



# COMMISSION COMMENT

Summer

1999

## Rule and Regulation Hearing To Be Held

On June 29, at 10:30 a.m., the Commission will consider the following additions and changes to the Rules of the Commission. The public hearing will be held at the Holiday Inn Downtown, Lincoln, as a part of the June Commission Meeting.

These amendments are intended to address approval requirements for real estate education, both prelicense and continuing, delivered in a distance education format. Distance education is defined as: courses in which instruction does not take place in a traditional classroom setting but rather through other media where instructor and student are separated by distance and sometimes by time.

The following excerpts of the two chapters set forth only the sections of the Rules which are proposed for amendment or are being added and excludes any sections in the two chapters to which no amendments are proposed. Proposed new language is underlined, and proposed deleted language is shown as stricken.

### Title 299

#### Chapter 1

004.03 Courses of study provided for in 81-885.13 which are offered in a distance education format must be approved by the Real Estate

Commission and certified by the Association of Real Estate License Law Officials. A student must complete the distance education course within one year of the date of enrollment. Distance education courses approved prior to this section shall come into compliance by January 1, 2001 by being approved as prelicense courses and certified by the Association of Real Estate License Law Officials. Approval of distance education courses that do not come into compliance with this section will expire on January 1, 2001. Distance Education as used in this subsection shall mean courses in which instruction does not take place in a traditional classroom setting but rather through other media where teacher and student are separated by distance and sometimes by time.

### Title 299

#### Chapter 7

002.01B An in-class continuing education activity must consist of at least three in-class clock hours but no more than eight in-class clock hours in any one day of instruction. In the case of ~~correspondence or independent study programs~~ a continuing education activity delivered in a distance education format approved as a continuing education activity there must be at least the content equivalent of three in class clock hours, and certification pursuant to 299 NAC 7-002.02 and an examination must be administered and scored by the provider; and

002.02 Continuing education activities offered in a distance education format must be certified by the Association of Real Estate License Law Officials. A student must complete the distance education activity within one year of the date of enrollment. Continuing education activities offered in a distance education format approved prior to this section shall come into compliance by January 1, 2001, by being approved as continuing education activities and certified by the Association of Real Estate License Law Officials. Approval of distance education activities that do not come into compliance with this section will expire on January 1, 2001. Distance education as it is used in this chapter shall mean courses in which instruction does not take place in a traditional classroom setting but rather through other media where teacher and student are separated by distance and sometimes by time.

~~RENUMBER CURRENT 002.02 AS 002.03~~

~~RENUMBER CURRENT 002.03 AS 002.04~~

~~RENUMBER CURRENT 002.03 A AS 002.04 A~~

~~RENUMBER CURRENT 002.03 B AS 002.04 B~~

~~RENUMBER CURRENT 002.04 AS 002.05~~

006.01 After initial approval, approval of a substantial change or renewal of approval of a continuing education activity, the provider shall submit, at least thirty days in advance of offering the activity, to the Commission a notice of the scheduling of said activity in a form prescribed by the Commission. This subsection shall not apply to distance education activities offered in an independent study format.

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### Commission Meeting Schedule

June 29-30, 1999	Lincoln
August 24-25, 1999	Lincoln

**COMMISSION COMMENT**

Official Publication of the  
Nebraska Real Estate Commission  
1200 "N" Street, Suite 402  
P.O. Box 94667  
Lincoln, Nebraska 68509-4667  
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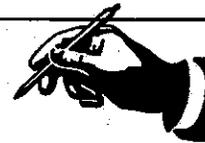
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The Nebraska Real Estate Commission grants permission to reprint articles which appear in this newsletter on condition that recognition of their original publication in the **Nebraska Commission Comment** also appears with the article.

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**



**Is the Photo Misleading?**

An issue recently arose over the advertising of new construction by using a photograph of a completed home, in this case, fully landscaped. In fact, the actual property being advertised was not a completed home but one still under construction. Such a practice could be construed as misleading advertising, which could result in disciplinary action against both the broker and the affiliated licensee(s).

Therefore, all licensees are being encouraged to include a disclosure or disclaimer, with the picture, similar to "Simulated Photo" or "Under Construction" when using photographs of a completed home to advertise property not yet completed. If this is done, there should be no confusion on the part of the consumer.

