

COMMISSION COMMENT

Summer

1997

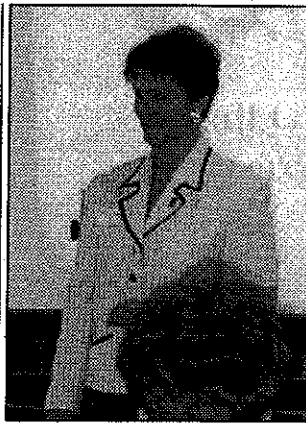
Nebraska Real Estate Commission Sponsors Instructor Development Workshop

The Nebraska Real Estate Commission would like to commend the continuing education and pre-licensing education instructors who participated in a two-day Instructor Development Workshop in Omaha on April 29 & 30. Randall School of Real Estate served as the location for the workshop. This year's program focused on teaching ethical decision-making and fair housing issues.

"Developing Professionalism and Ethical Practices"

Bonnie Sparks from Bettendorf, Iowa, was the instructor for Tuesday's session. Instructors were asked to teach ethical practices relative to every subject matter. Bonnie taught the participants to apply various models for ethical decision-making to situations, scenarios and case studies. The overall purpose of this session was for

instructors to be able to teach students how to function at a higher level than "law and order" when making ethical decisions concerning customers and clients, the public,



Bonnie Sparks teaches "Developing Professionalism and Ethical Practices"

and other licensees. Bonnie taught and demonstrated effective teaching methods as she got everyone actively involved.

"ARELLO'S Fair Housing Instructor Development Training Program"

Wednesday's program was facilitated by the Association of Real Estate License Law Officials (ARELLO) who

recognized that Fair Housing subject matter presents specific challenges in the classroom that must be effectively dealt with so that learning can take place. Joan Montgomery, who is from Louisiana and Bill Gray, who is from Arizona, gave instructors solid data and methods of instruction to help address the importance and challenges of Fair Housing instruction. Their team-teach-

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Tentative Commission Meeting Schedule

June 18-19, 1997	Kearney
August 19-20, 1997	TBA
September 23-24, 1997	TBA



Bill Gray and Joan Montgomery present program on teaching Fair Housing

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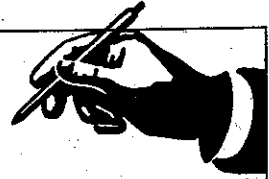
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The Nebraska Real Estate Commission grants permission to reprint articles which appear in this newsletter on condition that recognition of their original publication in the **Nebraska Commission Comment** also appears with the article.

The Nebraska Real Estate Commission often solicits articles from outside experts or reprints articles with permission. While we feel that these articles may offer a broader perspective and will be of interest to the reader, it should be remembered that the views expressed are those of the author and not necessarily those of the Commission.



From the

DIRECTOR'S DESK

**Commission/Nebraska Realtor Caravan
Scheduled for August**

Earlier this year the Nebraska Realtors Association asked the Real Estate Commission if it would want to participate in the Association's Leadership Caravan, by conducting, as a part of the Association's program, an "Ask the Nebraska Real Estate Commission" session. The Commission agreed and as a result Director Les Tyrrell and, when available, Members of the Commission will be in attendance at the Association's sessions which will be held at multiple locations across the state.

Each session will include time for the Association's leadership to discuss state and national issues and answer questions that members of the Association may have relative to the Association. Each session will also, as indicated above, have time for licensees to ask questions regarding the License Act, the Rules and Regulations, and any other matters related to the responsibilities of the Commission.

The Nebraska Realtors Association, knowing that the part of the session conducted by the Commission would be of benefit to all licensees, has offered, and the Commission accepted, to open each of these sessions to any and all licensees, whether a member of the Association or not. The Commission would like to thank the Association for this consideration and invite any licensee interested to attend a session near you.

