

04/04/2024

Nebraska Real Estate Commission
P.O. Box 94667
Lincoln, Nebraska 68509-4667
(402) 471-2004
Scheduled Settlement Hearings
From 01/01/2024 Through 06/30/2024

HEARINGS:

April 25, 2024

2023-015 Dr. Shirley J. McKeller and Belinda A Morrow v. Aaron Scott Krier

10:30 am Douglas Ruge
Aaron Scott Krier
Telegraph Lofts East Center 4th Floor Conference Room
200 South 21st St.
Lincoln, NE 68510

2022-026 Nebraska Real Estate Commission v. Jason Allan Young

10:30 am Zachery Lutz-Priefert
Jason Allan Young
Telegraph Lofts East Center 4th Floor Conference Room
200 South 21st St.
Lincoln, NE 68510

2023-004 Mark Garth and Paula Garth v. Tom Simmons and Matthew Ryan Carper

10:30 am Mark LaPuzza
Tom Simmons
Matthew Ryan Carper
Telegraph Lofts East Center 4th Floor Conference Room
200 South 21st St.
Lincoln, NE 68510

May 16, 2023

2022-040 Delores A. & Matthew Focken vs. Mauricio Martinez Eusse, Lyudmila Anatolivna Gorbun, & Larry M. Holmes

10:30 am Mauricio Martinez Eusse
Commission moved dismiss on other two
Telegraph Lofts East Center 4th Floor Conference Room
200 South 21st St.
Lincoln, NE 68510

2022-036 Commission v. Mark Douglas Hart

Mark Douglas Hart
Osborne Room of the Graduate
141 N. 9th St.
Lincoln, NE 68508
(402) 475-4011

June 20, 2024

2022-031 Jean McBride vs. Benjamin Edward Muraskin & Jacob Cole Muraskin

10:30 am Rubina Khaleel
Benjamin Edward Muraskin
Jacob Cole Muraskin
Telegraph Lofts East Center 4th Floor Conference Room
200 South 21st St.
Lincoln, NE 68510

P2024-001 Yolmiler Diaz Guillen v. Nebraska Real Estate Commission

10:30 am Rubina Khaleel
Yolmiler Diaz Guillen
Telegraph Lofts East Center 4th Floor Conference Room
200 South 21st St.
Lincoln, NE 68510

**BEFORE THE NEBRASKA REAL ESTATE COMMISSION
OF THE STATE OF NEBRASKA**

STATE OF NEBRASKA, *ex rel.*,)
NEBRASKA REAL ESTATE)
COMMISSION,)
Dr. Shirley McKellar & Brenda Morrow)
)
Complainants,)
)
vs.)
)
AARON SCOTT KRIER)
Respondent.)

Case No. 2023-015

NOTICE OF HEARING

TO: Aaron Scott Krier, Respondent.


You are hereby notified that a hearing will be held in the above-captioned matter on the 25th day of April, 2024, at 10:30 a.m., in the Telegraph Lofts East Center, 4th floor Conference Room, located at 200 South 21st. St, in Lincoln, Nebraska, to inquire into the charges included in the above-referenced Complaint, which was previously served upon you by Certified United States Mail. You have the right, at your own expense, to be represented at this hearing by legal counsel of your own choosing. The Real Estate Commission urges you to be represented by counsel and encourages you to contact legal counsel as soon as possible so this matter can be held as scheduled. You are further notified that if you fail to appear, the matter will be heard and such Order will be entered as is just and proper.

Any party may request that a Prehearing Conference be held in accordance with the procedures specified in NAC Title 305, Chapter 4, Section 6. The request shall be in the form of a pleading and shall be filed and served in accordance with NAC Title 305, Chapter 4, Section 4. Any such request shall be served within ten (10) business days after a party or the party's representative receives this Notice of Hearing. The request shall specify why that party believes

a Prehearing Conference would be beneficial to the parties or to the Commission. Reasons for requesting a Prehearing Conference may include, but are not limited to, the number of witnesses likely to be called; the number of exhibits likely to be offered; and the complexity of the issues.

A party who opposes the request may file an opposition to the request within five business (5) days after the service of the Request for Prehearing Conference. The opposition shall also be filed and served as a pleading. A Request for a Prehearing Conference will be ruled on by the Chairperson of the Commission. The Chairperson may order a Prehearing Conference even if such a conference is not requested by any of the parties.

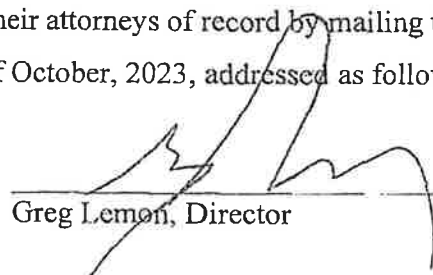
Dated this 25th day of October, 2023.



Greg Lemon, Director

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing **Notice of Hearing** was served upon the parties or their attorneys of record by mailing the same by United States mail, postage prepaid, this 25 day of October, 2023, addressed as follows:



Greg Lemon, Director

Aaron Scott Krier
331 Village Pointe Plz
Omaha, NE 68118
CERTIFIED MAIL # 7021 2720 0000 7084 9977
RETURN RECEIPT REQUESTED

cc: J.L. Spray, Commission's attorney
Douglas Ruge, Respondent's attorney



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Aaron Scott Krier
 730 Key Circle
 Carter Lake, IA 51510



9590 9402 7382 2028 9010 46

2. Article Number (Transfer from service label)

7021 2720 0000 7084 9977

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
- B. Received by (Printed Name) Addressee
- C. Date of Delivery 10-27-85
- D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

attached Delivery

Domestic Return Receipt

BEFORE THE STATE REAL ESTATE COMMISSION
OF THE STATE OF NEBRASKA

STATE OF NEBRASKA, ex rel.,
DR. Shirley J. McKellar
Ms Belinda Morrow
Complainant,

Case No. 2023-015

vs.

MR. AARON KRIER
Respondent.

COMPLAINT

This Complaint is filed under the authority of Title 305 N.A.C. Chapter 4-008.

1. The name, address, telephone number, and e-mail of each person filing this Complaint is as follows:

DR. Shirley McKellar
2711 Staley Drive
Tyler, Texas 75702
(214) 679-1662
CFN healthyliving2@yahoo.com

Belinda A. Morrow
3130 Hartridge Dr.
Alpharetta, GA. 30022
(404) 931-3888
BMORROW@2M-INC.NET

2. The name, address, and telephone number of each person against whom this Complaint is filed is as follows:

MR. AARON KRIER
331 Village Point Plaza
Omaha, NE
(402) 493-4663

BROKER:
MR. Vincent Leisey

3. The facts upon which this Complaint is based, and the section or sections of statute and/or Nebraska Real Estate Commission rule, regulation, or order which have been violated are as follows: *SEE ATTACHED*

1. 76-2417(1)(a)-(c)

2. 81-885.24(29)

3. 81-885.24(16)

4. 81-885.24(22)

STATE OF NEBRASKA)
COUNTY OF LANCASTER) ss.



DR. Shirley J. McKellar, being first duly sworn, states that he or she is the person making this complaint; that he or she has read this complaint, and that the facts alleged are true, as he or she verily believes.

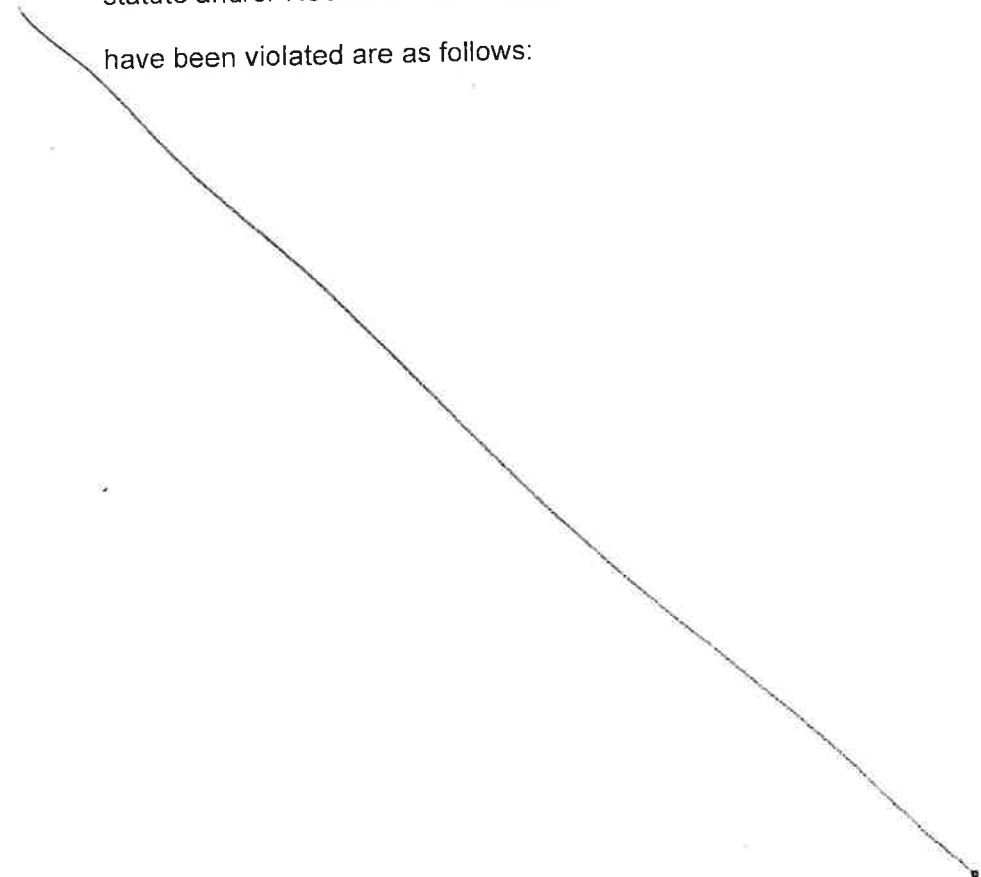
Shirley J. McKellar
Signature of Person Making Complaint

SUBSCRIBED AND SWORN to before me this 12 day of May, 2023.

S. J. Medyan
Notary Public

[INSTRUCTIONS: The signature on this complaint must be notarized before it can be accepted for filing by the Commission.]

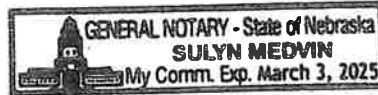
3. The facts upon which this Complaint is based, and the section or sections of statute and/or Nebraska Real Estate Commission rule, regulation, or order which have been violated are as follows:



STATE OF NEBRASKA)

COUNTY OF LANCASTER)

ss.



Ms. Belinda A. Morrison, being first duly sworn, states that he or she is the person making this complaint; that he or she has read this complaint, and that the facts alleged are true, as he or she verily believes.

Belinda A Morrison
Signature of Person Making Complaint

SUBSCRIBED AND SWORN to before me this 12 day of May, 2023.

S. Medvin
Notary Public

[INSTRUCTIONS: The signature on this complaint must be notarized before it can be accepted for filing by the Commission.]

I am Belinda Morrow, the sister of Martha Ross whose home was sold this year surrounding knowingly and unethical real estate practices. Mrs. Ross is a lady who is nearly 80 years old, suffering from early dementia, depression and anxiety. She lost her husband to COVID three years ago and her son this year. The Briley Group had Mrs. Ross sign away her beautiful mid century modern home of 35 years to them and they flipped it in a few days and pocketed \$54 thousand. They also had Mrs. Ross sign away her new W/D which is not typically included with the sale of a home.

Her realtor was Aaron Kier, who is new to the industry, and placed her home on the market for one day and prominent Omaha realtors didn't know the home was available. I'm in Omaha with my other sister, Dr. Shirley McKellar, and we would like to meet with you today or tomorrow.

Thank you for your urgent attention to this matter, Belinda

Last Will and Testament of

Martha Ray Erwin Ross

KNOW ALL PERSONS BY THESE PRESENTS:

That, I, Martha Ray Erwin Ross of Douglas, County of Omaha, State of Nebraska, being of sound and disposing mind and memory, and not acting under duress, menace, fraud or the undue influence of any person whomsoever, do make, publish and declare this my Last Will and Testament.

Article I

I hereby declare that my family consists of:

Stetron Princil Ross, Son and Trelitha Rochelle Ross Bryant

Article II.

I hereby direct and order that all just debts for which proper claims are filed against my estate, and the expenses of my last illness and funeral, be paid by my executor as soon after my death is practicable, provided, however, that this direction shall not authorize any creditors to require payment of any debt or obligation prior to its normal maturity in due course.

Article III.

I direct that all estate expenses, inheritance, and other taxes and interest or penalties thereon imposed by reason of my death, whether or not attributable to property passing under this Will and whether or not the same would otherwise be payable by my estate or by a recipient of any such property, to be paid and discharged by my personal representative out of the residue of my estate with no right of reimbursement for the Recipients named in the residuary clause of the Will.

Article IV.

I give, devise and bequeath unto:

Dr. Shirley JoNetta Erwin McKellar, my sister, Power of Attorney over my medical health and my worldly goods to be dispersed.

STATE OF Nebraska)
) SS
COUNTY OF Douglas)

Each of the undersigned, being first duly sworn, on oath, states that on this ___ day of _____, 20__;

- (1) I am over the age of eighteen (18) years and competent to be a Witness to the Will of Martha Ray Erwin Ross (the testator);
- (2) The Testator, in my presence and in the presence of the other Witnesses whose signatures appear below;
 - (a) Declared the foregoing instrument, consisting of ___ pages, of which this is the last, to be _____ Will;
 - (b) Requested me and the other Witnesses to act as Witnesses to _____ Will and to make this affidavit; and
 - (c) Signed this instrument.
- (3) I believe the Testator to be of sound mind, and in so declaring and signing, _____ was not acting under any duress, menace, fraud, or undue influence;
- (4) The other Witnesses and I, in the presence of the Testator and of each other affix our signatures as Witnesses to the Will and make this affidavit.