**LEGISLATIVE UPDATE**

**LB 248**

This legislation, as passed by the Legislature and signed by the Governor, amends the "Good Funds" statute (Neb.Rev.Stat. § 76-2,121) by adding "... warrants of a city of the metropolitan or primary class. . ." to the definition of good funds. Cities of the metropolitan or primary class are, in essence, cities with a population of more than 100,000.

This statute change will become effective on August 28, 1999.

**LB 618**

This legislation, as passed by the Legislature and signed by the Governor, allows real estate licensees to charge separately for a broker price opinion (BPO) or comparative market analysis (CMA) as long as a specific disclosure is made. The legislation also changes the License Act to indicate that to give a BPO/CMA the person must be licensed. The Commission will be holding a Rule Hearing, probably in September, after the effective date of the legislation, which is August 28, 1999, to require disclosure language on a BPO/CMA. Copies of the proposed rule language will be available this summer.

**LB 627**

This legislation which deals with referral fees and after-the-fact referrals is still being held in the Judiciary Committee.

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.** *Heidi Burkliund*  
InfoTech@nrec.state.ne.us
- Complaint Procedures** ..... *Terry Mayrose*  
DDEnf@nrec.state.ne.us
- Continuing Education History or**
- Inquiries** ..... *Julie Schuur*  
EdEnf@nrec.state.ne.us
- Curriculum Design (Education &**
- Instructor Approval)** ..... *Teresa Hoffman*  
DeputyD@nrec.state.ne.us
- Errors and Omissions Insurance**
- Inquiries** ..... *Teresa Hoffman*  
DeputyD@nrec.state.ne.us
- License Applications Packet**
- Requests** ..... *Vera David-Beach*
- License Applications Process** *Nancy Glaesemann*  
Applic@nrec.state.ne.us
- Licensing and Education**
- Requirements** ..... *Teresa Hoffman*  
DeputyD@nrec.state.ne.us
- New Licenses in Process** ..... *Nancy Glaesemann*  
Applic@nrec.state.ne.us
- Specialized Registrations** ..... *Monica Wade*  
Finance@nrec.state.ne.us
- Transfer of License** ..... *TBA*
- Trust Account Matters** ..... *Terry Mayrose*  
DDEnf@nrec.state.ne.us  
*John Clark*  
*Bob Arterburn*  
*Ron Pierson*

TELEPHONE NUMBER  
(402) 471-2004

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Nebraska Real Estate Commission  
P.O. Box 94667  
Lincoln, NE 68509-4667

(Rule and Regulation Hearing To Be Held from page 1)

**006.02** Successful completion of an approved in-class continuing education activity requires full-time attendance at the activity.

**006.03** A completion certificate, not larger than 8½ by 11, must be issued to each student upon completion of the activity and shall include such information required by the Commission including, in the case of correspondence or independent study programs, an indication that the examination was satisfactorily completed.

**006.04** In the case of students using a pre-license broker course toward both pre-license and continuing education as set forth in Title 299, Chapter 7, Section 002.023, upon request by the student a separate continuing education completion certificate will be issued by the provider upon completion of the course in addition to the pre-license proof of completion.

**006.05** Records shall be maintained by each provider on each individual student for four years. Said records to include: name and real estate license identification number of the student, residence or business address of the student, the title and activity content number of the activity completed in full, the number of continuing education hours granted the activity and the date the student took completed the activity.

*Your comments are welcomed either in person at the hearing or in writing prior to the Hearing as long as such written comments are received in the Commission Office no later than 5:00 p.m. on June 15, 1999.*

Send written comments to:

Nebraska Real Estate Commission  
P.O. Box 94667  
Lincoln, Nebraska 68509

Public Hearing  
10:30 a.m.  
Tuesday, June 29, 1999  
Holiday Inn Downtown  
141 North 9th Street  
Lincoln, Nebraska

## Professional Corporations

As real estate licensees who have made Professional Corporation (P.C.) filings with the Secretary of State's Office are aware, the Secretary of State requires the licensee to submit a certification of registration from the Real Estate Commission with the filing. This certificate of registration certifies that all persons providing professional services under the P.C. are licensed by the Commission.