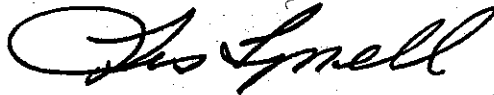
On pages 2 & 3, is a schedule of the date, time and location of the sessions. As of the date of printing, the specific sites where sessions will be held was not available. The Association also indicated that there may be changes to the city in a couple of cases but the general area would be the same. So that the Association can make arrangements regarding space, non-Realtor licensees are asked to contact Ms. Kitty Kohn at the Nebraska Realtors Association to indicate they will be present. Ms. Kohn can be reached at (402) 488-4304, Extension 18. She will be able to assist in confirming the exact site of the session and the city location.

<u>DATE</u>	<u>CITY</u>	<u>MEAL FUNCTION</u>	<u>EVENT TIME</u>
8/5/97	Omaha	Lunch	12:00 p.m.
8/6/97	Lincoln	Lunch	12:00 p.m.
8/12/97	Norfolk	Lunch	12:00 p.m.
8/12/97	S. Sioux City	Dinner	5:00 p.m.
8/14/97	Auburn	Lunch	12:00 p.m.
8/14/97	Beatrice	Dinner	5:00 p.m.
8/25/97	Alliance	Breakfast	8:00 a.m.
8/25/97	Scottsbluff	Lunch	11:30 a.m.
8/25/97	North Platte	Dinner	6:30 p.m.
8/26/97	Lexington	Breakfast	8:00 a.m.
8/26/97	Broken Bow	Lunch	12:00 p.m.
8/26/97	Kearney	Dinner	6:00 p.m.
8/27/97	Hastings	Breakfast	8:00 a.m.
8/27/97	Grand Island	Lunch	12:00 p.m.
8/27/97	York	Dinner	6:00 p.m.

8/28/97	Columbus	Breakfast	8:00 a.m.
8/28/97	Fremont	Lunch	12:00 p.m.

License Manual Updated

Updates to the License Manual were mailed to all licensees who received the original Manual as a function of their license and those who have purchased copies. These updates were mailed by the week of May 19th. Please be sure to insert these pages into your Manual as instructed, it is helpful information and valuable to maintain the Manual as a current resource.



Les Tyrrell, Director Nebraska Real Estate Commission

Meet the Real Estate Commission Staff

The Real Estate Commission Staff is here to serve the public and the licensee population. It is our goal to be helpful and forthright in a courteous and professional manner. We hope that when you contact our office, you always receive useful, accurate information and/or are referred to the proper authority.

Following is a communication resource to assist you when contacting our office. If the indicated person is unavailable to take your call, please share the purpose for the call and your call will be routed to someone else who can help you.

We take pride in having a skilled staff. If you have comments or suggestions as to how we may better serve you, please contact our office.

Communications Guide

Ask for person indicated if you have questions in the following areas.

Commission Meeting Information	Susie Willard
Complaint Procedures	Roger Kowalke
Continuing Education History or Inquiries	Janelle Coady
Curriculum Design (Education & Instructor Approval)	Teresa Hoffman
Errors and Omissions Insurance Inquiries	Teresa Hoffman
License Applications Packet Requests	Vera David-Beach
License Applications Process	Sheryl Navrkal
Licensing and Education Requirements	Teresa Hoffman
New Licenses in Process	Sheryl Navrkal
Specialized Registrations	Donna Nickolite
Transfer of License	Nancy Glaesemann
Trust Account Matters	Terry Mayrose John Clark Bob Arterburn

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Return or Forfeiture of Earnest Money

In the last issue of "Commission Comment" a clarification was given regarding the timely deposit of earnest monies (Spring 1997, page 4).

Since that time we have received requests to clarify 299 NAC 3-007 which deals with handling earnest money deposits when a dispute occurs between buyer and seller over the return or forfeiture of earnest monies. That Section of the Rules and Regulations reads as follows:

"007 In the event of a dispute over the return or forfeiture of any earnest deposit held by a broker, the broker shall continue to hold said deposit in his or her trust account until he or she has a written release from all parties consenting to its disposition or until a civil action is filed to determine its disposition at which time the broker may pay it into court.

007.01 In the absence of a pending civil action, it shall not be grounds for disciplinary action where a broker returns an earnest money deposit to a purchaser, where the return of such deposit is based upon a good faith decision that a contingency in the purchase agreement has not been met, notwithstanding the failure of the seller to agree to said return.