[Signature]
Witness
2711 STANLEY DRIVE
Address
TYLER, TEXAS 75702
Address

[Signature]
Witness
3130 Hartdige Drive
Address
Alpharetta GA 30022
Address
Caka Johns Creek GA 30022

Signed and sworn to before me this 12 day of May, 2023

[Signature]
Print Name: Sulyn Medvin
Notary Public in and for the State of: Nebraska
My appointment expires: March 3, 2025



Limited Power of Attorney

BE IT ACKNOWLEDGED that I, Martha E. Ross Full Name

_____, the "Principal", do hereby grant a limited
social security number _____, and specific power of attorney to Shirley J. McKellar Full Name of

2711 Staley Drive, Tyler Texas 75702 Address Phone 214-679-1662
as my "Attorney-in-Fact".

Said Attorney-in-Fact shall have full power and authority to undertake and perform only the following acts on my behalf:

1. Application for Apartment 904 at Villas of Pine Ridge in Tyler, Texas
2. Oversee the closeout of the estate at 5741 Tucker Circle, Omaha, NE ~~58152~~ ⁶⁸¹⁵² during May 2023. *meR*
3. _____

The authority herein shall include such incidental acts as are reasonably required to carry out and perform the specific authorities granted herein. My Attorney-in-Fact agrees to accept this appointment subject to its terms, and agrees to act and perform in said fiduciary capacity consistent with my best interest, as my Attorney-in-Fact in its discretion deems advisable. This power of attorney is effective upon execution.

This power of attorney may be revoked by any of the following:

(Initial and Check the Box if Applicable)

- meR - By the Principal at anytime by authorizing a Revocation.
- meR YES - When the above stated one (1) time power or responsibility has been completed.
- On the ____ day of _____, 20____.

This power of attorney form shall automatically be revoked upon my death or incapacitation, provided any person relying on this power of attorney shall have full rights to accept and reply upon the authority of my Attorney-in-Fact until in receipt of actual notice of revocation.



ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF Nebraska

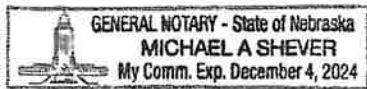
Douglas County, ss.

On this 28 day of April, 2023, before me appeared _____, as Principal of this Power of Attorney who proved to me through government issued photo identification to be the above-named person, in my presence executed foregoing instrument and acknowledged that he executed the same as his free act and deed.

Michael A Shever

Notary Public

My commission expires: 12-04-24



ESCROW HOLDBACK AGREEMENT

Date: _____, 20____
File No.: 2236384
Escrow Agent: Green Title & Escrow
Purchaser: Garrett Karthaus
Seller/Builder: Martha E. Ross
Property: 5741 Tucker Cir, Omaha, NE 68152

In connection with the above referenced matter, Seller and Purchaser do hereby authorize Escrow Agent to hold money in escrow from the sellers proceeds according to the following terms and conditions:

- 1) The sum to be escrowed is in the amount of \$ 6,800.00. Purchaser and Seller agree to split the \$100 escrow holdback fee charged by Escrow Agent.
- 2) The funds are to be held for the following post-occupancy monthly rent payments.
 - a) January Rent Payment - \$1,700.00
 - b) February Rent Payment - \$1,700.00
 - c) March Rent Payment - \$1,700.00
 - d) April Rent Payment - \$1,700.00
- 3) Purchaser and Seller agree that each monthly rent payment will be disbursed to the Purchaser. Purchaser and Seller authorize Green Title and Escrow to disburse each Rent Payment on the first day of each month without any written or verbal consent from each party. Purchaser and Seller further agree that any adjustment to this escrow agreement will need to be provided in writing to Green Title & Escrow.
- 4) In the event a controversy arises over said funds, Escrow Agent, at its sole discretion, may tender the funds into court for settlement, after deducting its attorney's fees, court costs, and escrow fees, if any, which have accrued, including any attorney's fees and court costs relating to the tender into court.
- 5) Seller and Purchaser agree to save and hold harmless Escrow Agent and its underwriter from any liability arising under and as a result of this Escrow Agreement, and further agree that the Escrow Agent may, at its option, require the receipt, release and authorization in writing of all parties before paying money or delivering or redelivering documents or property to any party or to third parties. Escrow Agent shall not be liable for any interest or other charges on the money held to complete the work to be performed.
- 6) Seller and Purchaser do hereby indemnify and hold harmless Escrow Agent and its underwriter and their agents and representatives from all loss or damage they may sustain in connection with Escrow Agent's performance of these instructions and do hereby jointly and severally release and waive any claims they may have against Escrow Agent and its underwriter or their agents or representatives, which may result from Escrow Agent's performance of these instructions, including but not limited to the following:
 - a. Impairment of funds while those funds are in the course of collection;
 - b. Impairment of funds while those funds are on deposit in a financial institution if such loss or impairment arises by reason of the failure, insolvency or suspension of a financial institution;
 - c. Delay in the electronic wire transfer of funds;

- d. Disputes which may arise concerning the funds on deposit; and
 - e. Consequences, if any, of any bankruptcies of Seller or Purchaser.
- 7) Seller and Purchaser hereby agree that the funds described above shall be vested in Escrow Agent, and Seller and Purchaser hereby grant, convey and deposit the funds under the absolute control and possession of Escrow Agent until such time as the funds are disbursed in accordance with the provisions of this Escrow Agreement.
- 8) The foregoing terms constitute the entire agreement between the parties, and this agreement shall not be modified, changed or amended by any subsequent written or oral agreement unless agreed to in writing by Escrow Agent.

Purchaser(s):

Garrett Karthausser

Seller(s):

Martha E. Ross

Escrow Agent:
Green Title & Escrow

BY _____
Michelle Stark

Lowery, Samantha

From: Belinda Morrow <borrow@2m-inc.net>
Sent: Friday, May 12, 2023 10:51 AM
To: Lowery, Samantha
Subject: Fwd: Ross 5741 Property
Attachments: bhhsambscan@bhhsamb.com_20221121_100142.pdf; bhhsambscan@bhhsamb.com_20221121_100243.pdf; bhhsambscan@bhhsamb.com_20221121_100338.pdf; bhhsambscan@bhhsamb.com_20221121_100427.pdf; bhhsambscan@bhhsamb.com_20221121_100514.pdf; bhhsambscan@bhhsamb.com_20221121_100601.pdf; bhhsambscan@bhhsamb.com_20221121_100643.pdf; bhhsambscan@bhhsamb.com_20221121_100737.pdf; bhhsambscan@bhhsamb.com_20221121_100825.pdf; bhhsambscan@bhhsamb.com_20221121_100916.pdf; bhhsambscan@bhhsamb.com_20221121_100916.pdf

Sent from my iPhone

Begin forwarded message:

→ **From:** "Belinda Morrow" </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1149D28D819E418DAD9F7B08000CDC85-BMORROW1>
→ **Date:** December 11, 2022 at 7:38:57 AM CST
Subject: Ross 5741 Property

Good morning Aaron,

* Did your company already proceed to closing on the Ross property?

Thank you,
Belinda A. Morrow
Sent from my iPhone

On Nov 21, 2022, at 11:12 AM, Aaron Krier <aaron@thebrileyteam.com> wrote:

Note: Aaron did not respond to my 12/11/22 email

Lowery, Samantha

From: Belinda Morrow <bmorgan@2m-inc.net>
Sent: Friday, May 12, 2023 11:04 AM
To: Lowery, Samantha
Subject: Fwd: EDITS: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)

Please print

Sent from my iPhone

Begin forwarded message:

From: Belinda Morrow <bmorgan@2m-inc.net>
Date: April 25, 2023 at 3:04:14 PM CDT
To: Jena.beach@gmail.com
Subject: Fwd: EDITS: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)

Hello Jena,

(New Owner)

Thank you for speaking with me today about my sister, Martha Ross, and her critical relocation dilemma. Below is a series of my conversations I had with The Briley Team dating back to November 2022 about my sister's need for a counselor to oversee the sale of her home. Regrettably my request was ignored by her real estate company.

Now you and I need to make sure we can get her safely moved out of the house that you now own so you can properly occupy it.

Kindest regards,
Belinda

Sent from my iPhone

Begin forwarded message:

→ **From:** Aaron Krlar <aaron@thebrileyteam.com>
Date: November 18, 2022 at 11:00:24 AM PST
Subject: Re: EDITS: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)

* Sounds good, I'd say once your off if you can get Martha on the phone and then three way me in

On Fri, Nov 18, 2022 at 12:50 PM Belinda Morrow <bmorgan@2m-inc.net> wrote:
I may not be out of my meeting until 3:30 your time but I'll call you the minute I'm available

Sent from my iPhone

On Nov 18, 2022, at 12:54 PM, Aaron Krier
<aaron@thebrileyteam.com> wrote:

Okay lets plan on all three of us talking.

On Fri, Nov 18, 2022 at 11:49 AM Belinda Morrow <bmorrow@2m-inc.net> wrote:

Yes Aaron I am available around 3pm your time to talk.
Sent from my iPhone

On Nov 18, 2022, at 11:41 AM, Aaron Krier
<aaron@thebrileyteam.com> wrote:

Belinda when can we all get on a phone call?

On Fri, Nov 18, 2022 at 7:48 AM Belinda Morrow
<bmorrow@2m-inc.net<<mailto:bmorrow@2m-inc.net>>> wrote:

Good Morning Sarah,

Thank you for your email. Last evening I spoke with my sister Martha Ross and she contact Aaron to let him know that we would not proceed with today's meeting at 1pm. I will work with her to get the proper counseling involved so that she is fully protected as a senior citizen who has suffered greatly during the loss of her husband two years ago to COVID. Our family wants to make sure that Ms. Ross best interest has been fully cared for during the sale of her property. Based on yesterday's Deed Paperwork and the recent discovery of outstanding debt that Ms. Ross was not aware of we want to make sure that all agreements related to the sale of her property have been fully vetted to remove all unnecessary risk to her since beginning the sale of her property. Our family was not initially aware of this sale until we saw photos of her home on the internet advertising its sale; therefore, we could not properly advise her in advance of the customary protocol for entering into an agreement to sale her home.

It is in her best interest that she has full representation so that she has a complete understanding of all aspects of the sale of her home. Ms. Ross was not aware of the recent COMPS from property sold in Raven Oaks from 3 days ago to 30 days ago or even from 90 days ago until receiving this information on yesterday.

Thank you,
Belinda A
Sister of the Seller

From: Sarah Sabo
<ssabo@greentitleomaha.com<mailto:ssabo@greentitleomaha.com>>
Date: Thursday, November 17, 2022 at 1:23 PM
To: Belinda Morrow <bmorrow@2m-inc.net<mailto:bmorrow@2m-inc.net>>, Martha E Ross
<honorseduc@outlook.com<mailto:honorseduc@outlook.com>>
Cc:
aaron@thebrileyteam.com<mailto:aaron@thebrileyteam.com>
<aaron@thebrileyteam.com<mailto:aaron@thebrileyteam.com>>,
support@thebrileyteam.com<mailto:support@thebrileyteam.com>
<support@thebrileyteam.com<mailto:support@thebrileyteam.com>>
Subject: RE: EDITS: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)
Hello All – as per the signed purchase contract, page 1, item #4, the warranty is to be provided.



If you want to have an attorney review the documents prior to the coming in to sign these, that's not a problem. Please just let me know when you'll be meeting so we can reschedule a time &/or date.

Thanks!!



Sarah Sabo
Assistant Escrow Officer
Green Title & Escrow
[cid:1848b9d33f18546ed1]
16909 Lakeside Hills Plaza, STE 119-A
Omaha, NE. 68130
Office: 402-884-4891
Main Line: 402-884-4880
Fax: 844-777-1834
SSabo@greentitleomaha.com<mailto:SSabo@greentitleomaha.com>

From: Belinda Morrow <bmorrow@2m-inc.net<mailto:bmorrow@2m-inc.net>>
Sent: Thursday, November 17, 2022 11:55 AM
To: Martha E Ross
<honorseduc@outlook.com<mailto:honorseduc@outlook.com>>

Cc: Sarah Sabo
<ssabo@greentitleomaha.com<<mailto:ssabo@greentitleomaha.com>>>;
aaron@thebrileyteam.com<<mailto:aaron@thebrileyteam.com>>;
support@thebrileyteam.com<<mailto:support@thebrileyteam.com>>
Subject: EDITS: 5741 Tucker Cir: Deed Set Paperwork
(Appt 11/18 at 1:00pm)
Importance: High

Hello Martha,

As you requested, I have reviewed the preliminary Warranty Deed that you sent to me yesterday afternoon. It was my understanding that your property was being sold "AS IS" and based on my attached comments it seems that several additional encumbrances could be levied against you, because the title company wants you to absolved them of the responsible to uncovering all possible records against the property leaving you responsible to pay any unknown item/s that could come up that you were unaware of.

Please review my comments carefully prior to your meeting tomorrow at 1pm. I would strongly recommend that you have counsel review this legally binding document before you sign it. If the price of \$346K remains the selling price it is far below the recent COMPS of homes that have sold in Raven Oaks within the last 30 days. For Example: The traditional looking home located at 7942 Raven Oaks Dr. sold for \$171.00 per square foot. Your unique Mid-Century home located at 5741 Tucker Circle is selling for only \$105.10 per square foot, see the stats below.

All closing costs/fees should be added to the \$346K price not subtracted for it. Also will an agreement be included at closing that allows you to stay in the house through the winter months until you are able to move in the spring at a time that is easier for you as a senior citizen?