In order to assist licensees in this process, an application for the certification of registration has been developed to assure that the licensee supplies all required information to the Commission. It is anticipated that using this application, will allow Commission staff to more efficiently process requests for the certification whether for an original filing or an annual filing with the Secretary of State.

Licensees may photocopy the application as it appears on pages seven and eight or you may contact the Commission Office for additional copies.

Licensees should contact their personal attorney and/or accountant for specific information on forming a P.C.

For information on the acquisition of the certificate of registration needed for filing with the Secretary of State, please contact Monica at the Commission Office.



### We've Got Mail!!

E-mail, that is. The Commission is focusing on technology. Our goal is to enhance our accessibility and service to the Public and to our Licensee Population. With that in mind, let us call your attention to the addition of e-mail addresses in the "Communications Guide" located on page 3. If you have any questions, please feel free to contact us by phone, mail, or e-mail, so that we may be of assistance.

# Broker Follows Owners' Instructions; Loses Big

*(Editor's note: This article has been reprinted with permission by the Arizona Department of Real Estate and the North Dakota Real Estate Commission. The Nebraska Real Estate Commission and Counsel are not familiar with all of the facts of this particular case and cannot comment on it specifically. However, we agree with North Dakota that it presents a significant point and should serve as a valuable reminder to all licensees.)*

The Arizona Department of Real Estate reported a possible scam in which a broker lost \$60,000 by following the oral instructions of property owners to forge their names on insurance checks.

The broker was managing property for out-of-state owners and received checks totaling \$60,000 as payment of a claim for damages to

the property. The broker had instructions from the owners to begin repairs to the property as soon as possible. The insurance company issued the checks in the names of the owners who allegedly told the broker in a telephone conversation to sign their names to the checks and deposit them in the trust account.

Once the units were repaired and re-rented, the owners terminated their management agreement with the broker and then signed a new management contract with another broker. Next they obtained copies of the checks from the insurance company and filed "Forged Signature Affidavits" with the bank; whereupon, the bank withdrew \$60,000 from the broker's trust account in favor of the property owners.

The message to North Dakota licensees is simple—and obvious.

Never forge a signature on a check (or on any other document) no matter who instructs you to do so. Give the check to the payee to endorse and return for deposit or have the payee instruct the payer to reissue the check to the broker as agent or trustee for the payee or obtain a power of attorney from the payee authorizing the broker to endorse and deposit the check.

## State Censures Salesperson For Advertising As A Broker

*(Editor's note: The following article has been reprinted with permission from the REALTOR Magazine. It is reprinted here because of its pertinence to Nebraska licensees as well.)*

A person licensed in Pennsylvania as a real estate salesperson marketed herself in a local publication as an "accredited buyer broker." The individual, who did not have a real estate broker's or associate broker's license, holds the designation ABR, Accredited Buyer Representative, awarded by the Real Estate Buyer's Agent Council, a wholly owned subsidiary of NAR.

The Pennsylvania Real Estate Commission invoked sanctions against the licensee for violating the state licensing statute by advertising herself as a broker without having the required broker's license. She was assessed a civil penalty and ordered

to pay the costs of the investigation.

Some licensees who represent buyers casually refer to themselves as "buyer's brokers," whether or not they actually hold a broker's license. As this case shows, that's a dangerous practice. Licensees need to be mindful of how they refer to themselves and must take care not to characterize themselves as brokers if they don't hold a real estate broker's license. If the licensee in this case had used the ABR terminology and said she was an "accredited buyer representative" instead of an "accredited buyer broker," she would have been on safe ground.



# Disciplinary Actions Taken by The Real Estate Commission

(Does Not Include Cases on Appeal)

98-027 - John & Betty J. Hoschar vs. Vincent Muniz, Sr., salesperson - Stipulation and Consent Order. License censured. (Violated Neb.Rev.Stat. § 81 885.24(29) by demonstrating negligence in acting as a salesperson by failing to have the Complainants initial the documents on which the dates were changed or to notify them he was changing the dates before doing so.)