007.02 In the absence of a pending civil action and upon the passage of one-year's time from the date of an accepted offer to purchase, it shall not be considered grounds for disciplinary action for a broker to pay out an earnest money deposit to a seller when the payment of such earnest money deposit has been based on a good faith decision that the buyer has abandoned any claim to such earnest money deposit."

The following explanation will assume that a Purchase Agreement, for whatever reason, cannot be fulfilled by one or both of the parties to the Purchase Agreement.

(Continued on page 4)

(Continued from page 3)

The controlling language appears in the main portion of the Section, when there is a dispute between buyer and seller over the return to the buyer or forfeiture to the seller of the earnest money deposit, and no civil action has been filed in a court of competent jurisdiction, the earnest money shall be held in the broker's trust account until such time as there is a written release signed by all parties having an interest in the earnest money consenting to the earnest monies' disposition.

This must be done under the Rule regardless of any provision for return or forfeiture of earnest money deposit contained in the Purchase Agreement.

Needless to say, if there is no dispute as set out above, then the provisions in the Purchase Agreement dealing with disposition of the earnest money deposit would prevail.

In any case of dispute over the return or forfeiture of earnest money deposits when a civil action has been filed, the broker may pay the earnest money into the court or may hold it in the trust account until its disposition has been determined by the court and the broker has been officially noticed by the court regarding how to dispose of the earnest

money deposit.

The two Subsections of this Section do give the broker some discretion with regard to return or forfeiture of earnest money deposits. It should be noted that both subsections indicate "...it will not be grounds for disciplinary action..." by the Commission if the broker decides to invoke his or her discretion in the dispute. This does not mean that either or both parties in the dispute will not, or cannot, file a civil action against the broker for this discretionary decision. Brokers should consult with their legal counsel as to whether or not they should invoke this discretionary authority. Also, it should be noted that the key words are good faith decision, not merely an "off-the-cuff" type decision.

The first Subsection allows brokers, in the absence of pending civil action, to make "...a good faith decision that a contingency in the purchase agreement has not been met..." and, therefore, the broker may return the earnest money to the buyer, regardless of whether the seller agrees to the return or not.

The second Subsection allows brokers, in the absence of pending civil action, and "...after the passage of one-year's time from the date of an accepted offer to purchase...", to make "...a good

faith decision that the buyer has abandoned any claim to the earnest money deposit..." and may then pay the earnest money being held to the seller. Brokers are also cautioned to assure themselves that the buyer has abandoned claim. This can be done by sending a notice to the buyer at the last-known address of the buyer or any other method which the broker's legal counsel has recommended in order for the broker to determine if the buyer has abandoned claim.

The mutual written release of the parties, set forth in the main portion of the Section, could be agreed to at any time after a dispute has arisen and would end the matter at that time.

It should be noted, in case this point was missed, it is the broker who makes the determinations regarding return or forfeiture of earnest money deposits, not salespersons or associate brokers.

We were also asked if it would be appropriate for the broker to send the earnest money deposit in dispute to the Unclaimed Property Division at the State Treasurer's Office in order to solve the dispute. The answer is NO!

If you have additional questions, please contact the Commission Office.

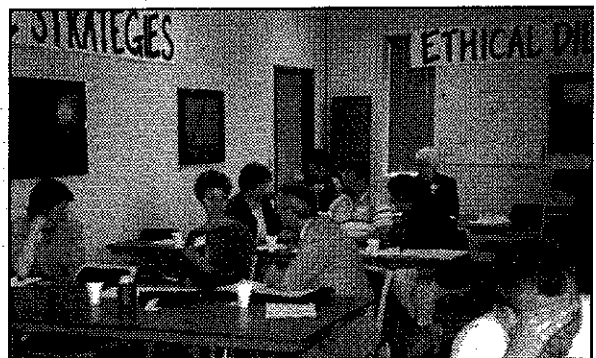
(Continued from page 1)

ing approach, often asking one another those questions usually left unspoken, created a dynamic learning environment.

Participation

The Real Estate Commission sponsors Instructor Development Workshops periodically in order to provide support and assistance to instructors of real estate

subject matter. This year's program was attended by instructors from our Proprietary Schools, Community Colleges and various campuses of the University of Nebraska. Several of those in attendance traveled considerable distances.