Thank you,
Belinda Ann

[cid:1848b9d33f29374b62]

[cid:1848b9d33f2a18c373]

[cid:1848b9d33f2afa3b84]

From: Aaron Krier<<mailto:aaron@thebrileyteam.com>>
Sent: Wednesday, November 16, 2022 9:57 AM
To: honorseduc@outlook.com<<mailto:honorseduc@outlook.com>>
Subject: Fwd: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)

----- Forwarded message -----

From: Sarah Sabo
<ssabo@greentitleomaha.com<<mailto:ssabo@greentitleomaha.com>>>
Date: Tue, Nov 15, 2022 at 11:33 AM
Subject: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)
To: damorrow007@gmail.com<<mailto:damorrow007@gmail.com>>
<damorrow007@gmail.com<<mailto:damorrow007@gmail.com>>>,
Cc: Aaron Krier
<aaron@thebrileyteam.com<<mailto:aaron@thebrileyteam.com>>>, The Briley Team Admin
<support@thebrileyteam.com<<mailto:support@thebrileyteam.com>>>

Ms. Ross – here's the seller's side deed set paperwork that you wanted a copy of. I believe your sister is on here as well, please call Ms. Ross.

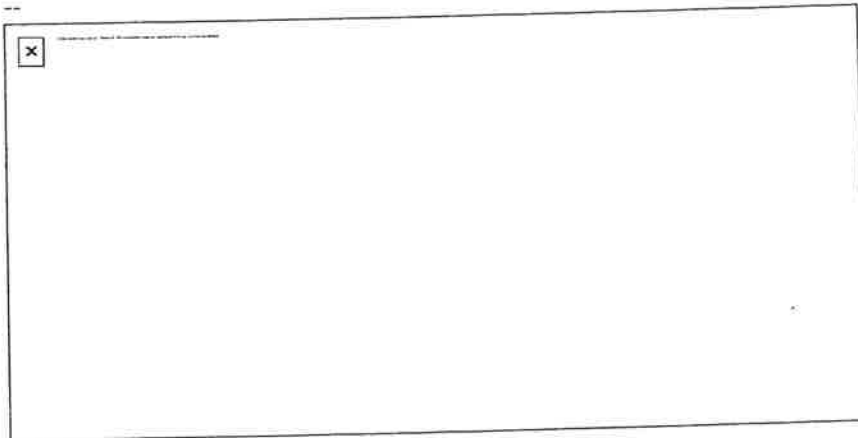
Martha – I will see you on Friday at 1:00pm. Deed Set Appointment with Sarah Sabo. Please make sure you bring a certified copy of Mr. Ross' death certificate. Also, if you want your proceeds wired into an account, please bring a voided check with you.

Our office is located at 16909 Lakeside Hills Plaza suite 119-A Omaha, NE 68130

We are located inside of the Better Homes and Garden Real Estate Building & 4-doors down from Mouth of the South. We are on the Northwest Corner of 168th and Center in the Shops at Lakeside.

Sarah Sabo
Assistant Escrow Officer
Green Title & Escrow
[cid:1848b9d33f2bda4f15]
16909 Lakeside Hills Plaza, STE 119-A
Omaha, NE. 68130
Office: 402-884-4891
Main Line: 402-884-4880
Fax: 844-777-1834
SSabo@greentitleomaha.com<mailto:SSabo@greentitleomaha.com>

WARNING - FRAUDULENT FUNDING
INSTRUCTIONS Email hacking and fraud are on the rise to fraudulently misdirect funds. Please call your escrow officer immediately using contact information found from an independent source, such as the sales contract or internet, to verify any funding instructions received. We are not responsible for any wires sent by you to an incorrect bank account.



Lowery, Samantha

From: Belinda Morrow <bmorgan@2m-inc.net>
Sent: Friday, May 12, 2023 10:54 AM
To: Lowery, Samantha
Subject: Fwd: 5741 Tucker Circle, Omaha, NE 68152 - Was Flipped and Sold for \$365K
Attachments: image001.png; Final PA (17).pdf

Please print

Sent from my iPhone

Begin forwarded message:

→ **From:** Belinda Morrow <bmorgan@2m-inc.net>
Date: April 19, 2023 at 3:54:44 PM CDT
To: "Shirley J. McKellar" <cfnhealthyliving2@yahoo.com>, Lajoyce Earkman <bllovejoyce27@icloud.com>, carvie erwin <carviee@yahoo.com>
Subject: 5741 Tucker Circle, Omaha, NE 68152 - Was Flipped and Sold for \$365K

The internet shows Martha's house was pending in early February because the original deal fell through. The realtor bought it when the deal fell through and flipped for much more than they paid Martha. This is why it was showing SALE PENDING.

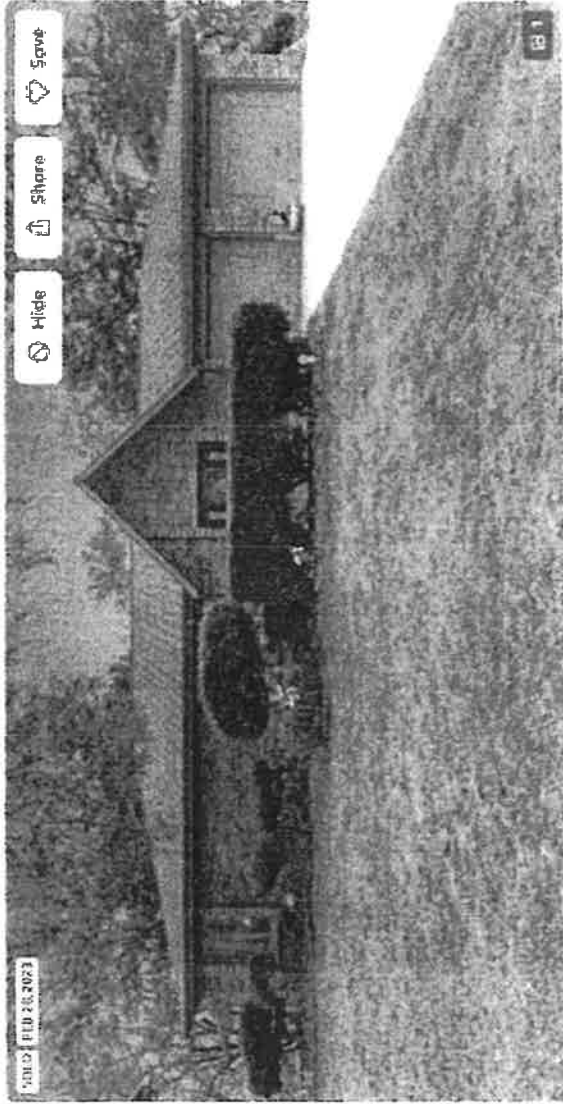
From: Belinda Morrow <bmorgan@2m-inc.net>
Date: Friday, January 27, 2023 at 2:22 PM
To: Shirley J. McKellar <cfnhealthyliving2@yahoo.com>
Subject: FW: Purchase Agreement and Comps: 5741 Tucker Circle, Omaha, NE 68152

From: Belinda Morrow <bmorgan@2m-inc.net>
Date: Friday, November 18, 2022 at 5:22 PM
To: Dr. Shirley J. McKellar <cfnhealthyliving2@yahoo.com>
Subject: Fwd: Purchase Agreement and Comps: 5741 Tucker Circle, Omaha, NE 68152

Sent from my iPhone

Begin forwarded message:

From: The Briley Team Admin <support@thebrileyteam.com>
Date: November 18, 2022 at 2:31:24 PM EST
To: Belinda Morrow <bmorgan@2m-inc.net>, honorseduc@outlook.com
Cc: Aaron Krier <aaron@thebrileyteam.com>, Adam Briley <adam@thebrileyteam.com>
Subject: Purchase Agreement and Comps: 5741 Tucker Circle, Omaha, NE 68152



SOLD FEB 28, 2023

181

5741 Tucker Cir

Ontario, MI 48152

3 Beds, 2 Baths, 3,292 sqft (est.) 0.34 acres

\$365,000

Lost Sold: Feb 28, 2023

3.2 below list \$375K

\$111/sqft

Est. Reli. Payment \$2,459/mo*

Lowery, Samantha

From: Belinda Morrow <borrow@2m-inc.net>
Sent: Friday, May 12, 2023 10:49 AM
To: Lowery, Samantha
Subject: Fwd: EDITS: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)

Sent from my iPhone

Begin forwarded message:

From: Belinda Morrow <borrow@2m-inc.net>
Date: April 25, 2023 at 3:36:22 PM CDT
To: Jena.beach@gmail.com
Subject: Fwd: EDITS: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)

Hello Jena,

As we discussed today, my sister's house was sold without her receiving the proper advice of a counselor as I requested on her behalf to The Briley Team and Green Title & Escrow in my email chain below dating back to 11-17-22.

Thank you for giving Martha until May 8th to be out of the house.

Kindest regards,
Belinda

Sent from my iPhone

Begin forwarded message:

From: Belinda Morrow <borrow@2m-inc.net>
Date: November 18, 2022 at 5:48:20 AM PST
Subject: Re: EDITS: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)

Good Morning Sarah,

Thank you for your email. Last evening I spoke with my sister Martha Ross and she contact Aaron to let him know that we would not proceed with today's meeting at 1pm. I will work with her to get the proper counseling involved so that she is fully protected as a senior citizen who has suffered greatly during the loss of her husband two years ago to COVID. Our family wants to make sure that Ms. Ross best interest has been fully cared for during the sale of her property. Based on yesterday's Deed Paperwork and the recent discovery of outstanding debt that Ms. Ross was not aware of we want to make sure that all agreements related to the sale of her property have been fully vetted to remove all unnecessary risk to her since beginning the sale of her property. Our family was not initially aware of this sale until we saw photos of her home

on the internet advertising its sale; therefore, we could not properly advise her in advance of the customary protocol for entering into an agreement to sale her home.

It is in her best interest that she has full representation so that she has a complete understanding of all aspects of the sale of her home. Ms. Ross was not aware of the recent COMPS from property sold in Raven Oaks from 3 days ago to 30 days ago or even from 90 days ago until receiving this information on yesterday.

Thank you,
Belinda A
Sister of the Seller

From: Sarah Sabo <ssabo@greentitleomaha.com>
Date: Thursday, November 17, 2022 at 1:23 PM
To: Belinda Morrow <borrow@2m-inc.net>, Martha E Ross <honorseduc@outlook.com>
Cc: aaron@thebrileyteam.com <aaron@thebrileyteam.com>, support@thebrileyteam.com <support@thebrileyteam.com>
Subject: RE: EDITS: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)

Hello All – as per the signed purchase contract, page 1, item #4, the warranty is to be provided.

If you want to have an attorney review the documents prior to the coming in to sign these, that's not a problem. Please just let me know when you'll be meeting so we can reschedule a time &/or date.

Thanks!!

Sarah Sabo
Assistant Escrow Officer
Green Title & Escrow



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Omaha, NE. 68130
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Fax: 844-777-1834
SSabo@greentitleomaha.com

From: Belinda Morrow <borrow@2m-inc.net>
Sent: Thursday, November 17, 2022 11:55 AM
To: Martha E Ross <honorseduc@outlook.com>
Cc: Sarah Sabo <ssabo@greentitleomaha.com>; aaron@thebrileyteam.com; support@thebrileyteam.com
Subject: EDITS: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)
Importance: High

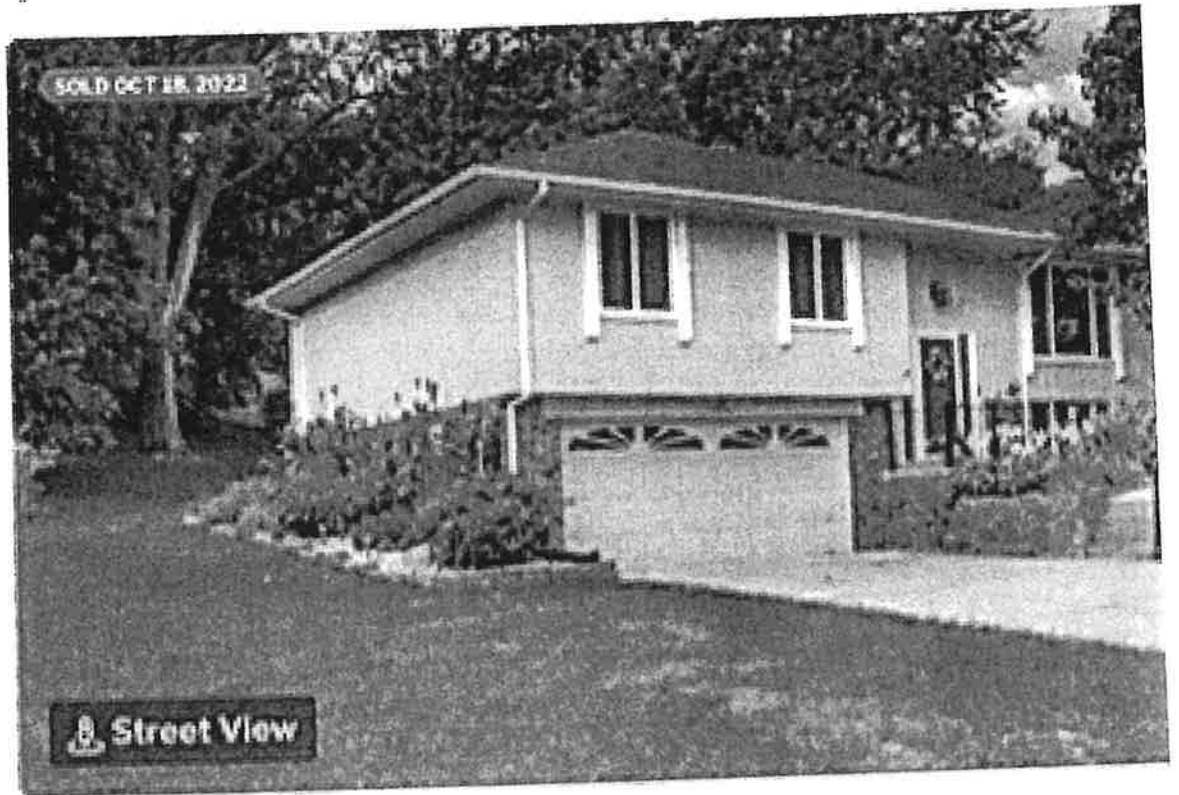
Hello Martha,

As you requested, I have reviewed the preliminary Warranty Deed that you sent to me yesterday afternoon. It was my understanding that your property was being sold "AS IS" and based on my attached comments it seems that several additional encumbrances could be levied against you, because the title company wants you to absolved them of the responsible to uncovering all possible records against the property leaving you responsible to pay any unknown item/s that could come up that you were unaware of.