March 23, 1999

98-013, 98-022, 98-024 - Commission vs. Kenneth John Jansen, broker - Stipulation and Consent Order. License suspended

from May 1, 1999, through December 31, 2000, with the first 45 days of said suspension served and the remaining time stayed and served on probation; plus twelve (12) hours of continuing education to include three (3) hours in agency, three hours (3) in disclosure, three (3) hours in license law, and three (3) hours to be determined by the Director. (Violated Neb.Rev.Stat. § 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, in each of the following particular, in wit: Title 299, N.A.C. Ch 5 003.07 in

each of the following particulars, by failing to comply with the following: Neb.Rev.Stat. § 76-2419(2) and § 76-2418(c)(iii) by failing to disclose in writing to the client adverse material facts; § 76-2419(2) by failing to disclose to the buyer information relevant to the transaction or client; Ch. 5-003.04 by failing to make known, in writing, to any purchaser, prior to the Buyer becoming obligated to purchase the property, his interest in the property for sale; Neb.Rev.Stat. § 81-885.24(29) by demonstrating negligence to act as a broker.)

March 23, 1999

## Open House Thefts

*(Editor's note: The following article was reprinted with permission from the New Jersey Real Estate Commission News.)*

Recently, a report appeared in the Newsletter of another state's Real Estate Commission reporting that jewelry and blank checks were stolen during an open house. According to the report, two suspects distracted the salesperson by splitting up, one talking to the salesperson while the other used the restroom. When he returned, the other suspect left to wander through the house. The sellers reported the missing items later that evening.

Open houses are prime targets for this type of crime. Here are some tips that may help you avoid a theft at the next open house you hold:

1. Enlist the sellers' help in avoiding thefts. Let them know thefts have happened during open houses and tell them you need their cooperation. Make sure you have their permission to hold the open house.

2. Tell your sellers to put all their valuables out of sight, including check books, credit cards, prescription drugs, jewelry and guns.

3. If possible walk through the

home with the sellers before the open house begins. You might spot a valuable item that needs to be moved that the sellers overlooked. Take note of what items are left in plain view. You'll be in a better position if something is reported missing after the open house.

4. Work the open house with another licensee, particularly if you anticipate a lot of traffic.

5. Get the names of prospects as they arrive.

6. Stay with prospects as they inspect the premises. Don't let them wander alone.

7. Show the property to one group of prospects at a time.

8. Lock all doors when you leave the area.

9. Be observant. Write down a description of the vehicle and the license plate number of anyone who arouses your suspicions.

10. If possible, walk

through the property with the sellers after the open house. Tell them to let you know immediately if anything seems to be missing.

11. Report thefts immediately to the police and your broker and, if they were not present when the open house concluded, to the sellers.

Reducing risk is essential to minimizing your potential liability and maximizing the level of service provided to your clients.



# 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 procedures 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.

## Are You in Compliance?

Trust account examiners have reported that some licensees are inadvertently using outdated Listing and Management Agreements in real estate sales and management transactions, which agreements do not comply with the Agency Relationship statutes that became effective July 1, 1995.

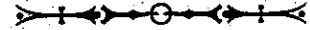
Neb. Rev. Stat. § 76-2422(2) states, "Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to establish a single agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 76-2417 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker."

The duties and responsibilities specified in Neb. Rev. Stat. § 76-2417, are "(1) A licensee representing a seller or landlord as a seller's agent or landlord's agent shall be a limited agent with the following duties and obligations: (a) To perform the terms of the written agreement made with the client; (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including: (i) Seeking a price and

terms which are acceptable to the client, except that the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease; (ii) Presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease; (iii) Disclosing in writing to the client all adverse material facts actually known by the licensee; and, (iv) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee; (d) To account in a timely manner for all money and property received; (e) to comply with all requirements of sections 76-2401 to 76-2430, the Nebraska Real Estate License Act, and any rules and regulations promulgated pursuant to such sections or acts; and, (f) to comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes and regulations."

The duties and responsibilities as outlined above, must be identified in each Listing and Management Agreement entered into by a real estate licensee, after July 1, 1995, when acting in the capacity of a limited seller's or limited landlord's agent only. This language does not need to be included when acting in Common Law Agency situations, however Common Law agreements must be in writing and must specify the agent's duties and responsibilities, including any duty of confidentiality and the terms of compensation. Licensees who do not have a current Listing Agreement that complies with the requirements of the Nebraska Real Estate License Act as outlined above, may contact the Commission Office, or, a copy may be found in each real estate licensee's License Law Manual under "Sample Agrmts."