Mastering the Methods

Benefit

The Instructor Development Workshops have always been positively received and have reportedly resulted in improved teaching skills. Evaluations of this year's program indicate that the

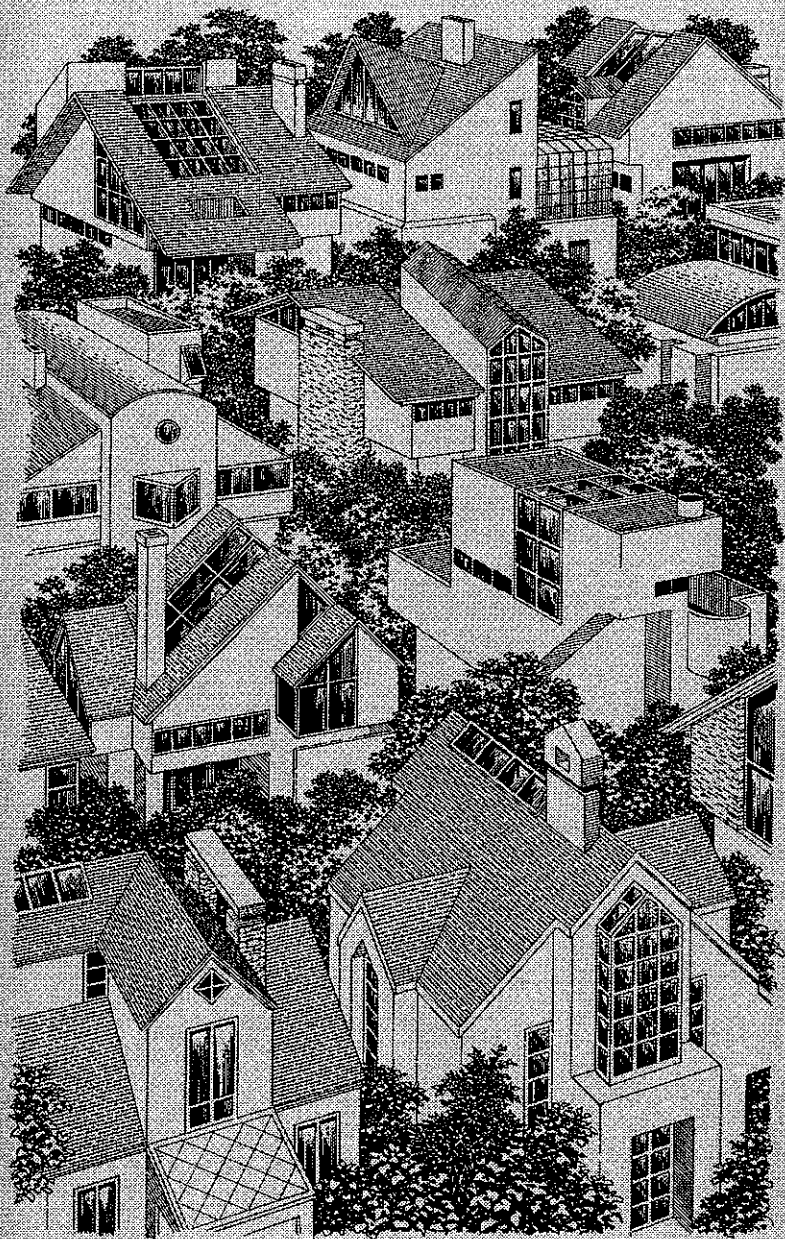
same will be true of this Workshop. Once again, it may be anticipated that consumers of real estate services and members of the industry will benefit from the dedication of our Real Estate Instructors as they bring fresh techniques and new resources into the classroom. We thank them for their efforts on our behalf.



