

NEBRASKA REAL ESTATE COMMISSION Spring 2021

Doug Dohse Appointed to the Commission

Doug Dohse has been appointed as the salesperson representative on the Nebraska Real Estate Commission. Dohse was sworn in at the November 19, 2020, meeting of the Commission and replaces Ann Dover. Commissioners are appointed by the governor and limited to one six year term.



Chairperson Evnen Swears in New Commissioner Doug Dohse

Mr. Dohse is a salesperson affiliated with Berkshire Hathaway Homeservices Ambassador Real Estate, and has had his salesperson's license since 1996, and has also been a certified a pre-license real estate instructor's license since 2011. He has served on a number of boards and committees with both the Omaha Area and Nebraska REALTORS organizations, including Board of Directors for State Association and Board of Directors and President of the Greater Omaha (now Great Plains) Association.

Mr. Dohse has also been very active in his community with many local charities and civic organizations including Toys for Tots and Rebuilding Together Omaha. He lives in Gretna, and enjoys Basketball, golf, hiking, whitewater rafting, travel and Cornhusker football.

No Payment for Showings

It has come to the Commission's attention that some licensees may be paying other licensees directly for handling showings of properties. While it is acceptable to have another

agent show a property for a customer or client, it is not acceptable for a licensee, other than a designated broker, to pay another licensee for such services.

Nebraska Revised Statute §81-885.01 defines a designated broker as a broker who has full authority to conduct real estate activities requiring a license and employ salespersons or associate broker to conduct such business under the broker's supervision. The statute also defines Salesperson and Associate Broker as licensees who may only conduct real estate activities requiring a license under the employment and supervision of a broker. Paying another licensee directly if you are not a designated broker is employing someone for real estate services requiring a license and a violation of the License Act.

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Commission Meeting Schedule

April 22-23	Lincoln
June 17-18	Lincoln
August 19-20	Lincoln
September 23-24	Lincoln
October 21-22	Lincoln
November 18-19	Lincoln

NEBRASKA REAL ESTATE COMMISSION

COMMISSION COMMENT

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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.

DIRECTOR'S DESK

Safety First

The Nebraska Real Estate Commission has recently added safety courses to the list allowable "R" designation continuing education classes. This means a safety course focusing on licensee and or client safety can be taken as continuing education, and the course may be repeated every two year continuing education cycle. Safety courses may also continue to be offered as Commission Approved Training for shorter safety classes. This change is effective immediately.



Director Greg Lemon

Domain Squatting

It has been called to my attention that some licensees may be "domain squatting" or registering the names of competing companies and/or licensees and embedded in URLs that take members of the public to the website of the "squatter". While the Commission does not consider websites addresses to be advertising when simply used as an address to locate the webpage of a broker's business (if we did we would have to have a lot of www.Realtyxxx.coms registered as tradenames and with our office), they can be considered advertising if they are used to promote a brokerage or deceive the public.

Intentionally using advertising which is misleading or inaccurate is an unfair trade practice under the Nebraska Real Estate License Act, we could also come up with several other violations without much effort if such an action were brought. Domain squatting may also subject you to civil liability from the owner of the personal or company name.

Thanks Commissioner Dover

Ann Dover, the Salesperson Representative on the Commission, recently completed her 6 year term. Over the last 6 years drove the 240 mile round trip and spent the day in Lincoln serving the industry and Commission about sixty days, or two calendar months of work. The Commission and I would like to thank Commissioner Dover for her work for the Commission through many law and regulation changes, including work on the role of unlicensed assistants and education issues, as well as working with us through the challenges of an extended pandemic.