Designated brokers are requested to collect and destroy all outdated agreements.



## Errors & Omissions Insurance Update

*[Editor's note: Williams Underwriting Group composed this article and requested that it be printed in our newsletter to assist them in clarifying their policy on refunding premiums. If you have any questions regarding this article they may be directed to: Williams Underwriting Group at (800)222-4035].*

### Fully Earned Premium:

Throughout the year, Williams Underwriting Group (WUG) receives numerous requests for cancellation of coverage and/or a return of premium paid for the Nebraska Real Estate Commission contracted group Errors & Omissions insurance coverage. WUG responds to these requests with a letter of denial. WUG will not cancel individual coverage nor refund any premium after the effective date of the policy. WHY? The Nebraska Real Estate Commission (NREC) established errors and omissions group policy specifications and sent the specifications out to insurance providers in the form of a Request For Proposal (RFP). WUG based their premium bid per license according to the specifications contained in the RFP, one being; "any group policy obtained by the NREC must be available to all licensees with no right on the part of the provider to cancel any licensee." Therefore; since the provider cannot cancel any licensee's coverage, all premiums are fully earned. THERE ARE NO EXCEPTIONS!!!

# APPLICATION FOR REGISTRATION AS A PROFESSIONAL CORPORATION

(Registration must be renewed annually)

Nebraska Real Estate Commission  
1200 N Street, Suite 402  
P.O. Box 94667  
Lincoln, NE 68509-4667

Name of Corporation \_\_\_\_\_  
(must be the exact name as designated in the articles of incorporation)

Principal Place of Business \_\_\_\_\_  
Street Address City State Zip

Practice of \_\_\_\_\_  
(Please name profession in which corporation is engaged)

Telephone Number ( ) \_\_\_\_\_

\_\_\_\_\_ Check here if this is the first filing for a new professional corporation

## OFFICERS OF CORPORATION

**This section must be completed.** All officers of the corporation except secretary and assistant secretary must be licensed in Nebraska to render the professional service for which the professional corporation is organized.

\_\_\_\_\_  
President (Full Name & License #)

\_\_\_\_\_  
Residence Street Address, City, State, Zip

\_\_\_\_\_  
Vice-President (Full Name & License #)

\_\_\_\_\_  
Residence Street Address, City, State, Zip

\_\_\_\_\_  
Secretary (Full Name & License #)

\_\_\_\_\_  
Residence Street Address, City, State, Zip

\_\_\_\_\_  
Asst. Secretary (Full Name & License #)

\_\_\_\_\_  
Residence Street Address, City, State, Zip

\_\_\_\_\_  
Treasurer (Full Name & License #)

\_\_\_\_\_  
Residence Street Address, City, State, Zip

**FEE: \$25.00**

(please complete reverse side)

Revised 5/99

Neb. Rev. Stat. 21-221

## DIRECTORS

**This section must be completed.**

All directors must be licensed in Nebraska to practice in the profession for which the corporation was organized. (use additional sheets if needed)

<hr/> Full Name & License #	<hr/> <u>Residence</u>	<hr/> Street Address, City, State, Zip
<hr/> Full Name & License #	<hr/> <u>Residence</u>	<hr/> Street Address, City, State, Zip
<hr/> Full Name & License #	<hr/> <u>Residence</u>	<hr/> Street Address, City, State, Zip
<hr/> Full Name & License #	<hr/> <u>Residence</u>	<hr/> Street Address, City, State, Zip

## SHAREHOLDERS

**This section must be completed.**

All shareholders must be licensed in Nebraska to practice in the profession for which the corporation was organized. (use additional sheets if needed)

<hr/> Full Name & License #	<hr/> <u>Residence</u>	<hr/> Street Address, City, State, Zip
<hr/> Full Name & License #	<hr/> <u>Residence</u>	<hr/> Street Address, City, State, Zip
<hr/> Full Name & License #	<hr/> <u>Residence</u>	<hr/> Street Address, City, State, Zip
<hr/> Full Name & License #	<hr/> <u>Residence</u>	<hr/> Street Address, City, State, Zip

## PROFESSIONAL EMPLOYEES

Professional employees must be licensed in Nebraska to practice the profession for which the corporation was organized, or, in a profession that is ancillary to such profession. List all employees of the corporation who are required by the State of Nebraska to be licensed. Do Not list officers, directors, or shareholders. (use additional sheets if needed)

