

COMMISSION COMMENT

Fall

2000

RISK MANAGEMENT SEMINARS COMING SOON!!

We want to remind licensees that during the week of September 24 they have the opportunity to attend a risk management seminar conducted by Dick Williams Ph.D., CPCU who is Chairperson of Williams Underwriting Group, Inc. This seminar, to be held in eight locations, is open to all real estate licensees. It deals with the topic of Risk Management as it applies to real estate licensees and is a service of Williams Underwriting Group, Inc., who is the Program Administrator for the Errors and Omissions insurance Program offered through the Real Estate Commission.

The sessions will offer preventive strategies for use by licensees in reducing risk. Topics include:

- A. Claims Review of Nebraska's Group Program
- B. Mergers, Acquisitions & Buy-outs ("Who Needs Tail Coverage")
- C. Why Claims Get Denied
- D. Risk Reduction Discussion
- E. Review Optional Coverage Available
- F. Question and Answer Period

At the end of each session, when Mr. Williams has concluded, time will be available for licensees to ask questions of Commission Director Les Tyrrell with regard to issues relating to the License Act and other laws administered by the Commission. As available, Members of the Commission will also be in attendance at the sessions.

There is no charge for attending this information session. There is no continuing education credit granted this session either. Each session is scheduled as follows:

September 25, 2000—Scottsbluff
9:00 a.m.—12:00 p.m.
Western Nebraska Community College/
Center for Business & Industry Training
250587 Airport Dr.
Room 103

September 26, 2000—North Platte
8:30 a.m.—11:30 a.m.
MidPlains Community College
McDonald Belton Campus
601 W. State Farm Rd.
Theater

September 27, 2000—Kearney
8:30 a.m.—11:30 a.m.
Holiday Inn (formerly Ramada Inn)
110 2nd Ave.
(check at site for room assignment)

September 27, 2000—Grand Island
2:00 p.m.—5:00 p.m.
Central Community College
3134 W. Highway 34
College Park Auditorium

September 28, 2000—Norfolk
8:30 a.m.—11:30 a.m.
Northeast Community College
801 E. Benjamin Ave.
Lifelong Learning Center, Room F

September 28, 2000—Columbus
2:00 p.m.—5:00 p.m.
Central Community College
4500 63rd St.
West Education Center, Room 205

September 29, 2000—Lincoln
8:30 a.m.—11:30 a.m.
Ramada Inn Airport
1101 West Bond Street
Apollo/Lindbergh/Kitty Hawk Rooms

September 29, 2000—Omaha
2:00 p.m.—5:00 p.m.
Crowne Plaza Old Mill
655 N 108th Ave.
Regency Ballroom

We ask that if you are planning to attend and have not yet sent the registration form which appeared in our last newsletter, you please call or fax the Commission Office at: (402) 471-2004—phone or (402) 471-4492—fax.

**Commission Meeting
Schedule**

October 2-3, 2000 TBA

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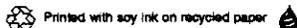
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The Nebraska Real Estate Commission grants permission to reprint articles which appear in this newsletter on condition that recognition of their original publication in the **Nebraska Commission Comment** also appears with the article.

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

Statute Review Progressing

As of the time I am writing this, the Commission has discussed various proposals for amending the License Act, the Seller Property Condition Disclosure Act and the Agency Relationships Act. The proposals reviewed to date included those received from licensees in general, Commission staff, and legal counsels. No decisions have been made, as of this writing. At its August meeting, the Commission is scheduled to review proposals from the Nebraska Realtors Association and, possibly, others.

Our printing deadlines prohibit reporting on the August meeting in this issue, however, it is still planned to finalize any proposed amendments this Fall and then introduce legislation in January. The December Commission Comment will carry a summary of any proposed legislation.

As always, if you have questions, or would like copies of the proposed amendments, when available, contact the Commission Office.

Policy on Attorney Exemption, Now in Writing

The long-held policy regarding the attorney exemption in the License Act (Neb.Rev.Stat. § 81 885.04(2) and its effect on the giving of a Brokerage Relationships brochure to someone represented by an attorney (who is not acting as a designated broker), has been set down in writing and will appear in future editions of the License Manual. Following is the Policy:

**Policy on Attorney Exemption
to the Nebraska Real Estate License Act
and Its Effect on the Agency Relationships Statutes**

The Nebraska Real Estate License Act provides that the requirements of the Act and the requirement to obtain a license shall not apply to a licensed attorney when the attorney is performing his or her duties as such attorney at law. The Commission interprets this exemption to mean that the attorney is exempt from the Act if the attorney is acting as legal counsel for a party to a transaction. If the attorney is acting as a broker or salesperson in a transaction, the attorney is not exempt from the Act. For example, actively listing or selling real property would cause the attorney's activities to be governed by the Act. An attorney acting as legal counsel to a buyer, tenant, seller, or landlord in a transaction would not be considered a designated broker under the Agency Relationships Statutes and, therefore, disclosure must be made to clients of an attorney, unless said attorney is acting as a designated broker.