New Consumer Guide

The Nebraska Real Estate Commission has published a new Consumer Guide to Buying or Selling a Home. Then new guide adds information about cybersecurity, digital signatures, and home inspectors, and covers traditional areas like contracts and agency as well. The print version of the guide is available for free, the digital version is available at: https://nrec.nebraska.gov/pdf/forms/cnsm.pdf

Greg Lemon, Director Nebraska Real Estate Commission

Disciplinary Actions Taken by the Real Estate Commission

(Does Not Include Cases on Appeal)

2019-013 - Commission vs. Ryan Patrick Hines; Salesperson; Omaha, NE. Hearing held August 20, 2020. License suspended for a period of three (3) years with the first thirty (30) days served on suspension and the remainder of the period to be stayed and served on probation. Suspension begins December 15, 2020 and continues through January 13, 2021. Probation begins January 14, 2021, and continues through December 15, 2023; plus pay hearing fees of \$91.87 due November 22, 2020; plus pay civil fine of \$1,500.00 due November 22, 2020; plus submit to a yearly criminal background check, by having his fingerprints captured by anyone qualified to take finger prints and submitting the fingerprint cards to the appropriate law enforcement authority, paying the cost of such background check, and submitting the results of such background check to the Commission no later than February 28th of each year during the three (3) year Suspension/Probation period. The first report is due February 28, 2021; plus during the entire three (3) year Suspension/Probation period attend monthly substance abuse treatment or groups and provide documentary evidence of such attendance to the Commission every three (3) months. The first report is due February 22, 2021; plus If charged with or convicted of, another criminal offense at any time during the entirety of the three (3) Suspension/Probation period report such offense to the Commission within five (5) days following the incident. [Hines violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section when he demonstrated unworthiness by being charged with and found guilty of three (3) DUIs.]

2020-024 - Commission vs. Stacey J. Stracke; Broker; Stuart, NE. Stipulation and Consent Order entered September 18, 2020. License was placed on probation for a period of eighteen (18) months. Probation begins October 17, 2020 and continues thru April 17, 2022; plus take an additional six (6) hours of education, with three (3) hours each in the areas of Agency and Contracts due March 18, 2021; plus pay a civil fine of \$2,000.00 due October 17, 2020. [Stracke violated Neb. Rev. Stat. § 299-5-003.18 Failure to reduce an offer to writing where a prospective purchaser requests such offer be submitted when the licensee is: the limited seller's agent for the

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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 . . Paige Polacek paige.polacek@nebraska.gov Complaint Procedures. Antwan Montague antwan.montague@nebraska.gov Continuing Education History or Inquiries Tawny Snider tawny.snider@nebraska.gov Curriculum Design (Education & Instructor Approval) Alane Roubal alane.roubal@nebraska.gov Errors and Omissions Insurance Inquiries Monica Rut monica.rut@nebraska.gov Financial Officer vacant License Applications Packet License Applications Process Marilyn Masters marilyn.masters@nebraska.gov Licensing Requirements Monica Rut monica.rut@nebraska.gov New Licenses in Process Patricia Menousek patricia.menousek@nebraska.gov Specialized Registrations Monica Rut monica.rut@nebraska.gov Transfer of License Patricia Menousek patricia.menousek@nebraska.gov Trust Account Matters John Clark john.clark@nebraska.gov monica.rut@nebraska.gov

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property; the prospective purchaser's limited buyer's agent; or the dual agent of the seller and the prospective purchaser, she failed to prepare a written purchase agreement in a timely manner when a purchase price had been agreed upon; violated Neb. Rev. Stat. § 81-885.24(26) Violating any rule or regulation adopted and promulgated by the commission in the interest of the public and consistent with the Nebraska Real Estate License Act, when she failed to prepare a written purchase agreement in a timely manner when a purchase price had been agreed upon; violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, when she failed to prepare a written purchase agreement in a timely manner when a purchase price had been agreed upon.]

2020-030 Commission vs. Susan Paulette

Buettner; Broker; Lincoln, NE. Stipulation and Consent Order entered October 16, 2020. License is placed on Probation for a period of six (6)months. Probation commences on November 15, 2020, and continues through May 15, 2021; plus complete and additional six (6) hours of continuing education with three (3) hours each in the areas of Contracts and License Law by January 14, 2021; plus pay a civil fine of \$750.00 due November 15, 2020. [Buettner violated Neb. Rev. Stat. § 79-2418(1) A

licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations: (a) To perform the terms of any 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 other properties while the client is a party to a contract to purchase property or 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 client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease; (iii) Disclosing in writing to the client 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 act; and (f) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes or regulations, when she failed to provide Buyers' written offer to Seller in a timely manner; violated Neb. Rev. Stat. § 81-885.24(16) Violating any provision of sections 76-2401 to 76-2430, when she failed to provide Buyers' written offer to Seller in a timely manner; violated Neb. Rev. Stat. § 81-885.24(20) Failing to deliver within a reasonable time a completed and dated copy of any purchase agreement or offer to buy or sell real estate to the purchaser and to the seller, by not delivering the executed purchase agreement before it expired; violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different

character as otherwise specified in this section, when she failed to provide Buyers' written offer to Seller in a timely manner.]

2020-030 Commission vs. William Todd Buettner;

Salesperson; Lincoln, NE. Stipulation and Consent Order entered October 16, 2020. License is placed on Probation for a period of one (1) year. Probation commences on November 15, 2020, and continues through November 15, 2021; plus complete and additional six (6) hours of continuing education with three (3) hours each in the areas of Contracts and License Law by January 14,

2021; plus pay a civil fine of \$1,000.00 due November 15, 2020. [Buettner violated Neb. Rev. Stat. § 79-2418(1) A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations: (a) To perform the terms of any 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 other properties while the client is a party to a contract to purchase property or 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 client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease; (iii) Disclosing in writing to the client adverse material facts actually known by the licensee;

(Continued from page 4)

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 act; and (f) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes or regulations, when he failed to present all written orders to and from the client in a timely manner; violated Neb. Rev. Stat. § 81-885.24(16) Violating any provision of sections 76-2401 to 76-2430, by not presenting all written orders to and from the client in a timely manner; violated Neb. Rev. Stat. § 81-885.24(20) Failing to deliver within a reasonable time a completed and dated copy of any purchase agreement or offer to buy or sell real estate to the purchaser and to the seller, by not delivering the executed purchase agreement before it expired to the Seller; violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, when he did not deliver the executed purchase agreement before it expired to the Seller.]

2020-008 Commission vs. Makayla Renee Foley;

Salesperson; Blair, NE. Stipulation and Consent Order entered October 16, 2020. License Censured; plus complete an additional three (3) hours of continuing education in the area of Trust Accounts by January 14, 2021. [Foley violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, when she withdrew a payment from an account maintained for DEMU Properties, LLC when it should have been drawn from the account of Birch Street Properties, LLC. DEMU Properties, LLC.]

2018-010 Cathryn A. Sack vs. Kay M.

Meyer; Broker; St. Paul, NE. Stipulation and Consent Order entered October 16, 2020. License suspended for a period of two (2) years with the first forty-five (45) days served on suspension and the remainder of the period stayed and served on probation. Suspension begins on January 1, 2021, and continues thru February 14, 2021. Probation commences on February 15, 2021, and continues through January 1, 2023; plus complete and additional six (6) hours of continuing education with three (3) hours each in the areas of Agency and Disclosure by April 16, 2021; plus pay a civil fine of \$1,500.00 due November 15, 2020. [Meyer violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, when she failed to accurately or completely describe the use and access rights granted via the license and easement agreements.]

2018-011 Harold D. & Gail L. Schenck vs. Kay M. Meyer; Broker; St. Paul, NE. Stipulation and Consent Order entered October 16, 2020. License suspended for a period of two (2) years with the first forty-five (45) days served on suspension and the remainder of the period stayed and served on probation.

Suspension begins on January 1, 2021, and continues thru February 14, 2021. Probation commences on February 15, 2021, and continues through January 1, 2023; plus complete and additional six (6) hours of continuing education with three (3) hours each in the areas of Agency and Disclosure by April 16, 2021; plus pay a civil fine of \$1,500.00 due November 15, 2020. [Meyer violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, when she failed to

accurately or completely describe the use and access rights granted via the license and easement agreements.]