Teachers as Students

Clarification of "Dwelling" as Used in Seller Property Condition Disclosure Act

In order to assist licensees in meeting their responsibilities relative to the Seller Property Condition Disclosure Act when working with new construction, the Commission, on April 17, 1997, adopted the following clarification:



"Since dwelling units is undefined in Neb. Rev. Stat. 76-2,120, it should be given its plain and ordinary meaning. A dwelling is a place of shelter to live in. Read in this context the statute applies to real property on which no fewer than one or more than four places of shelter to live in are located. It is not necessary that the place has previously been lived in. It is sufficient that the particular structure in question be suitable for a person or persons to live in or reside. Structures which are unsuitable to live in or, when and where required by law, do not have occupancy certifications, would not be dwellings and would not require that the seller prepare a Seller Property Condition Disclosure Statement."

Should you have any questions, please feel free to contact the Commission Office.

Disciplinary Actions Taken by The Real Estate Commission

(Does Not Include Cases on Appeal)

96-046, 97-010 - Commission vs. Jillian Ann Currie, broker (both). Stipulation and Consent Order - License suspended forty-five days from March 20, 1997 through May 3, 1997; plus six hours additional continuing education, three hours in trust accounts and three hours in written disclosures to be completed by September 20, 1997. (Violated Section 81-885.24(22) by making a substantial misrepresentation to the sellers as to the receipt of the earnest money; Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public inconsistent with the Nebraska Real Estate License Act, to wit: 1) Respondent violated 299 NAC 5-003.13, by accepting other than cash or an immediately cashable check as earnest money unless such fact is communicated to the owner prior to his or her acceptance of the Offer to Purchase and such fact is shown in the earnest money receipt; 2) 5-003.10 by failing to identify to the sellers, in writing, at the time the offer is presented and accepted, those categories of cost that the seller will be expected to pay at closing, failing to prepare a written estimate of the cost the seller will be expected to pay at closing and failing to obtain the signature of the seller on said written document; 3) 5-003.11 by failing to identify to the prospective purchaser, in writing, at the time the offer is written by the purchaser or a counteroffer is accepted by the purchaser, those categories of cost the purchaser will be expected to pay at closing, and by failing to obtain the signature of the purchaser on said document; 4) 5-003.14 by failing to deposit any funds received as an earnest money deposit within 48 hours or before the end of the next banking day after an offer is accepted; 5) 3-006 by failing, in the case of cooperating sales between brokers, to deposit the earnest money payment in her real estate trust account within 48 hours or before the end of the next banking day after a written offer is accepted and failing to transfer such earnest money deposit to the listing broker forthwith; 6) 5-003.24 by

failing to assure that a copy of "Seller Property Condition Disclosure Statement" is delivered to the purchaser on or before the effective date of any contract and to obtain the signed receipt of the purchaser; 7) 5-003.23 by failing to assure that a copy of the "Seller Property Condition Disclosure Statement" is delivered to the purchaser or to the agent of the purchaser before the effective date of any contract entered into which binds the purchaser to purchase the residential real property; Section 81-885.24(5) by failing to maintain and deposit in a separate non-interest-bearing checking account all money received by a broker; and Section 81-885.24(29) by demonstrating unworthiness to act as a broker.)

March 20, 1997

97-004 - James C. & Bonnie L. Glover vs. Larry Barte, broker. Stipulation and Consent Order of Censure. (Violated Section 81-885.24(11) by placing a sign on any property offering it for sale or rent without the written consent of the owner.)

April 17, 1997

97-003 - Commission vs. Cameron Houston Thomas, broker. Stipulation and Consent Order. License suspended one year commencing May 1, 1997, with an additional nine hours of continuing education to be completed by October 31, 1997, to include three hours of trust accounts, three hours of disclosures, and three hours of license law. (Violated Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interests of the public and consistent with the Nebraska Real Estate License Act, to-wit: 1) 299 NAC 5-003.14 by failing to deposit earnest money payments within 48 hours or before the end of the next banking day following acceptance, 2) 3-006 by failing to deposit the earnest money in his trust account within 48 hours or before the end of the next banking day after an offer is accepted, in writing, and then transfer such earnest money to the listing broker,