Please review my comments carefully prior to your meeting tomorrow at 1pm. I would strongly recommend that you have counsel review this legally binding document before you sign it. If the price of \$346K remains the selling price it is far below the recent COMPS of homes that have sold in Raven Oaks within the last 30 days. For Example: The traditional looking home located at 7942 Raven Oaks Dr. sold for \$171.00 per square foot. Your unique Mid-Century home located at 5741 Tucker Circle is selling for only \$105.10 per square foot, see the stats below.

All closing costs/fees should be added to the \$346K price not subtracted for it. Also will an agreement be included at closing that allows you to stay in the house through the winter months until you are able to move in the spring at a time that is easier for you as a senior citizen?

Thank you,
Belinda Ann



7942 Raven Oaks Dr, Omaha, NE 68152

\$310,000

Sold Price

3

Bed

3

Baths

1,816

Sq Ft

Recently Sold

This home sold 4 weeks ago.

About This Home

3 bed, 3 bath Newer windows. Newer kitchen offers: All stainless appliances : oven, microwave, dishwasher, French door refrigerator new in 2021. Pantry, eat in kitchen lighting. Dining room is open to kitchen as well. Fabulous large 3 season porch off

Continue reading »

Listed by Marty/Kathy Cohen • BHHS Ambassador Real Estate

Listed by Kathy Shadok Cohen • BHHS Ambassador Real Estate

Redfin checked Listingdata.com Nov 17, 2022 at 11:45am - Source: GPRMLS #222216-17

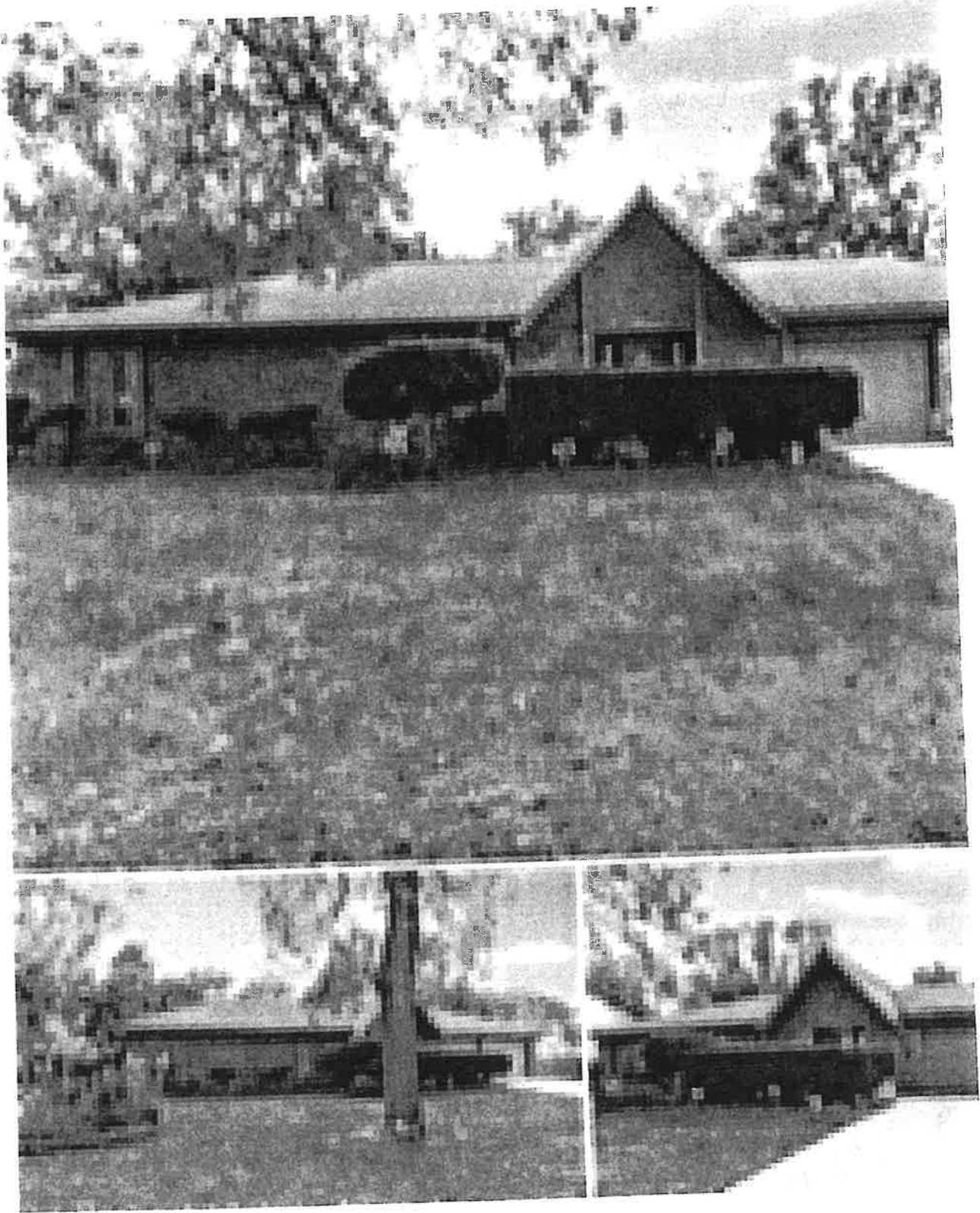
Bought with April Tucker • Better Homes and Gardens RE

Home Facts

Year Built	Sold	3,000 sq. ft.
Year Sold	1973	100 ft
Neighborhood	Mayers Oaks	Map

Price Insights

Home Estimate	\$318,688	100 sq. ft.
Days On Market	24%	
30 Days		



From: [Aaron Krier](#)
Sent: Wednesday, November 16, 2022 9:57 AM
To: honorseduc@outlook.com
Subject: Fwd: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)

----- Forwarded message -----

From: **Sarah Sabo** <ssabo@greentitleomaha.com>
Date: Tue, Nov 15, 2022 at 11:33 AM
Subject: 5741 Tucker Cir: Deed Set Paperwork (Appt 11/18 at 1:00pm)
To: damorrow007@gmail.com <damorrow007@gmail.com>,
Cc: Aaron Krier <aaron@thebrileyteam.com>, The Briley Team Admin
<support@thebrileyteam.com>

Ms. Ross – here's the seller's side deed set paperwork that you wanted a copy of. I believe your sister is on here as well, please call Ms. Ross.

Martha – I will see you on Friday at 1:00pm. Deed Set Appointment with Sarah Sabo. Please make sure you bring a certified copy of Mr. Ross' death certificate. Also, if you want your proceeds wired into an account, please bring a voided check with you.

Our office is located at 16909 Lakeside Hills Plaza suite 119-A Omaha, NE 68130

We are located inside of the Better Homes and Garden Real Estate Building & 4-doors down from Mouth of the South. We are on the Northwest Corner of 168th and Center in the Shops at Lakeside.

Sarah Sabo

Assistant Escrow Officer

Green Title & Escrow



16909 Lakeside Hills Plaza, STE 119-A

Omaha, NE. 68130

Office: 402-884-4891

Main Line: 402-884-4880

Fax: 844-777-1834

[SSabo@greentitleomaha.com](mailto:ssabo@greentitleomaha.com)

WARNING - FRAUDULENT FUNDING INSTRUCTIONS Email hacking and fraud are on the rise to fraudulently misdirect funds. Please call your escrow officer immediately using contact information found from an independent source, such as the sales contract or internet, to verify any funding instructions received. We are not responsible for any wires sent by you to an incorrect bank account.



(This is a legally binding contract. If not understood, seek legal advice.)

The REALTOR® negotiating this agreement is a member of the National Association of REALTORS® and as such is governed by the applicable Code of Ethics and Rules of Fair Business Practice.

Better Homes and Gardens Real Estate The Good Life Group, REALTORS® (Broker) Date: 10/22/2022 ("Date of Offer")

The undersigned Purchaser, (whether one or more) agrees to purchase the Property described as follows:

1. Property Address: 5741 Tucker Circle City: Omaha State: NE Zip Code: 68152

2. Legal Description (Property): RAVEN OAKS LOT 18 BLOCK 2 IRREG as surveyed, platted and recorded in Douglas County, NE State including all fixtures and equipment permanently attached to the Property.

3. Personal Property: The only personal property included is as follows: [checked] range [checked] oven [checked] refrigerator [] microwave [] dishwasher [] all window coverings [checked] all window covering hardware [checked] all light fixtures [checked] all ceiling fans [checked] washer [checked] dryer [] all TV mounts [checked] garage door opener(s) with all remotes [] outdoor play equipment [] propane tank (unless rented) [] storage shed [] work bench [] security cameras (unless rented) [] video doorbells [] digital/smart thermostats and light switches [] shelving located in other (list in space) all as in place at the time of showing of the Property together with any other property which is permanently affixed to the Property.

4. Conveyance: Provided that the Seller (whether one or more) has good, valid and marketable title, in fee simple, Seller agrees to convey title to Property to Purchaser or his nominee by form of warranty deed or free and clear of all liens, encumbrances or special taxes levied or assessed, [checked] no exceptions [] except and subject to all building and use restrictions, utility easements abutting the boundary of the Property, and protective covenants now of record.

5. Assessments: Within five (5) calendar days of the execution of this Agreement, Seller agrees to provide notice to Purchaser of all public improvements related to the Property which have been ordered but not yet commenced and shall timely supplement such information as new or updated information or improvements become known to Seller prior to Closing. After receiving Notice under this Section from Seller, Purchaser may terminate this Agreement within five (5) calendar days of such notice. Except as agreed between Purchaser and Seller, special assessments for public improvements not commenced as of Closing shall be the responsibility of Purchaser. Seller agrees to pay any special assessments for public improvements previously constructed or under construction as of Closing. For the purpose of this paragraph, public improvement shall mean improvements constructed by or on behalf of a government entity including, but not limited to, paving, curbs, sidewalk and utilities.

6. Consideration: Purchaser agrees to pay to Seller, via certified funds, unless otherwise set forth in this Agreement, the total purchase price in the amount of three hundred forty six thousand dollars DOLLARS (\$346,000.00) on the following terms: \$3500.00 (Earnest Money) deposited herewith as evidenced by the receipt below unless otherwise provided in Section 7, below, with the balance thereof, together with all other amounts required under this Agreement, to be paid at Closing.

7. Receipt and Delivery of Earnest Money: Earnest Money is made payable and delivered to as follows: [] delivered with this Agreement [] to be delivered later (if to be delivered later, see Section 10) [checked] to be delivered within 48 hours of final acceptance of this Agreement. Earnest Money payable to [checked] Escrow Agent [] Purchaser Broker [] Seller Broker [] Seller.

Delivered by: Name Date Received by: Name Date

If the Earnest Money is paid by check, it will be cashed following acceptance of this Agreement or as otherwise agreed herein. In the event this offer is not accepted by the Seller of the Property within the time specified, the Earnest Money shall be returned to Purchaser. In the event there are any defects in the title which cannot be cured as specified below, the Earnest Money shall be paid to Purchaser. In the event

PROPERTY ADDRESS: 5741 Tucker Circle, Omaha, NE 68152

Purchaser(s) Initials: [Signature] Seller(s) Initials: [Signature]

of wrongful refusal or failure of the Purchaser to consummate the purchase, the Seller may, at Seller's option, demand or retain the Earnest Money for failure to carry out the terms of this Purchase Agreement and pursue the Purchaser for any damages in excess of such amount, subject to the terms of the listing agreement. If the Earnest Money is held by either Broker, it may be transferred to an Escrow Agent at any time, in the case of a dispute over the return or forfeiture of the Earnest Money, the holder of the Earnest Money may require the agreement of Seller and Purchaser to release the Earnest Money. The holder of the Earnest Money may pay any Earnest Money into court upon the filing of any legal action related thereto. Such legal action shall not be maintained against Broker when the dispute is between Purchaser and Seller. Any party naming Broker as a party to any proceeding despite the aforementioned sentences shall be liable to Broker for all legal fees and costs.

8. Payment of Purchase Price. Purchaser shall pay the Purchase Price at Closing as follows (select one):

8.1 All Cash: Balance of the Purchase Price, after accounting for the Earnest Money, shall be paid in wire transferred funds, or certified or cashier's check at time of delivery of deed, no financing being required.

8.2 Conditional Upon Financing: This Agreement shall be conditional upon Purchaser obtaining financing, under the terms set forth below:

8.2.1 Terms of Financing. Balance of the Purchase Price, after accounting for the Earnest Money, shall be paid in wire transferred funds, or by certified or cashier's check at time of delivery of deed, conditioned upon Purchaser's ability to obtain financing to be secured by first mortgage or deed of trust, on above described Property in the amount of \$_____. The financing will be (select one) VA, FHA, CONVENTIONAL, USDA or _____ check here if loan to be NIFA qualified and for an initial interest rate not exceeding _____% per annum, plus mortgage insurance. Financing will be for a period of not less than _____ years. Loan origination/service fee to be paid by Purchaser except as otherwise agreed herein.