2018-012 Kelly Cole vs. Kay M. Meyer;

Broker; St. Paul, NE. Stipulation and Consent Order entered October 16, 2020. License suspended for a period of two (2) years with the first forty-five (45) days served on suspension and the remainder of the period stayed and served on probation. Suspension begins on January 1, 2021, and continues thru February 14, 2021. Probation commences on February 15, 2021, and continues through January 1, 2023; plus complete and additional six (6) hours of continuing education with three (3) hours each in the areas of Agency and Disclosure by April 16, 2021; plus pay a civil fine of \$1,500.00 due November 15, 2020. [Meyer violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in (Continued on page 6)

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this section, when she failed to accurately or completely describe the use and access rights granted via the license and easement agreements.]

2018-013 Gary Ken & Carmen Christensen vs. Kay M. Meyer; Broker; St. Paul, NE.

Stipulation and Consent Order entered October 16, 2020. License suspended for a period of two (2) years with the first forty-five (45) days served on suspension and the remainder of the period stayed and served on probation. Suspension begins on January 1, 2021, and continues thru February 14, 2021. Probation commences on February 15, 2021, and continues through January 1, 2023; plus complete and additional six (6) hours of continuing education with three (3)hours each in the areas of Agency and Disclosure by April 16, 2021; plus pay a civil fine of \$1,500.00 due November 15, 2020. [Meyer violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, when she failed to accurately or completely describe the use and access rights granted via the license and easement agreements.]

2018-014 Joseph & Paulette Hansen vs. Kay M. Meyer; Broker; St. Paul, NE. Stipulation and Consent Order entered October 16, 2020. License suspended for a period of two (2) years with the first forty-five (45) days served on suspension and the remainder of the period stayed and served on probation. Suspension begins on January 1, 2021, and continues thru February 14, 2021. Probation commences on February 15, 2021, and continues through January 1, 2023; plus complete and additional six (6) hours of continuing education with three (3) hours each in the areas of Agency and Disclosure by April 16, 2021; plus pay a civil fine of \$1,500.00 due November 15, 2020. [Meyer violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, when she failed to accurately or completely describe the use and access rights granted via the license and easement agreements.]

2018-031 Jeffrey & Penny Minnig vs. Kay M. Meyer; Broker; St. Paul, NE. Stipulation and Consent Order entered October 16, 2020. License suspended for a period of two (2) years with the first forty-five (45) days served on suspension and the remainder of the period stayed and served on probation. Suspension begins on January 1, 2021, and continues thru February 14, 2021. Probation commences on February 15, 2021, and continues through January 1, 2023; plus complete and additional six (6) hours of continuing education with three (3) hours each in the areas of Agency and Disclosure by April 16, 2021; plus pay a civil fine of \$1,500.00 due November 15, 2020. [Meyer violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, when she failed to accurately or completely describe the use and access rights granted via the license and easement agreements.]

2019-040 Brandi Hlavac vs. Jasmin Kalyn

Jonsson (Jensen); Salesperson; Council Bluffs, IA. Stipulation and Consent Order entered November 19. 2020. License Censured; plus complete an additional six (6) hours of continuing education with three (3)hours each in the areas of Contracts and Ethics by June 19, 2021; plus pay a civil fine of \$1,500.00 by January 10, 2021. [Jonsson violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, when she made substantial misrepresentations when she represented that (1) the seller needed to or was required to pay a commission; (2) Could not do 1% legally, 2.4%is the minimum for a buyers agent (3) could do 2.4%even though doing double the work, legally she could not go under that.]

2019-040 Brandi Hlavac vs. Karie Lynn

Milford; Broker; Elkhorn, NE. Hearing held November 19, 2020. License Censured; plus complete an additional three (3) hours of continuing education in the area of Ethics by June 2, 2021; plus pay hearing fees of \$309.02 by January 3, 2021. [Milford violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, when she contacted buyer's employer about buyer's conduct.]

2020-022 Commission vs. Connie Lee

Reddish; Salesperson; Lincoln, NE. Stipulation and Consent Order entered November 19, 2020. License is Censured; plus complete and additional three (3) hours of continuing education in the area of Contracts by February 23, 2021; plus pay a civil fine of \$750.00 by January 29, 2021. [Reddish violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, when she allowed the buyer to leave a rug at the property prior to the final closing date.]