3) 5-003.04 by failing to identify to the seller, in writing, at the time the offer is presented and accepted, a written estimate of closing costs or failed to have said information signed, 4) 5-003.10 by failing to identify to the seller, in writing, at the time the offer is presented and accepted, a written estimate of closing costs or failed to have said information signed, 5) 5-003.11 by failing to identify to the buyer, in writing, at the time an offer is written or counteroffer is accepted, a written estimate of closing costs or failed to have said information signed, 6) 5-003.07 by failing to comply with the requirements of Neb. Rev. Stat. §§76-2401 through 76-2430 in the following: a) 76-2420 by failing to adopt a written policy which identifies and describes the relationships in which the designated broker and affiliated licensees may engage; b) 76-2421 by failing to properly complete or retain an agency acknowledgement disclosure pamphlet, 7) 5-003.23 or 5-003.24 by failing to deliver a copy of the Seller Property Condition Disclosure Statement to the purchaser prior to the effective date of any contract and to obtain the signed receipt of the purchaser, 8) 3-002 by failing to maintain a bookkeeping system which accurately and clearly discloses full compliance with the law relating to the maintaining of trust accounts; Section 81-885.21 by failing to notify the Commission of a trust account; Section 81-885.24(3) by failing to account for and remit any money coming into his possession belonging to others; Section 81-885.24(5) by failing to maintain and deposit all money received by the Respondent; Section 81-885.24(22) by making substantial misrepresentation; Section 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a broker.)

April 1, 1997

97-005, 97-006 - Commission vs. Harold S. Kaufmann, broker. Stipulation and Consent Order. License suspended two years, with entire period served on probation, from May 1, 1997 through

April 30, 1999; plus twelve hours additional continuing education, three hours in license law, six hours in bookkeeping, three hours in disclosures to be completed by April 30, 1998. (Violated Section 81-885.24(5) by failing to maintain and deposit in a separate non-interest-bearing checking account all money received in a real estate transaction; Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, specifically the following: 1) 299 NAC 3-002 by failing to maintain a bookkeeping system which accurately and clearly discloses full compliance with the law relating to the maintaining of trust accounts; 2) 3-004 by paying monies out of the trust account prior to the time they are due; 3) 5-003.07 and 5-003.08 by failing to comply with Neb.Rev.Stat. §§76-2401 through 76-2430 in the following: a) 76-2422(24) by acting as a dual agent without obtaining the written agreement of the seller and the buyer; 4) 5-003.10 by failing to identify to the sellers, in writing, at the time the offer is presented and

accepted, those categories of cost that the seller will be expected to pay at closing, and failing to prepare a written estimate of the cost the seller will be expected to pay at closing; 5) 5-003.11 by failing to identify to the prospective purchaser, in writing, at the time the offer is written by the purchaser or a counteroffer accepted by the purchaser, those categories of cost the purchaser will be expected to pay at closing, and by failing to prepare a written estimate of the cost the purchaser will be expected to pay at closing; 6) 5-003.14 by failing to deposit any funds received as an earnest money deposit within 48 hours or before the end of the next banking day after offer is accepted; 7) 5-003.12 by failing to supervise his salesperson; and Section 81-885.24(29) by demonstrating negligence or unworthiness to act as a broker.)

April 17, 1997

96-040 - Marylou Mele vs. Linda Miller, broker, and 96-045 - Commission vs. Linda Eileen Miller & Loretta M. Eppley, brokers. Stipulation and Consent Order. Licenses suspended twelve months from April 18, 1997

through April 17, 1998, with entire period served on probation. (Violated Section 81-885.24(2) by intentionally using advertising which misrepresents the services of the business conducted; Section 81-885.24(22) by making substantial misrepresentations to the owners regarding the advertising; and Section 81-885.24(29) by demonstrating negligence.)

April 17, 1997

96-049 - Leon P. Gansemer vs. Sherrie Gregory, salesperson. Stipulation and Consent Order. License Censured. (Violated 299 NAC 5-003.04 by failing to make known in writing to Complainant her interest as owner in the property she was selling to Complainant and no such written disclosure existed and there was, therefore, no opportunity for Complainant's signature to be obtained on said document.)

May 14, 1997

Commission Interpretation of Regulations Requiring Written Closing Cost Estimates

At the April 17, 1997, Meeting of the Nebraska Real Estate Commission, the following interpretation of NEB. REV. STAT. 76-2418(3)(a) and 299 N.A.C. 5-003.10 AND 5-003.11 was adopted.