Seller Financing: - See attached addendum Loan Assumption: - See attached addendum.

8.2.2 Purchaser Loan Application Requirements: Purchaser agrees to make application for financing within five (5) or _____ business days of acceptance of this offer to one or more of the following:

_____	_____	_____	or
Company Name	Loan Officer Name	Phone Number	
_____	_____	_____	or
Company Name	Loan Officer Name	Phone Number	
_____	_____	_____	
Company Name	Loan Officer Name	Phone Number	


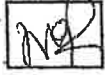
Purchaser agrees to provide verification to Seller that a loan application has been submitted, Purchaser agrees to close within original set closing date, or, if the loan has not been approved or denied prior to the Closing date, Closing shall be automatically extended until approval or denial is issued, subject to the terms of Section 13, below. Upon notification to Purchaser of a loan denial, Purchaser shall notify Seller of such denial within one (1) business day. Unless otherwise agreed by Purchaser and Seller, this Agreement shall be deemed null and void five (5) days following such notice to Seller.

9. SALE CONTINGENCY: (Check one if applicable):

9.1. Contingent Upon Sale and Closing: This offer is contingent upon the sale and closing of Purchaser's property to be listed by _____ located at: _____ See attached addendum.

9.2. Contingent Upon Closing of Purchaser's Property Currently Under Contract: This offer is contingent upon Purchaser first obtaining the proceeds from the closing of the Purchaser's property located at _____ scheduled to close on approximately _____ (date).

PROPERTY ADDRESS: 5741 Tucker Circle, Omaha, NE 68152

Purchaser(s) Initials:  4/22/22 5:34 PM CDT dotloop verified
Seller(s) Initials: 

If such closing does not occur on the closing date as scheduled, Closing Date shall be automatically extended until such contingent closing occurs. In the event that Closing Date is automatically extended pursuant to this section, the parties shall reasonably cooperate to schedule Closing on a date and time consistent with such extension. In the event that automatic extension of the Closing has delayed Closing by more than fourteen (14) calendar days, either Purchaser or Seller, upon written notice to the other, may declare this Agreement void, and the Earnest Money shall be returned to the Purchaser, less any and all costs which Purchaser is obligated to pay, including, but not limited to, costs of inspections and surveys ordered by or on behalf of Purchaser as invoiced to or made known to Escrow Agent.

10. Other Provisions (if attaching addenda, list in Section 33):

- 1. Closing date and possession date flexible to seller needs; or 12/2/22 as stated in Sec. 12.3.
- 2. Buyer accepts home in as-is condition.

11. Taxes: If the Property is located in Douglas or Sarpy County, Nebraska, all consolidated real estate taxes which become delinquent in the year of Closing (as are typically paid in the year of Closing) are Current Taxes for the purposes of this Agreement. If the Property is located in any other county, all consolidated real estate taxes for the year in which Closing takes place (as are typically paid in the year following the year of Closing) are Current Taxes for the purposes of this Agreement (based on assessed value and tax rate as of the date of this Agreement). Such Current Taxes shall be prorated as of date of Closing, possession or _____.

12. Conveyance of Title and Closing.

12.1. Title Insurance Agent and Elections. The Real Estate Settlement Procedures Act ("RESPA") and its accompanying regulations make it clear that if the Purchaser pays any part of the title insurance policy, the Seller cannot make the sale conditioned on the use of a particular title insurance company. According to the Purchaser's rights under RESPA, Purchaser hereby directs the title insurance work to Green Title, _____, or _____. The cost of any title insurance policies and endorsements shall be equally divided between Purchaser and Seller or _____.

12.2. Title and Title Exceptions: Seller shall through Seller's Agent or Closing agent furnish a current title insurance commitment or complete abstract of title to Purchaser as soon as practical. If title defects are found, Seller must cure them within a reasonable time, and Closing shall be automatically extended until such defects are cured, in accordance with Section 13, below.

12.3. Closing and Closing Date. "Closing Date" as used herein shall be Friday, December 2 2022, and possession date shall be Closing Date, or _____, 20 _____. The time of the transfer of possession shall be as agreed upon by Purchaser and Seller, at a time not later than 4:00 PM on the day of Closing, but not before the time of Closing. At the time of transfer of possession, Seller shall leave the Property in broom-clean condition, free of any personal property not conveyed hereunder, and shall deliver all keys to the Property to Purchaser. "Closing" as used herein shall mean the event of the exchange of the Purchase Price for the deed to be conducted in accordance with Section 14, below.

13. Delay and Extension of Closing. In the event that Closing Date as set forth in Section 12.3 is automatically extended pursuant to Section 8.2.2, 9.2, or 12.2 of this Agreement, the parties shall reasonably cooperate to schedule Closing on a date and time consistent with such extension. In the event that automatic extension of the Closing has delayed Closing by more than fourteen (14) calendar days, either Purchaser or Seller, upon written notice to the other, may declare this Agreement void, and the Earnest Money shall be returned to the Purchaser, less any and all costs which Purchaser is obligated to pay, including, but not limited to, costs of inspections and surveys ordered by or on behalf of Purchaser as invoiced to or made known to Escrow Agent. Purchaser and Seller release and agree to hold harmless all listing and selling brokers, title insurance companies, escrow agents and lenders, if any, together with their employees and associates, from and against any and all claims related to any delay in the occurrence of Closing.

14. Escrow Closing: Purchaser and Seller acknowledge and understand that the Closing of the sale may be handled by an Escrow Agent and that the Broker is authorized to transfer the Earnest Money or any other funds it receives to said Escrow Agent. After said transfer, Broker shall have no further responsibility or liability to Purchaser or Seller for the accounting for said funds. Escrow Agent's or the Broker's charge for the escrow Closing shall be equally divided between Purchaser and Seller. The State Documentary Tax on the deed shall be paid

PROPERTY ADDRESS: 5741 Tucker Circle, Omaha, NE 68152

Purchaser(s) Initials:


10/27/22
9:34 PM CDT
dotloop verified

Seller(s) Initials:

by the Seller. Escrow Agent shall be Green Title _____ or _____
 _____ If no Escrow Agent is selected, the title insurance agent, above, shall be the Escrow Agent. At Closing Purchaser shall make payment of all amounts due in good funds, as determined by the Escrow Agent.

15. **Survey:** Purchaser is aware of the availability of having a survey to determine the property limits, measurements, building locations, encroachments from adjoining lands, and registered Easements which may affect the property. Purchaser may obtain and pay for one or more of the following:

- 1. Improvement Location Survey / Plot Plan (minimum survey; or relied upon for establishment of structure or other improvements),
- 2. Boundary and Improvement Location Survey (corners located/verified; improvements located; parcel checked for encroachments, may be used for construction with regard to local, state and federal regulations),
- 3. ALTA (American Land Title Association) Survey (most comprehensive survey, covers all aspects of above survey options and identifies any additional evidence of possession or use which could be adverse to Purchaser).
- 4. Waived if not required by lender

In most situations, even if a survey is not required, one of the surveys is recommended.

16. **Home Warranty Acknowledgment:** Purchaser has been advised of the availability of Home warranty.

- Purchaser shall receive a home warranty, provided at the expense of Purchaser Seller or _____
Purchaser selects the warranty type: Non-Evaluated Warranty Evaluated Warranty (if available) with No Exclusions*; Cost is \$ _____ plus applicable taxes. Home warranty plan benefits are limited to and defined by the plan documents, which Purchaser is advised to review. *(Seller is responsible to ensure issuance of warranty with no exclusions under this option.)
Home warranty provider shall be _____ _____ or _____
- Home warranty coverage rejected by Purchaser.

17. **Wood Infestation:** Purchaser (Seller, in the case of a new VA loan) agrees to pay the cost of a wood destroying insect inspection of the Property, and Seller agrees to pay for any treatment or repair work found necessary for issuance of a wood destroying insects warranty. Termite inspection work is to be performed by Lien Pest _____ _____ or _____ Purchaser agrees to accept the treated Property upon completion of repairs. Provided, however, if treatment and repairs exceed 2% or _____ of the purchase price, this Purchase Agreement may be cancelled by Seller and/or Purchaser, by written notice delivered to the other party within five (5) calendar days of receipt of a wood destroying insect inspection report. Such inspection report must be delivered to the Seller and Purchaser not later than ten (10) calendar days prior to the Closing Date, at which time Purchaser shall be paid the Earnest Money with no further agreement or release required.

18. ~~Property Inspections:~~ Purchaser has been advised of the availability of property inspections/tests. Unsatisfactory Home Conditions Asbestos, Mold, Lead, Radon and other contaminants may exist in the Property of which the Broker or Agent is unaware. Suspected Contaminants and home condition may be identified with a typical air quality or home inspection(s). Broker recommends Purchaser obtain inspection(s) of Purchaser's choice to better determine the presence of contaminants and home condition.

Select and Initial One:

- Purchaser elects NOT to obtain Property inspections.
- Purchaser reserves the right to perform Property inspections

If Purchaser has reserved the right to obtain property inspections, then the following provisions shall apply:

18.1 Purchaser, at Purchaser's expense, shall have the right to perform any inspections or investigation related to the Property that Purchaser desires, including a survey. If the condition of the Property is unsatisfactory in Purchaser's subjective discretion, Purchaser shall provide Seller with:

- 18.1.1 An Inspection Notice Addendum that sets out in writing any unsatisfactory physical items Purchaser requests Seller to correct;
or
- 18.1.2 A Rejection Notice Addendum that notifies Seller that after inspection, Purchaser finds the Property to be in unsatisfactory condition (a rejection of the property).

PROPERTY ADDRESS: 5741 Tucker Circle, Omaha, NE 68152

Purchaser(s) Initials:



Seller(s) Initials:



18.2 To be effective, the Inspection Notice Addendum or Rejection Notice Addendum must be received by Seller no later than 5:00 p.m. on the 14th calendar day after the acceptance date ("Inspection Objection Deadline").

18.3 If an Inspection Notice Addendum or Rejection Notice Addendum is not received by Seller by 5:00 p.m. on the 14th calendar day after the acceptance date ("Inspection Objection Deadline"), the Property shall be deemed to be satisfactory to Purchaser.

18.4 If a Rejection Notice Addendum is received by Seller by the Inspection Objection Deadline this Agreement shall automatically terminate.

18.5 If an Inspection Notice Addendum containing requests for action by Seller is received by Seller by the Inspection Objection Deadline and Purchaser and Seller have not agreed in writing as to what action is to be taken regarding the items by 5:00 p.m. on the 18th calendar day after the acceptance date of the Agreement ("Resolution Deadline"), this Agreement shall automatically terminate on the Resolution Deadline unless, before such termination, Purchaser's written notice of withdrawal of the requirement that Seller correct the items contained in the Inspection Notice Addendum is received by Seller.

18.6 Upon termination of this Agreement under this Section 18, the Earnest Money, less amounts necessary to pay any expenses incurred by REALTOR® or escrow agent holding the Earnest Money, shall be refunded to Purchaser promptly, upon Purchaser providing written notification of the facts constituting termination to the party holding the Earnest Money, without further documentation being required, other than documentation of payment of known expenses incurred by or on behalf of Purchaser. Purchaser shall be responsible for payment of all inspections, surveys, engineering reports or for additional work performed at Purchaser's request and shall pay for any damage which occurs to the real and personal property as a result of such activities. The provisions of this paragraph shall survive termination of the Agreement.

18.7 Purchaser does not, by acceptance of the real and personal property identified in this Agreement, waive, release or relinquish any right or claim Purchaser may have against Seller by reason of any misrepresentation, concealment or fraud.

18.8 If Purchaser chooses to have a radon test, and the results of the radon test show average radon levels below 4.0 picocuries per liter of air (pCi/L), such results shall be deemed acceptable to Purchaser.

19. **Purchaser's Personal Inspection:** This offer is based upon Purchaser's personal inspection or investigation of the property and not upon any representation or warranties of condition by Seller or any limited agents involved in this transaction. If finished sq. ft., age, location of property lines, lot size, condition of improvements, protective covenants, designated school or school district, or other specific requirements are important to Purchaser's decision to purchase, Purchaser acknowledges the limited agents have advised Purchaser to make or procure independent investigations.

20. **Utilities:** Purchaser agrees to have all utilities transferred into their name, as of the date of Closing or possession, whichever is earlier. If there are any "Smart Home" or utility-connected devices controlled by online services on the Property, Seller agrees to remove the ability of Seller to control such devices and disable Seller's own access. Purchaser agrees to reset all such devices to prevent such devices from connecting to Seller's related accounts.

21. **Condition of Property:** Seller represents to the best of Seller's knowledge, information and belief, there are no material, latent defects in the Property nor any conditions present or existing with respect to the Property which may give rise to or create Environmental Hazards or Liabilities and there are no enforcement actions pending or threatened with respect to the Property or any conditions present on it, except as have been disclosed in writing to Purchaser. Seller agrees to maintain the landscaping, sprinkler system, heating, air conditioning, water heater, sewer, plumbing, electrical systems and any built-in appliances in functional and operable condition until delivery of possession, unless otherwise noted in the Seller Property Condition Disclosure Statement or specified herein. Seller will allow Purchaser to walk through Property within 3 calendar days before Closing to confirm compliance with this Purchase Agreement. Following Closing, Purchaser shall be responsible for all maintenance and care for the Property.