Broker Payments to Licensees no Longer in Their Employment

We often get questions about how to compensate licensees for work performed while working under a broker after they are no longer employed by that broker.

The license law requires that an affiliated licensee only perform work under the supervision of the designated broker, and only be compensated by their designated broker.

There may be instances where the affiliated licensee has earned or has a contractual right to a commission, such as procuring a buyer and purchase agreement in a listing they have, but the affiliated licensee is no longer working for the broker at the closing.

The Commission does allow direct payment by a broker for services performed under that broker even if the licensee performing those services is no longer affiliated with the broker. This may be because of a license transfer to another broker or the license going inactive or lapsing.

However, there are important rules to remember. Any activity requiring a license and broker supervision must cease when the relationship with the broker ceases. So, if there are additional agency duties and responsibilities performed after the transfer or other termination of affiliation, additional steps must be taken in order for the activity to comply with the license law.

Probably the simplest is to create a temporary agreement in writing between the former designated broker and the new designated broker, with the new broker giving consent for the affiliated licensee to continue to be supervised and compensated by the prior broker for the purposes of completing the pending transactions. In many situations this is the best way to deal with the license status change as it allows the agent to complete the transaction with the seller on the same terms it was started.

The other option if services continue after the license status change is to transfer the listing agreement to the new broker with the consent of all parties (old broker, new broker, seller, agent) presumably with some kind of agreement on Commission split between old and new brokers.

Sign Up for E-mail—Preferences on the New Commission Portal

Auditor Ron Pierson Retires

Ron Pierson has retired from the Commission after more than 23 years as a trust account examiner for the Nebraska Real Estate Commission. The Commission has often promoted the trust account examination program as part of



our "we would rather educate than regulate" philosophy. Ron embodied these principles in his work for the Commission. Ron will enjoy his retirement spending time with his wife, Ann, and his children and grandchildren.

New Licensee Portal – Email and Mailing Addresses

If you haven't logged in to the new Licensee Portal yet, we strongly encourage you to do so. Instructions for logging in and creating an account can be found at https://nrec.nebraska.gov/licensing-forms/portalnfo.html. From the portal you can check the status of your continuing education, E & O insurance, and much, much more.

Licensees Encouraged to Use Email as the Preferred Method of Contact

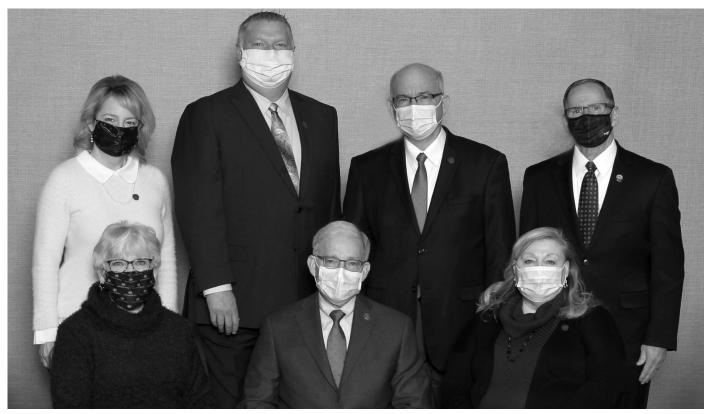
If you have created your account please verify your contact preferences. We encourage licensees to use email as we have many notifications via email (such as transfers) built into the system. We all know how slow the mail can be these days, email notifications save both you and the Commission time, and allow us all to work more efficiently. Also, please make sure your email address is current and kept current in the database.

Mailing Address Preferences Available Too

We also know with Covid-19 many licensees have been spending less time in the office and more time working from home, you can also specify your preferred mailing address in the database, and verify we are using the correct address or change it if needed. Nebraska Real Estate Commission PO Box 94667 Lincoln, NE 68509-4667

Return Service Requested

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Nebraska Real Estate Commission: Seated (l to r): Sheri Bourne, Chairman Robert Evnen, Darlene Starman; Standing: Lisa Ritter, Doug Dohse, Jim Titus, Joe Gehrki