"RESOLVED, It is the interpretation of the Nebraska Real Estate Commission that Title 299 N.A.C. 5-003.10 and 5-003.11 require a limited agent to make a written disclosure to his or her client of the categories of costs and estimated costs the client will be expected to pay at closing but do not require a limited agent to make such written disclosures to a customer. Said interpretation based on Neb. Rev. Stat. 76-2418 (3) (a)."

See further discussion regarding written closing cost estimates in "Let's Talk Trust Accounts" located on page 9.

If you have any questions please feel free to contact the Commission Office.

Let's Talk Trust Accounts

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 concerns, please contact Terry Mayrose at the Commission office (402) 471-2004.

AGENCY ACKNOWLEDGMENT PAMPHLETS REQUIRED

In May 1996, each individual or employing broker was provided with the revised Brokerage Relationships Pamphlet. By now, most brokers should have exhausted their supply of the original pamphlet issued in June 1995 and should be using the revised pamphlet with a revision date of "June 1996".

Neb. Rev. Stat. 76-2421 requires a licensee to provide to the person (seller, landlord, buyer, or tenant), who **has not** entered into a written agreement for brokerage services with a designated broker, a copy of the current Brokerage Relationships Acknowledgment Pamphlet which has been prepared and approved by the Commission. The licensee must also disclose, in writing, the types of brokerage relationships the designated broker and affiliated licensees are offering or disclose in writing which party the licensee is representing. The requirements **must be completed** at the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant.

Trust Account Examiners have reported some confusion relating to the proper procedure in completing the revised Brokerage Relationships Pamphlet. The following scenarios relate to a sales transaction with only the listing agent involved, and should give

licensees some guidance in how to use the form.

- 1) If the licensee is performing a listing presentation to a prospective seller, and does not obtain the signed listing agreement upon the completion of the listing presentation, the licensee may complete "Section 1", which states "Licensee has informed me that licensee is offering to act as my limited Seller's Agent."

OR;

In "Section 2", the licensee can mark four individual boxes which indicate: "offering to act"; "Seller's Agent"; offering to provide"; "Client, as my agent."

Do one or the other, but it is not necessary to do both.

If several days after the listing presentation, a listing agreement is completed, and the licensee indicated in the listing as representing the seller is the same licensee who performed the disclosure noted above during the listing presentation, then a new Brokerage Relationships Acknowledgment Pamphlet need not be completed as long as the Listing Contract contains language setting out that the licensee represents the seller as a limited seller's agent.

- 2) When a licensee, who upon the first substantial contact with a seller, or as soon as practicable thereafter, enters into a listing agreement with the seller, the licensee must complete "Section 2" of the Brokerage Relationships Acknowledgment Pamphlet. The following boxes must be marked: "acting"; "Seller's Agent"; "providing"; and "Client, as my agent."
- 3) When the listing agent shows a listed property to any unrepresented prospective purchaser, upon

first substantial contact with the prospective purchaser, or as soon as practicable thereafter, the licensee must complete "Section 2" of the Brokerage Relationship Acknowledgment Pamphlet with the following boxes marked: "acting"; "Seller's Agent"; "providing"; and "Customer, not as my agent."

While the above scenarios relate to a sales transaction with only the listing agent involved, it is hoped that it is illustrative in more general terms, as well. Those transactions where another licensee is involved can become more complex, depending on how the designated broker has written the firm's Agency Policy and whether or not the designated broker has elected to have all affiliated licensees bound by each agency relationship or whether the firm will be exercising the appointment option where certain individuals within a firm are appointed to serve as agents of one party to a transaction while others may serve as agents of the other party.

In property management situations, under limited landlord agency or limited tenant agency, licensees are required to complete Brokerage Relationship Acknowledgment Pamphlets for the landlord **and every** unrepresented prospective tenant to which the property is shown in the same manner as outlined above, but substituting "Landlord's Agent" and "Tenant's Agent" as applicable. In Common Law Agency situations only, licensees are required to complete the Brokerage Relationships Acknowledgment Pamphlet for the landlord but are not required to complete one for any unrepresented prospective tenants.