Adopted July 25, 2000

If an attorney, representing a buyer/tenant or seller/landlord, has told them not to sign the Acknowledgment. Then the licensee should accurately complete the Acknowledgment and, as set out in the Agency Relationships Act, note on the Acknowledgment "Refused to sign" and include the date of refusal.

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 Burkland
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 Amy Goodman
LicTsf@nrec.state.ne.us

Trust Account Matters Terry Mayrose
DDEnf@nrec.state.ne.us
John Clark
Bob Arterburn
Ron Pierson

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Do Ethics Pay?

(Editor's note: The following article was written by Deborah Long and is reprinted, here, with permission. Dr. Long is a real estate broker and instructor frequently asked by professional and regulatory organizations to speak on the topic of ethics.)

On occasion when I provide workshops on ethical decision making skills, participants ask me, "Will I get what I want if I'm ethical?"

That's a tough question. "It really depends on what you want," I usually respond. "If what you want is a faster, sportier car or a bigger, more ostentatious home—then no, probably being ethical won't help you obtain those material goods." On the other hand, I also observe, being ethical allows you to look at yourself in the mirror as well as to sleep better at night.

This is not a satisfactory answer for a number of my students. I realize that some of my students think that if all you get out of being ethical is a better night's sleep, they might find it more appealing to fall asleep in front of their big-screen TVs in their 10,000 square foot mansion. A recent movie—The Insider—also made it painfully clear that being ethical can be very costly in terms of personal and professional consequences.

In order to create a more compelling argument for being ethical, I decided to find out if being ethical pays off in more tangible ways. Guess what I found out?

Unethical behavior costs.

Example #1. Discriminating against employees based on race cost Texaco \$176 million.

Example #2. Overstating profits to investors cost Mercury Finance \$2.2 billion in stock losses virtually overnight.

Example #3. ADM paid \$100 million in criminal fines—the largest in

history—for price-fixing.

Example #4. A Genentech CEO lost his job for trying to obtain a \$2 million loan as part of a business deal.

Example #5. Sexual harassment charges cost a W.R. Grace CEO his job.

That's the bad news. Here's the good news: Ethical behavior pays.

Example #1: In a 1994 study, researchers found that 26% of potential investors review the social responsibility of a company before investing. Corporate values and ethics matter.

Example #2. A 1995 study indicated that companies that invest in their employees are more profitable than ones that don't invest. For example, Motorola estimated that it earned \$30 for every \$1 invested in training employees.

Example #3. A Vanderbilt University study demonstrated that low-polluting companies enjoyed better financial performance than high-polluting competitors in eight out of ten cases.

Example #4. A 1997 report found that 76% of consumers were likely to switch to brands associated with a good cause.

Example #5. A 1994 study indicate that 75% of consumers avoid or refuse to buy from certain business. The first reason was poor service, but the second reason was the company's business practices.

These examples and studies indicate that greedy, ruthless behavior is not the most profitable. The evidence clearly demonstrates that good ethics shows up on the bottom line. While being ethical can be challenging, it can do more personal, professional, and financial good for you than just give you a sound night's sleep.

(Copyright, 2000, Deborah H. Long, Dr. Long can be reached at:
djong@mindspring.com or at her website,
www.deborahlong.com.)



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.



Top Five List of Renewal Mistakes:

This article is being written to alert you to some of the renewal mistakes that we have seen repeatedly over the years, it is not intended to discourage you from contacting us with your questions and concerns. It is our objective to assist in your efforts to meet your license responsibilities.

We all make mistakes and we all need help correcting these mistakes. Unfortunately, these "little" renewal mistakes are often multiplied by the hundreds and most mistakes, even the little ones, are costly in some way i.e. time and money. It is our hope that by reviewing the "Top Five Mistakes" listed below and by being mindful of them you can avoid these same pitfalls and enjoy a smoother renewal experience.

1. **INCOMPLETE OR INACCURATE RENEWALS:** **Renew early and carefully!** Every year we make hundreds of telephone calls to avoid returning incomplete renewals. We endeavor to facilitate the renewal of your license in any way that we can but these calls are costly in time and charges. Please make sure that the application is completed fully and signed. Make sure your check is enclosed, signed, and in the correct amount. If active, do not for-

get about the errors & omissions insurance and continuing education.