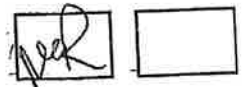
22. **Rents, Leases and Tax Deferred Exchange:** All leases and rents shall be current and not in default at Closing. Any tenant deposits and leases shall be assigned to Purchaser at no cost. All rents shall be prorated to date of Closing. Copies of all current leases shall be provided to the Purchaser within three (3) calendar days of acceptance of this Agreement. Purchaser and Seller each reserve the right to classify this transaction as a like-kind exchange under Section 1031 of the Internal Revenue Code. Each party shall cooperate with the other in such exchange; but shall not be required to incur additional expense or delays, by reason of the other party's intended exchange.

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Purchaser(s) Initials:



Seller(s) Initials:



23. **Homeowners Association and Protective Covenants:** Purchaser acknowledges that the Property may be subject to protective covenants that govern Purchaser's use of the Property, and that may be enforced by the homeowners association or its members. Purchaser can obtain a copy of the protective covenants from the designated title insurance company. Seller shall pay all homeowners and neighborhood association assessments levied and due as of Closing. Homeowners or neighborhood association dues shall be prorated to the date of Closing. Purchaser shall be responsible for all future homeowners or neighborhood association dues, if any.

24. **Release of Information:** Purchaser and Seller authorize the release by Broker and/or its agents of information including price, financing and Property information regarding the purchase of this Property to the Great Plains Regional MLS, LLC, its members and affiliates, its participants and government entities. Purchaser authorizes selling agent/broker to market the fact of the sale of this Property and related information including, but not limited to, the purchase price.

25. **Government Required Actions and Disclosures:**

25.1 **Seller Property Condition Disclosure:** Purchaser acknowledges receipt of Seller Property Condition Disclosure Statement unless not required by law.

25.2 **Lead Based Paint:** Was property built before 1978? Yes No. If yes, Purchaser and Seller must complete Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards.

25.3 **SID:** Is the property located within an SID? Yes No. Purchaser understands that this Property is located within S.I.D. # _____. If the Property is located within an SID, Purchaser acknowledges receipt of the most recently filed S.I.D. Statement and understands: (i) the Property is located within a sanitary and improvement district; (ii) sanitary and improvement districts are located outside the corporate limits of any municipality; (iii) residents of sanitary and improvement districts are not eligible to vote in municipal elections; and (iv) owners of Property located within sanitary and improvement districts have limited access to services provided by nearby municipalities until and unless the Property is annexed by the municipality.

25.4 **Fair Housing.** It is unlawful to discriminate against any person in the terms, conditions or privileges of sale, purchase or lease of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, ethnic origin, familial status; sex, handicap, disability, or sexual orientation, under state or federal law, and, or in the City of Omaha, age discriminating is unlawful, against an individual forty (40) years of age or older. Local laws may apply to prohibit other kinds of discrimination. All references made (i) in any gender shall be deemed to have been made in all genders; (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well.

25.5 **Safety:** Seller agrees to install, at Seller's expense, smoke detectors and carbon monoxide alarms as required by law.

25.6 **Affiliated Business Arrangements:** Purchaser and Seller acknowledge and understand that real estate brokers involved in this transaction may receive financial remuneration from the sale of title insurance or other forms of insurance or service as defined in the Affiliated Business Arrangement Disclosure, if applicable.

26. **Insurance and Property Damage:** Seller shall insure the property for fire, wind, hail, explosion, water or any other cause at no less than replacement cost until Closing. Risk of loss or damage to Property, prior to Closing, shall be the responsibility of Seller. If, following the Date of Offer, the Seller(s) has knowledge that the structure(s) on the Property are materially damaged; Seller shall immediately notify the Purchaser in writing of the damage. If storm damage is suspected but not actually known by Seller, Seller shall notify Purchaser and Seller and Purchaser shall have the right to have the Property inspected by an insurance adjustor or contractor, provided that such contractor must be licensed, if required, in the state, county, or city in which the Property is located. If damage is found, Seller shall be obligated to repair such damage prior to Closing unless Purchaser and Seller agree to allow repair to be made after Closing and Seller agrees to have held by the Escrow Agent one and one-half times the cost of repairs. Notwithstanding the foregoing, in the event that the cost of such repairs exceed 5% or _____, Purchaser may terminate this Agreement. Purchaser and Seller acknowledge and agree that there may be additional documentation and access needed to facilitate the repairs. As such, Seller and Purchaser agree to cooperate in executing documents necessary to complete the sale in a timely manner. Access to the property for repairs will not be unreasonably withheld.

27. **Notice, Delivery and Time.** Any notice permitted or required to be delivered to either party under this Agreement shall be sufficiently made via email or hand delivery to each party's agent or Broker as named herein, regardless of whether such notice is reviewed. Any notice required to be made under this Agreement shall be required to be made before 5:00 P.M. of the prevailing local time of the Property. In measuring the number of days elapsed for any notice or other requirement under this Agreement, the counting of days shall exclude the day of the triggering event or notice.

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Purchaser(s) Initials:



Seller(s) Initials:



28. **Modification in Writing:** Any modification of the terms of this agreement must be in writing and signed by all parties.

29. **Electronic Transaction Authorization:** The undersigned agree that all documents bearing signatures, initials or other marks of acknowledgement by a Purchaser, Seller and/or Broker/agent relating to a real estate transaction contemplated under this Agreement, including offers, counteroffers and acceptances: (1) may be transmitted electronically, and/or may use digital signature technology which is compliant with state UETA and/or federal E-SIGN requirements and (2) that digital signatures as well as electronic copies of manual signatures, whether scanned, digital photograph, facsimile or other means of image reproduction shall be treated in all respects as originals, and (3) that they will submit all original signatures if requested by the other party. This Agreement and any addendums or modifications may be signed in counterparts and such counterparts shall be considered as one document.

30. **Compensation of Selling Broker:** Purchaser shall pay Selling Broker compensation of \$500.00 at Closing. The compensation will be collected in all cases except if Purchaser secures a loan that does not allow Purchaser to pay for such compensation. If this compensation is paid by Purchaser to Selling Broker, Seller and Purchaser agree that Selling Broker, which may be the same as the Listing Broker, or any cooperating broker may collect compensation from both Seller and Purchaser.

31. **Arbitration and Mediation:**

31.1 **Disputes:** The term "Dispute" shall include, without limitation, any controversy, complaint, dispute, claim or disagreement relating to or arising out of the construction, interpretation, enforcement, or breach of the terms of this Purchase Agreement between Purchaser and Seller.

31.2 **Mediation:** In the event of any Dispute, any party to the Dispute may seek non-binding mediation in an attempt to resolve the dispute by giving fifteen (15) calendar days written notice of a request for such mediation to all other parties to the Dispute. The request for mediation must be made within three hundred sixty-five (365) calendar days after the party making the request knew, or exercising reasonable diligence and care, should have known, of the Dispute. In no case shall such request be made after the statute of limitations on a civil suit based on the Dispute would have run. Such mediation shall be administered by the American Arbitration Association and shall be conducted according to the American Arbitration Association's Commercial Rules – Real Estate Industry Arbitration Rules (Including a Mediation Alternative) or such other mediation service versed in real estate practices of the locality.

31.3 **Arbitration:** Any Dispute that is not resolved by informal settlement or mediation shall be resolved exclusively by binding arbitration. Such arbitration shall be administered by the American Arbitration Association and shall be conducted according to the American Arbitration Association's Commercial Rules – Real Estate Industry Arbitration Rules (Including a Mediation Alternative). The arbitrator(s) shall apply substantive and procedural law of the jurisdiction of the Property to the arbitration proceeding. Arbitration shall be commenced by written demand made by any one or more of the parties to the Dispute given to all other parties to the Dispute. The demand for arbitration must be in writing and must be given by personal delivery or certified mail, return receipt requested, within three hundred sixty-five (365) days after the party making the demand knew, or exercising reasonable diligence and care, should have known, of the Dispute. Notwithstanding the previous sentence, in the case that the parties unsuccessfully attempt mediation to resolve a Dispute, the demand for arbitration shall be made within sixty (60) days of the final mediation session. However, in no case shall such demand be made after the statute of limitations on a civil suit based on the Dispute would have run.

The prevailing party shall be entitled to costs and fees of the arbitration and, in the discretion of the arbitrator who shall take into account the relative merits of the opponent's case, the arbitrator may award attorney's fees and arbitration costs to the prevailing party.

31.4 **Provisional Remedies.** The filing of a judicial action to enable the reporting of a notice of pending action, for order of attachment, receivership, injunction, or other like provisional remedies, shall not constitute a waiver of mediation or arbitration under this provision, nor shall it constitute a breach of the duty to arbitrate.

31.5 **Exclusions.** The terms of this Section shall not apply to: 1) Foreclosure or other action or proceeding to enforce a deed of trust, mortgage or land contract; 2) the filing or enforcement of a construction or similar lien, or 3) an action filed and held in "Small Claims Court, as defined in Neb. Res. Stat 25-2801 to 2804, provided, however, that any attempt to transfer such a proceeding to county or district court shall make this Section applicable to such action.

31.6 **Waiver.** BY SIGNING THIS PURCHASE AGREEMENT, THE PARTIES AGREE THAT EVERY DISPUTE DESCRIBED ABOVE THAT IS NOT RESOLVED BY INFORMAL SETTLEMENT OR MEDIATION WILL BE DECIDED EXCLUSIVELY BY ARBITRATION AND THAT ANY ARBITRATION DECISION WILL BE FINAL AND BINDING. THE PARTIES AGREE THAT THEY WILL RECEIVE ALL THE RIGHTS AND BENEFITS OF ARBITRATION BUT

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Seller(s) Initials:  



ARE GIVING UP RIGHTS THEY MIGHT HAVE TO LITIGATE THOSE CLAIMS AND DISPUTES IN A COURT OR JURY TRIAL, OR TO PARTICIPATE AS A REPRESENTATIVE OR MEMBER OF ANY CLASS OF CLAIMANTS IN CONNECTION WITH ANY SUCH DISPUTES. NO PARTY TO THIS AGREEMENT, WHETHER REALTOR® OR SELLER, SHALL BE ENTITLED TO JOIN OR CONSOLIDATE DISPUTES BY OR AGAINST OTHERS IN ANY ARBITRATION, OR TO INCLUDE IN ANY ARBITRATION ANY DISPUTE AS A REPRESENTATIVE OR MEMBER OF A CLASS, OR TO ACT IN ANY ARBITRATION IN THE INTEREST OF THE GENERAL PUBLIC OR IN ANY PRIVATE ATTORNEY GENERAL CAPACITY.

Section 31 is hereby waived by all parties if this Section Initialed Purchaser(s) Initials:

32. Offer Expiration: This offer to purchase is subject to acceptance by Seller on or before Sunday October 23, 2022, at 1:00 o'clock PM, prevailing local time.

33. List of Attachments and Addenda, and Disclosures. Purchaser and Seller acknowledge delivery and receipt of the following:

Addenda

HUD/FHA/VA Mortgage Addendum

Disclosures and Attachments Provided Between Purchaser and Seller

- Seller Property Condition Disclosure Statement Signed and Dated _____
- Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards
- Limited Dual Agency Agreement
- S.I.D. Statement
- Preapproval/Prequalification Letter
- FHA Addendum

Checklist of Documents provided to Purchaser from Purchaser's Broker

- Affiliated Business Arrangement Disclosure
- Wire Fraud Notice

The undersigned parties executed this Agreement and each individual executing this Agreement on behalf of an entity represents and warrants that he or she is duly authorized to do so.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION UNLESS WAIVED IN SECTION 31 WHICH MAY BE ENFORCED BY THE PARTIES.

Purchaser: Garrett A. Karthausen dotloop verified 10/22/22 9:34 PM CDT JMMY-QKQO-PYZM-SHFL Purchaser:

Garrett Karthausen Purchaser's Name (Printed) Purchaser's Name (Printed)

Purchaser's Name (Printed) Purchaser's Name (Printed)

Address: _____ Address: _____

City: _____ State: _____ Zip: _____ City: _____ State: _____ Zip: _____

Phone: _____ Phone: _____

Purchaser acknowledges receipt of a signed copy of this Purchase Agreement, as well as Estimated Purchaser's Closing Cost Statement if required by law.

NAMES FOR DEED (Purchaser retains the right to change prior to Closing)

NAME(S) FOR DEED Garrett Karthausen

- Single Individual(s)
- Married Individual(s)
- A Married Couple
- Other

PROPERTY ADDRESS: 5741 Tucker Circle, Omaha, NE 68152

Purchaser(s) Initials: Seller(s) Initials:

PURCHASER AGENT INFO

Better Homes and Gardens Real Estate The Good Life Group
REALTOR® (Company Name), Broker

4949 Underwood Ave, Omaha, NE 68132
OFFICE ADDRESS

100836
OFFICE MLS ID #

402-932-5989
OFFICE PHONE #

Cara Crawford
AGENT NAME (Printed)

cara@caracrawford.homes
AGENT E-MAIL ADDRESS

970134 / 20200041
AGENT MLS ID # / AGENT NREC LICENSE #

832-721-2272
AGENT PHONE #

SELLER ACCEPTANCE

The Seller, whether one or more, accepts the foregoing offer to purchase on _____ at _____ o'clock _____, prevailing local time, on the terms stated and agrees to convey title to the Property, deliver possession, and perform all the terms and conditions set forth, except as follows:

[Empty box for terms and conditions]

Seller acknowledges receipt of a copy of this Agreement with all identified addenda and, if required by law, an Estimated Seller's Closing Statement. The undersigned Seller executes this agreement as of the date set forth above.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION IN SECTION 31 UNLESS WAIVED WHICH MAY BE ENFORCED BY THE PARTIES.

Seller: [Signature] 10/23/22 Seller: _____

Seller's Name (Printed) _____ Seller's Name (Printed) _____

If Seller is a married individual, the Seller's spouse will be required to sign the Deed and other closing documents.
Seller is: Single Individual(s) Married Individual(s) A Married Couple A Legal Entity.