Trust Account Examiners continue to report that inappropriate boxes are marked or all required boxes are not marked. (If "Section 2" of the Brokerage Relationships Acknowledgment Pamphlet is used, a minimum of four boxes must be marked. Refer to items 1, 2, and 3 above). The licensee may also fail to obtain the signature of the Client/Customer and date of signature, the printed name of the Client/Customer,

and/or the signature of the licensee and date of signature. More care needs to be taken in completing the Acknowledgment Pamphlet. Take an extra moment to "proofread" for completeness.

PROCEDURES FOR "ESTIMATED" BUYER CLOSING COST STATE- MENT FOR CLIENTS ONLY

Since April 17, 1997, (see "Interpretation" on page 7) an "estimated" buyer closing cost statement is not required if the buyer is an unrepresented customer in the real estate transaction, but is required if the buyer is a client.

The "estimated" buyer closing cost statement must be prepared for all represented buyers of real estate unless the property is exempted, as set out in the next paragraph. The "estimated" buyer closing cost statement must be prepared, signed and dated by the buyer (client), when the offer is written, and again if a counter-offer is accepted by the buyer (client). 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.

"Estimated" buyer closing cost statements are not required for agricultural property or commercial property, which includes residential property with five or more dwelling units. "Agricultural property" means property zoned agricultural by a county in which any part of the

property is located, or if a county does not zone land agricultural, then property, any part of which, is assessed as agricultural property by a county assessor. (See Title 299 N.A.C. 5-003.11.)

A single "estimated" closing cost statement which includes both the "estimate" for the original offer and the "estimate" for the counter-offer is acceptable as long as the "estimates" clearly identify the sale price and those categories of "estimated" costs relating to the original offer and the counter-offer price accepted by the buyer and those categories of "estimated" costs relating to the counter-offer and that each "estimate" is affirmed and dated in writing by the buyer (client).

"Estimated" closing cost statements for unrepresented buyers may also still be completed as part of a good business practice, but are not required by the Commission. If done, it may be prudent to retain copies in case they are needed in the future.

PROCEDURES FOR "ESTIMATED" SELLER CLOSING COST STATE- MENT FOR CLIENTS ONLY

Since April 17, 1997, (see "Interpretation" on page 7) an "estimated" seller closing cost statement is not required if the seller is an unrepresented customer in the real estate transaction, but is required if the seller is a client.

The "estimated" seller closing cost

statement must be prepared for all client sellers of real estate **when the offer is accepted** unless the property is exempted as set out in the next paragraph. This is the only time an "estimated" seller closing cost statement is required. The seller (client) must sign and date the "estimated" closing cost statement and the listing broker must maintain a complete, signed and dated copy in the transaction file.

"Estimated" seller closing cost statements are not required for new construction, lots, agricultural property or commercial property which includes residential property with five or more dwelling units. "Agricultural property" means property zoned agricultural by a county in which any part of the property is located, or if a county does not zone land agricultural, then property, any part of which, is assessed as agricultural property by a county assessor. (See Title 299 N.A.C. 5-003.10.)

An "estimated" seller closing cost statement completed at times other than that 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.

"Estimated" closing cost statements for unrepresented sellers may also still be completed as part of a good business practice, but are not required by the Commission. If done, it may be prudent to retain copies in case they are needed in the future.



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 1997

<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>
June 21, 1997	May 6, 1997	May 19, 1997	June 2, 1997	June 6, 1997	June 10, 1997
July 19, 1997	June 3, 1997	June 16, 1997	June 30, 1997	July 7, 1997	July 8, 1997
August 16, 1997	July 1, 1997	July 14, 1997	July 28, 1997	August 1, 1997	August 5, 1997
September 20, 1997	August 5, 1997	August 18, 1997	September 2, 1997	September 5, 1997	September 9, 1997
October 18, 1997	September 2, 1997	September 15, 1997	September 29, 1997	October 3, 1997	October 7, 1997
November 15, 1997	September 30, 1997	October 14, 1997	October 27, 1997	October 31, 1997	November 4, 1997

Nebraska Real Estate Commission
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