<hr/> Full Name & License #	<hr/> <u>Residence</u>	<hr/> Street Address, City, State, Zip
<hr/> Full Name & License #	<hr/> <u>Residence</u>	<hr/> Street Address, City, State, Zip
<hr/> Full Name & License #	<hr/> <u>Residence</u>	<hr/> Street Address, City, State, Zip
<hr/> Full Name & License #	<hr/> <u>Residence</u>	<hr/> Street Address, City, State, Zip

SIGNATURE OF OFFICER \_\_\_\_\_

NAME & TITLE OF OFFICER \_\_\_\_\_

# Advice on Avoiding the Snare of the Internet

by Michael J. Russer

*(Editor's note: The following article was reprinted with permission. Michael Russer is an internationally recognized speaker, trainer, strategic consultant, and writer for the real estate industry about the Internet. He is a member of NSA and REEA.)*

Real estate brokers may find themselves falling prey to "referral fishers".

Fraud, gross negligence, and failure to disclose affiliation - these are real charges recently levied by the Ohio Real Estate Commission against an agent in Columbus, OH as a result of his activities on the Net. What makes this case particularly interesting is that the agent in question is not only a highly respected veteran of the business but he also happens to be Net-savvy as one of the first agents in Ohio to use the Net for marketing his properties and services.

Regardless of the details and the validity of the case against this individual, it serves to underscore the fact that agents often just "throw the rule-book out" when they start using the Net for their business. Likewise, broker/owners who would otherwise never let anything past their desk with respect to traditional marketing efforts by their agents, are often clueless as to the Net, much less whether it's in compliance or not. Risk to your license through regulatory sanction is just the beginning. There are also legal, tort liability, security, operational, and goodwill issues that add to your exposure of your agents' use of the Net. And this is just the liability side of doing business on the Net.

## It's More than just Liability

Broker/owners pleading ignorance about the Internet will find that it can be a very expensive excuse indeed. In addition to potential legal woes, you could fall prey to a whole class of Internet-savvy brokers who may be literally taking business out of your backyard. The worst part is that many are operating from outside your state and you may already be happily paying them for

the business they send your way. Business that should have been yours in the first place!

These Internet "referral fishers" are usually small operators, but by using the Net in clever ways, they cast a long shadow. Their main business is generating referral fees from other brokers all over the nation. How they do this is typified by the actions of one broker based in New Jersey, who for obvious reasons will remain anonymous. What broker "Jane Doe" has done is to create a separate Web page for nearly every city in the United States. In fact, at last count over 1800 of them! Except for the name of the city, all of the pages say the same thing. They offer to place people who are thinking of relocating to that particular city with agents that operate in that city. The only contact information shown on these Web pages is Jane Doe's name and 800 number. No where on the pages does it indicate that Jane Doe is actually from New Jersey, rather than from the city in question. When someone does respond to one of her many sites, she immediately refers them to a broker in that area, netting her 15%-30% of the selling side commission. Not bad for a day's fishing - especially when other brokers do most of the work.

This kind of parasitic activity takes money out of legitimate brokers' pockets and misleads the relocating public. In addition, it is likely to be found illegal in most state jurisdictions. The reason for this has to do with the principle of "jurisdictional intent". This means if it can be clearly shown that your intent on the Web was to attract consumers from a particular jurisdiction, then you are subject to the regulations and laws of that jurisdiction. Chances are broker Jane Doe is not licensed to do real estate in all the states covered by her multitude of Web sites (probably all 50). This means she could be charged with conducting real estate services without a license in many, if not most of the states her sites cover.

## Protecting Yourself

The Net is not going away. Its use is becoming increasingly critical for your competitive survival. To put your head in the sand on your agents use of it only means that you make it easy to get it chopped off. And not understanding how the Net really works leaves your bottom line exposed to predators.

Your first line of defense against getting caught in the snare of the Net is solid Internet education and implementing a well designed Internet risk management program. One that incorporates a comprehensive, written Internet policies and procedures manual to guide your agents' use of the Net. Without taking these preemptive measures, it is a matter of when, not if you'll be snagged.

"The Internet is about people connecting with people, not technology."



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