SELLER AGENT INFO

BHHS Ambassador Real Estate
REALTOR® (Company Name), Broker

331 Village Pointe Plz Omaha, NE 68118
OFFICE ADDRESS

4300
OFFICE MLS ID #

402-493-4663
OFFICE PHONE #

Aaron Krier
AGENT NAME (Printed)

aaron@thebrileyteam.com
AGENT E-MAIL ADDRESS

969735 / 20190532
AGENT MLS ID # / AGENT NREC LICENSE #

712-221-0378
AGENT PHONE #

PROPERTY ADDRESS: 5741 Tucker Circle, Omaha, NE 68152

Purchaser(s) Initials: [Signature] [Signature] Seller(s) Initials: [Signature] [Signature]

PURCHASER ACCEPTANCE OF COUNTER OFFER

The Purchaser, whether one or more, accepts the foregoing Seller's counteroffer to purchase on _____, 20____ at _____ o'clock _____ M, prevailing local time, on the terms stated and perform all the terms and conditions set forth, except as follows:

[Empty rectangular box for additional terms or conditions]

Purchaser acknowledges receipt of a copy of this Agreement with all identified addenda and, if required by law, an Estimated Purchaser's Closing Statement. The undersigned Purchaser executes this agreement as of the date set forth above.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION IN SECTION 31 UNLESS WAIVED WHICH MAY BE ENFORCED BY THE PARTIES.

Purchaser: [Redacted]

Purchaser: [Redacted]

Garrett Karthauer
Purchaser's Name (Printed)

[Redacted]
Purchaser's Name (Printed)

SELLER ACCEPTANCE OF COUNTER OFFER

The undersigned Seller (check one):

- accepts the terms above.
- makes a counter offer with an attached addendum.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION IN SECTION 31 UNLESS WAIVED WHICH MAY BE ENFORCED BY THE PARTIES.

Seller: [Redacted]

Seller: [Redacted]

Seller's Name (Printed)

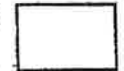
Seller's Name (Printed)

PROPERTY ADDRESS: 5741 Tucker Circle, Omaha, NE 68152

Purchaser(s) Initials:



Seller(s) Initials:



PURCHASER ACCEPTANCE OF COUNTER OFFER

The Purchaser, whether one or more, accepts the foregoing Seller's counteroffer to purchase on _____, 20____
at _____ o'clock _____ M, prevailing local time, on the terms stated and perform all the terms and conditions set forth, except
as follows:

[Empty rectangular box for additional terms or conditions]

Purchaser acknowledges receipt of a copy of this Agreement with all identified addenda and, if required by law, an Estimated Purchaser's Closing Statement. The undersigned Purchaser executes this agreement as of the date set forth above.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION IN SECTION 31 UNLESS WAIVED WHICH MAY BE ENFORCED BY THE PARTIES.

Purchaser: [Signature box]

Purchaser: [Signature box]

Garrett Karthausier
Purchaser's Name (Printed)

Purchaser's Name (Printed)

SELLER ACCEPTANCE OF COUNTER OFFER

The undersigned Seller (check one):
 accepts the terms above.
 makes a counter offer with an attached addendum.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION IN SECTION 31 UNLESS WAIVED WHICH MAY BE ENFORCED BY THE PARTIES.

Seller: [Signature box]

Seller: [Signature box]

Seller's Name (Printed)

Seller's Name (Printed)

PROPERTY ADDRESS: 5741 Tucker Circle, Omaha, NE 68152

Purchaser(s) Initials:  [Empty box] 

Seller(s) Initials:  [Empty box]



April 12, 2023

Martha Ross
5741 Tucker Circle, Omaha NE 68152

Dear Mrs. Ross,

I wanted to respond to your call today, in writing, to make sure we are on the same page. You asked if there was anything we could do to extend your stay at the Tucker Circle house by two weeks, or one week, or a day or two, and I have reviewed all possible options at your request. Unfortunately, we are not able to extend your license to occupy 5741 Tucker Circle beyond the date specified as April 28, 2023.

We understand your situation and that you have suffered several terrible losses, including the death of your son, but unfortunately, we simply cannot afford to extend any further generosity. It pains us that we can't make any further accommodation.

When you sold your home in January and received fair value for it, accommodation was made so that you would have additional time to remove your valuables. Based on that agreement (enclosed) and your promise to vacate the house on or before **April 30, 2023, at 5:00pm**, we have scheduled inspections and contractors to come through during the first week in May. We also have movers scheduled and have given notice to vacate our apartment.

In the meantime, we have been responsible for both the mortgage on Tucker Circle and our rent, while you continue to live in the house rent free. This has stretched us financially, but we were happy to do provide this leeway out of respect and compassion for your circumstances.

Your recent losses were unexpected, but this does not change the agreement we made. During your call today, you expounded on both your circumstances and what has clearly been a life of service. The number of people you have helped is amazing, and I'm sure there are many who would love the chance to repay your kindness. We hope you will reach out to them and let them support you during this difficult transition. We wish there were more we could do.

Sincerely,
Jena & Stuart Bailey

POST OCCUPANCY AGREEMENT
(Nebraska and Iowa)

BUYER(S): Adam Briley & Aaron Kraler

SELLER(S): Martha Ross

PROPERTY: 5741 Tucker, Omaha, NE 68152

PURCHASE AGREEMENT DATE: 12/13/2022

CLOSING DATE: 01/09/2023

Buyer and Seller have agreed that Seller shall have a limited period of occupancy of the above-referenced Property after the closing of the sale and transfer of title from Seller to Buyer (the "Occupancy Agreement"). The parties agree as follows:

1. **OCCUPANCY PERIOD:** The Occupancy Period shall start on 01/09/2023 and end on 04/30/2023 unless mutually extended by the parties to this Agreement.
2. **OCCUPANCY FEE:** Seller shall pay to the Buyer an occupancy fee of \$0 per day (the "Occupancy Fee"). This Occupancy Fee shall be collected and paid at the time of closing, provided, however, that the fee collected at closing shall not be for more than 30 days. In the event that the occupancy shall be longer than 30 days, the next month's occupancy fee shall be prepaid to the Buyer for each consecutive 30-day period, or prorated part thereof, for each 30-day period following closing. The parties agree the Occupancy Fee is not rent and this Agreement is not a lease, but a temporary right to use not subject to the Nebraska Uniform Residential Landlord Tenant Act ("NRLTA") or Iowa Uniform Residential Landlord Tenant Act ("IURLTA") depending on the location of the Property, and all of the statutory provisions of the residential rental laws that are otherwise exempt from the NRLTA or IURLTA are hereby waived. This means that the terms of this Agreement control to the extent allowed by Nebraska or Iowa law.

3. **OCCUPANCY DEADLINE:**

a. The Seller must vacate and give possession of Property and keys to Buyer on or before 04/30/2023 by 5 p.m. ("Deadline"). If Seller vacates before Deadline, Buyer:

will refund any unused part of Occupancy Fee within three (3) days of Seller vacating and thereby agrees to accept the date of vacating as Deadline

OR

will NOT refund any unused part of Occupancy Fee.

If vacating before Deadline, Seller must give Buyer at least three (3) Days written Notice before vacating.

b. If Seller fails to vacate Property by Deadline, Seller shall pay Buyer

triple the daily Occupancy Fee

OR

\$ _____ per day.

Seller shall also be responsible for any reasonable expenses incurred by Buyer because of Seller's failure to vacate, such as, but not limited to, temporary accommodations, furniture storage, added moving costs, attorney's fees, and other costs of enforcing this Agreement to the extent allowed by Nebraska law.

4. **PROPERTY MAINTENANCE AND CONDITION:** Seller shall maintain the Property in substantially the same condition as of Closing Date of the sale, including the electrical, plumbing, existing appliances, heating, air conditioning, equipment, and fixtures, with reasonable wear and tear and excluded. Except as otherwise agreed in writing, Seller will deliver Property in substantially the same physical condition as on Closing Date and broom clean with all trash and debris removed and deliver to Buyer all keys, key fobs, codes and digital keys, if any.

5. SECURITY DEPOSIT: Seller will escrow the amount of \$0 (the "Security Deposit") (this amount cannot exceed thirty (30) days of Occupancy Fee by law in Nebraska and two months of the stated Occupancy Fee in Iowa) as a security deposit to be held by:

The Escrow Agent who closed the sale (any escrow agreement prepared by the Escrow Agent shall follow the terms of paragraph 5 of this Agreement for the release of the Security Deposit)

OR

Buyer may, without prejudicing other legal rights and remedies, use all or any part of the Security Deposit to defray any costs incurred because of Seller's non-compliance with this Agreement. Buyer must conduct a post-occupancy inspection of Property and deliver to Seller and Escrow Agent (if Escrow Agent is holding the Security Deposit) a list of deficiencies within three (3) business days after Deadline or waive any claim to the Security Deposit. If Buyer is holding the Security Deposit, Buyer shall deduct the cost of the deficiencies and return the remainder of the Security Deposit to Seller at the same time as providing the list. If Escrow Agent is holding the Security Deposit and does not receive this list of deficiencies within the specified time, Escrow Agent may release funds to Seller and will be held harmless by the parties for any future claim, action, or demand. Should a dispute arise regarding the security deposit, Escrow Agent may require agreement of the parties before disbursing these funds. The Security Deposit and list of deficiencies (if any) shall be sent to the address directed by Seller.

6. UTILITIES: Seller will keep all utilities registered in Seller's name and pay the costs until Deadline.

7. RISK OF LOSS: Any personal property not included in the sale and kept on Property by Seller shall be at Seller's risk. Seller shall hold Buyer harmless from loss or damage to any personal property or bodily injury to any persons having access to Property and shall maintain adequate insurance. Seller is responsible for maintaining insurance to cover Seller's personal property, if desired, during the period of this Agreement, until Seller vacates Property in accordance with the Occupancy Deadline paragraph above. Buyer will maintain homeowner's insurance adequate to protect Buyer's interest in Property after the time of Settlement and during the period of this Agreement.

8. ACCESS: Seller will permit Buyer reasonable access to Property and will deliver one (1) set of keys to Buyer at Settlement. Should Buyer need access to the Property (outside of an emergency), Buyer shall give Seller twenty-four (24) hours written notice.

9. COMMUNICATION AND CONTACT INFORMATION: All communication regarding this Agreement shall be between the parties and not the real estate agents. The parties have the following contact information:

Buyer can be contacted at:

Seller can be contacted at:

712-221-0378 aaron@thebrileyteam.com
(Phone Number) (Email)

4029055758 honorseduc@outlook.com
(Phone Number) (Email)

10. MERGER CLAUSE: This Agreement constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

(THIS IS A LEGAL BINDING AGREEMENT - IF NOT UNDERSTOOD SEEK LEGAL ADVICE)

 12-22-22
SELLER DATED

 12-20-2022
BUYER DATED

SELLER DATED

BUYER DATED

POST OCCUPANCY AGREEMENT

REV 11-3-22

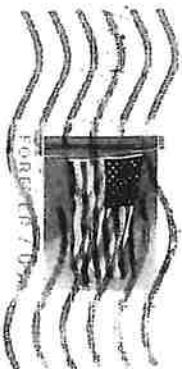
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12/22/22 11:45 AM CST
Doc ID: NPA0000012189

Barbery Jackson Street # 603
1561
Omaha NE 68102

OMAHA NE 680

12 APR 2023 PM 2 1



Mrs. Martha Ross
5741 Tucker Circle
Omaha NE 68152



wanted the telephone number for the eventual purchasers of the property which I gave to her. It was a friendly conversation. Therefore, upon receiving the complaint, I called her. She expressed that she does not suffer from dementia and has never been diagnosed as such. She also stated that she was unaware of the complaint and did not sanction it. She was quite upset with her sisters for filing the complaint and expressed in no way did she feel wronged. It is true as alleged that she was sad at the loss of her husband. She had expressed that to me. I felt that this was a normal to express as I had a good relationship with her.

Turning to the transaction, I put her home on the market with a full set of photos. We arrived a listing price of \$330,000 based on a set of comparables. See the enclosed. The comparable listed by the Complainants was in much better shape than Ms. Ross' property. There was a great turnout with showings the first day and we received a very solid cash offer accepting the house in as is condition for \$346,000. This was 16,000 over the asking price of \$330,000. Throughout the showings during that day, Ms. Ross required that she be home for any and the last showing was the offer mentioned above. Ms. Ross sat down and talked to the potential buyer of the house, Garrett Karthaus, and said that she really connected with him and wanted to go with the offer. I told Ms. Ross it was a good offer and that I wasn't sure if we will get a better offer but recommended keeping the house on the market through the weekend and through the open house. Ms. Ross said she did not want to do that because she did not want more people coming through the home and really had a connection with the buyer because they were both originally from Texas and the buyer expressed that he wanted to keep the house the same but just make it look new again. Therefore, Ms. Ross proceeded with the offer and accepted it. Ms. Ross was very happy.

Ms. Ross' sisters got involved on November 1, 2022 after the property was under contract. I had multiple phone calls with them and Martha on three way calls. There was no mention of Ms. Ross having any mental infirmity. The sisters informed me that they had contacted other realtors in the past and that Ms. Ross needed to take the house off the market and list it with someone better. After having a few phone calls with them, Ms. Ross instructed me and Michelle Stark at the title company handling the closing to stop corresponding with the sisters until further notice. Ms. Ross felt that her sisters were trying to get involved in her business and it was none of their concern. At that time, about a week after they initially made contact, I no longer responded to her sisters.

