance"

The Justice Department investigation found the Columbia, S.C. based company imposed overages more often and granted underages less often to Blacks and Hispanics on mortgage loans than it did on loans to Whites. Patrick noted that the disparities in the pricing did not occur by chance and could not be explained by differences in the borrower's loan qualifications or other factors not related to race or national origin. Overages and underages, as used by Fleet's loan officers, were not related to risk.

The settlement with Fleet is the ninth settlement in nine such discrimination cases. The Justice Department recently filed its tenth suit against a Nebraska bank which allegedly charged higher rates to Native Americans. The Nebraska suit is still pending.

"Loans should be based on risk, not race," said Deval Patrick, Assistant Attorney General for Civil Rights. "By changing their practices, Fleet has stepped forward and done the right thing."



Future Real Estate Examinations

The following is the schedule of the dates on which the real estate licensing examinations are administered in Nebraska and the deadline dates for filing of broker and salesperson original applications, retake applications, proof of education and examination cancellation requests for the applicable Examination Date.

Examinations for both salesperson and broker applicants are administered eleven times a year as set out on this schedule. The examination is adminis-

tered in Lincoln, North Platte and Omaha on each Examination Date and in Scottsbluff on only the January, May and September Examination Dates. All applicants for a particular examination will receive notice of the time and place of the examination approximately one week prior to that Examination Date.

Applications, proof of education, and cancellation requests are due on the date of the deadline!

The Examination Date and the deadlines are subject to change by order of

the Nebraska Real Estate Commission. Affected applicants will be notified of any changes in a timely manner.

Applications and other pertinent information regarding the real estate licensing and examination process may be obtained from the Nebraska Real Estate Commission, P. O. Box 94667, Lincoln NE 68509-4667. Telephone Number: (402) 471-2004. TDD users may use the Nebraska Relay System at (800) 833-7352.

Real Estate Examination Schedule 1996

<u>Examination Date</u>	<u>Broker Original Application</u>	<u>Salesperson Original Application</u>	<u>Education Deadline</u>	<u>All Retake Applications</u>	<u>Cancellation Deadline</u>
September 21, 1996	August 6, 1996	August 19, 1996	September 3, 1996	September 6, 1996	September 10, 1996
October 19, 1996	September 3, 1996	September 16, 1996	September 30, 1996	October 4, 1996	October 8, 1996
November 16, 1996	October 1, 1996	October 15, 1996	October 28, 1996	November 1, 1996	November 5, 1996

Nebraska Real Estate Commission
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