2. **NO ERRORS & OMISSIONS INSURANCE:** E & O Policies other than the NEBRASKA Commission-offered plan require a current Certification of Coverage Form either already in the file or submitted with the renewal form. When indicating enrollment in the Nebraska Commission-offered plan, the form reads that you have MADE application—key is the fact that you must follow up on this commitment and send the insurance enrollment materials to Williams Underwriting Group, Inc. prior to or at the same time you send your renewal materials to the Commission. **WE CANNOT RENEW YOUR LICENSE ON ACTIVE STATUS WITHOUT PROOF OF INSURANCE.**

3. **CONTINUING EDUCATION REQUIREMENT NOT COMPLETE OR NOT SUBMITTED:** If your renewal form indicates **NEEDS CONTINUING EDUCATION**—then you have not fulfilled your CE obligation and we will not renew your license on active status without it. Please do not send continuing education certifi-

cates in **AFTER** you have submitted your renewal, this is too late and may affect your renewal in a way you hadn't intended. If you need to explore your options we will be happy to discuss this with you **PRIOR** to you sending in your renewal.

4. **POSTAL METER MARKS WILL NOT BE HONORED:** State law allows us to recognize U.S. Postmarks as a means to complying with deadlines which involve fees. Postal meters are not sufficient to meet this requirement.

*5. **LOST RENEWAL MATERIALS:** Your renewal materials will be mailed to your broker's main office address, unless you have informed us of your preferred contact address. Then the renewal will be mailed to the requested contact address. Please take care not to misplace these materials. We send them early in September so that you can renew early and not worry about it. Unfortunately, it appears that the September through November period gives lots of people time to lose their materials—replacing these materials is expensive.



Disciplinary Actions Taken by The Real Estate Commission

(Does Not Include Cases on Appeal)

2000-022 Commission vs. William Joseph Clark, broker. Stipulation and Consent Order. License censured. (Violated § 81-885.24(29) by demonstrating negligence, incompetency, and unworthiness to act as a broker by continuing to act as an active real estate broker

with the necessary errors and omissions insurance when, in fact, Respondent had no errors and omissions insurance and his license had been placed on inactive status by the Commission.)

July 25, 2000

2001 License Renewal

This month, all persons holding a Real Estate Broker or Salesperson license will be sent a renewal notice along with a partially completed renewal form for use in renewing their license for 2001. Your renewal will be mailed to your broker's main office address, unless you have informed us of your preferred contact address. Then the renewal will be mailed to the requested contact address. If you do not receive your renewal by the end of September please contact the Real Estate Commission Office 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.

Deadline Reminder

November 30, 2000, is the deadline for submitting renewal application materials for all active and inactive salespersons and brokers, along with the proper fees and, if needed, proof of continuing education and errors and omissions insurance. These materials must be postmarked (**postal meter marks will NOT be considered**) or received in the Office of the Nebraska Real Estate Commission, 1200 'N' Street, Suite 402, PO Box 94667, Lincoln, NE 68509, by November 30, 2000. The Office is open until 5:00 P.M. (CST).

Licenses Held on Inactive Status Must Be Renewed Each Year, Too.

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.

Renewal forms are produced from our database and are individualized to the named licensee. Please take the time to read the supplied information carefully and make any corrections necessary. Do not attempt to use someone

else's form, the barcode will not accommodate this. PLEASE TAKE CARE NOT TO LOSE YOUR INDIVIDUALIZED FORM. EVERY YEAR WE SPEND A GREAT DEAL OF TIME AND RESOURCES DUPLICATING THE ORIGINAL MAILING FOR THOSE WHO HAVE MISPLACED THE DOCUMENTS.

Incomplete Applications

NO RENEWALS WILL BE ACCEPTED UNLESS THEY ARE FILLED OUT COMPLETELY AND SIGNED BY THE LICENSEE. Make sure your check is enclosed and in the correct amount. If active, do not forget about the errors & omissions insurance and continuing education.

Late Renewals

Any salesperson or broker who fails to file an application for renewal of a license and pay the renewal fee by the November 30 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 first 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, 2001. (Because June 30, 2001 falls on a Saturday when the Commission office will be closed, postmarks and walk-ins as of Monday, July 2, 2001 will be accepted.)

"Bundling" of Renewal Submissions

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 1.

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 November 30 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" with one check 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

(Continued on page 6)

applications covered by the single check are late and the late penalty fee accrues to all the renewal applications. **If the "bundling" option is used, please be sure to mail early!**

Renew Early

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 all licensees to mail renewals early and not wait until the last minute.

Opportunities TO RENEW On-Line At www.nol.org/home/NREC

Our website is under development to better serve you. We hope that you have acquainted yourself with the site and the tremendous amount of material already available on it. We are seeking to bring you greater opportunities in this medium. While everyone will be mailed a renewal in the traditional fashion, we anticipate the opportunity to submit a renewal on-line later in the Fall. If this is an option that you might like to exercise we encourage you to watch the website for further developments. Should you elect to renew on-line please remember that all deadlines apply to on-line renewals just as they would any other.



REMEMBER:

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

Insufficient Funds Checks

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. A CHECK RETURNED FOR ANY REASON ACCRUES A \$20.00 PROCESSING FEE.

Bulk Rate
U.S. Postage
PAID
Permit No. 212
Lincoln, NE

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PO Box 94667
Lincoln, NE 68509-4667
Return Service Requested