On December 18, 2022, the buyers decided they weren't going to purchase the home and close on it. At that time Ms. Ross asked me if Adam Briley and I would step in and buy the house from her because she wanted to be done with it and wanted her money. On December 20, 2022, Adam and I agreed to buy the house from Ms. Ross under our limited liability company, AKAB Properties, LLC. We told Ms. Ross we would buy the house from her and net her roughly the same amount of money with no commissions involved. We based the purchase price factoring in no commissions. Enclosed please find the closing statements from the transaction with Mr. Karthausser and the closing statement on the eventual closing. They show nearly the same amount of net proceeds to Ms. Ross. It was also agreed that we would also allow her to stay in the home rent free until the end of April. This is in section 10 of the attached purchase agreement. Ms. Ross was also informed that she could be giving up potential proceeds and we told her that we would be looking at turning around and selling the house. Ms. Ross was happy with all of this and said the sooner we could close the better. Ms. Ross sent Adam and I a gift after we closed on the house because she was very happy with the process and how "Aaron you and company are top quality" she also wrote "we took a negative and turned it into a positive" for her. Please see the enclosed correspondence.

After closing on the house, we sold the house to a new buyer subject to the occupancy and no rent through the end of April.

Hancock v. State ex rel. State Real Estate Com'n 213 Neb. 807, 331 N.W.2d 526, (1983) held that license law statutes and rules and regulations subjecting licensees to discipline are penal in nature because the subject the licensee's license to forfeiture. Accordingly they will be strictly construed by the courts. *Hancock* stated:

A penal statute is strictly construed, and its import may not be extended by construction to situations not clearly within its provisions. *Anderson v. Robbins Incubator Co.*, 143 Neb. 40, 8 N.W.2d 446 (1943); *Shamberg v. City of Lincoln*, 174 Neb. 146, 116 N.W.2d 18 (1962); *Misle v. Miller*, 176 Neb. 113, 125 N.W.2d 512 (1963); *Bachus v. Swanson*, 179 Neb. 1, 136 N.W.2d 189 (1965). In construing a penal statute nothing will be recognized, presumed, or inferred that is not expressed, unless necessarily or unmistakably implied in order to give effect to the statute.

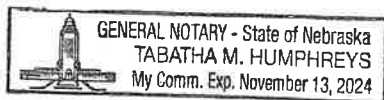
Hancock involved whether an agent had actual knowledge of an existing listing agreement even though there was evidence the agent should have known. The *Hancock* case refused to read more into the statute than what it unmistakably stated and imply any standard less than proof of actual knowledge by the licensee to establish violation of these penal rules and regulations. Similarly, there is no evidence that I had knowledge that Ms. Ross had any mental infirmity. In fact, she denies having any such infirmity. There is no evidence that I made any substantial misrepresentations. The original list price was based on comparables. The property brought more than the list price with standard marketing efforts which was not unusual due to market conditions in the time frame of the listing. It was clear that the sisters had an ax to grind against me when they stepped in during the initial pending purchase agreement and attempted to get the listing transferred to another broker. Ms. Ross who told me and the title company to stop communicating with them. It was not our idea to purchase Ms. Ross' property. She approached us. Further, Ms. Ross consented to the terms of the sale with us which netted proceeds to her nearly the same as the initial buyer who backed out. While we were able to sell the property for a little more than the original buyer's offer, there is almost never going to be the same offer when a property is relisted. It could just as well have sold for less than the original offer. The market showed that the property was worth \$346,000 based on the initial showings. Further, the comparable cited by the sisters reflects a property in much better condition than Ms. Ross' which had much deferred maintenance. In short, I made no substantial misrepresentations to Ms. Ross and represented her faithfully. I respectfully request that the Complaint be dismissed.



Aaron Krier

STATE OF NEBRASKA)
)
) ss.
COUNTY OF DOUGLAS)

Subscribed and sworn to before me this 24th day of May, 2023.





NOTARY PUBLIC

COMPARABLES

SORT BY



Sold

9129 N 52nd Avenue

Omaha, NE 68152 - MLS #22212606

RESIDENTIAL - Total Finished SqFt : 2,798

\$355,000

\$5,000

Great home in Raven Oaks, with 2 car oversized garage and 20 X 22 Detached 2 car garage. Backing to a reserve, this well-maintained home features 3 Bedrooms, 3 baths, and 4 garage spaces. This home sits on a double lot, has a generator. Newer Driveway replaced in 2021, Has 2 X 6 walls, Being sold as is.

BEDS: 3

BATHS: 3

AGSQFT: 1,957



Sold

5205 Hunt Circle

Omaha, NE 68152 - MLS #22207959

RESIDENTIAL - Total Finished SqFt : 2,884

\$340,000

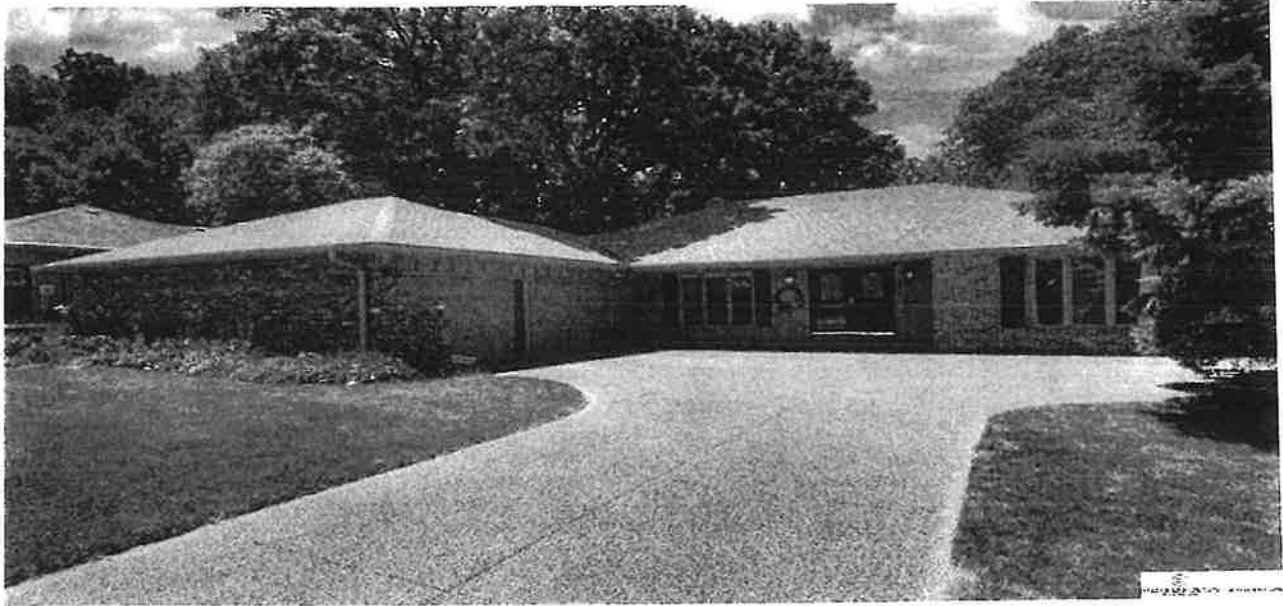
\$100

'CONTRACT PENDING BACKUP OFFERS ONLY' "SHOWINGS BEGIN 4/22/22 12:00 NOON" SELLER WILL REVIEW ANY AND ALL OFFERS ON 4/25/22 BY 6 PM, SELLER RESERVES RIGHT TO ACCEPT ANY OFFER BEFORE 4/25/22. A true diamond in the rough. Raised ranch home with over 2100 feet above grade. Nestled at the top of the cul de sac backing to acres of wooded Forrest terrain. Wild life abounds. Just minutes to I 680 on ramp at 48th street. Newer HVAC with air filtering system, soft water. Property sold as is. Wonderful potential.

BEDS: 3

BATHS: 3

AGSQFT : 2,155



Sold

8738 N 52 Avenue

Omaha, NE 68152 - MLS #22215365

RESIDENTIAL - Total Finished SqFt : 3,073

\$335,000

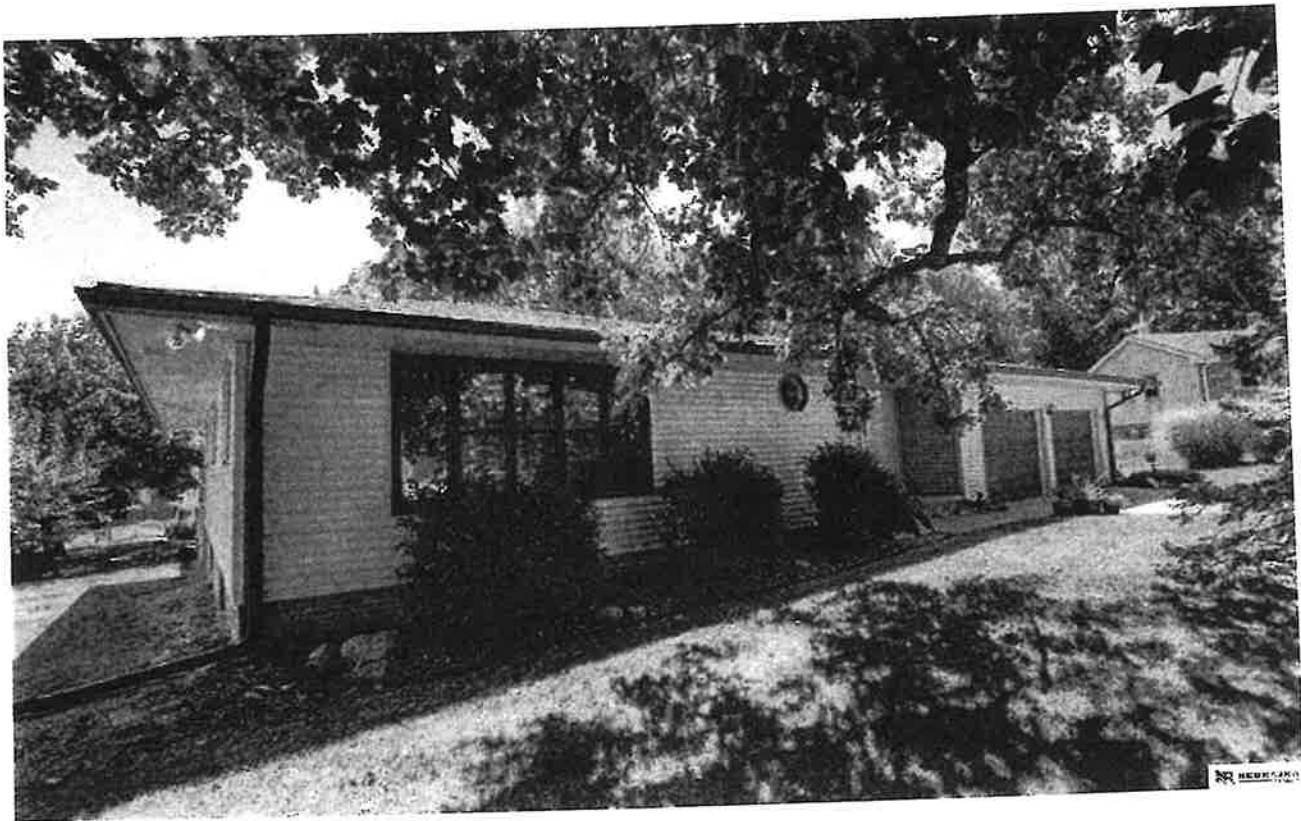
\$15,000

Enjoy peace and tranquility from this Raven Oaks home, nestled into the trees and providing wonderful views of nature and wildlife all year long. This spacious ranch style home includes kitchen open to family room with FP; kitchen was remodeled and includes a full wall of professionally installed cabinets with pull-outs. The adjacent sun room overlooks the grounds and provides a wonderful setting for relaxing or enjoying lunch/dinner. Formal living room & dining room are excellent for entertaining. Primary bedroom is huge and includes $\frac{3}{4}$ Bath, large walk-in closet, prof. installed built-ins for storage & access to deck overlooking forested area. Walkout basement has two more bedrooms plus two other rooms (each with abundant closet space), a rec room, updated bath and sauna. Additional storage area for lawn equipment and supplies, located under sun room. This home has been well maintained and has unlimited possibilities; furnace replaced in 2021. Seller prefers to sell "As Is."

BEDS: 4

BATHS: 3

AGSQFT : 2,058



Sold

5405 Reynolds Street

Omaha, NE 68152 - MLS #22220948

RESIDENTIAL - Total Finished SqFt : 1,827

\$294,800

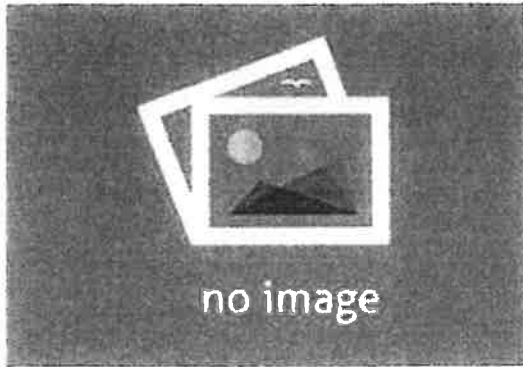
\$4,800

Nicely updated & well maintained ranch in popular Raven Oaks! Welcoming entry way opens to newly updated kitchen w/ designer backsplash, stainless steel appliances, solid surface countertops, & ample cabinet/counter space. Living room features large bay windows with loads of natural light! Finished basement with large rec room, fireplace, and non conforming bed. New paint & carpet w/ hardwood floors in bedrooms. Large corner lot with mature trees. Enjoy entertaining family/friends for summer on beautiful deck, private backyard & outdoor entertaining space.

BEDS: 3

BATHS: 3

AGSQFT : 1,320



Sold

8806 N 52 Avenue

Omaha, NE 68152 - MLS #22219580

RESIDENTIAL - Total Finished SqFt : 2,670

\$257,000

No property description available.

BEDS: 2

BATHS: 3

AGSQFT : 1,704

CLOSING STATEMENTS

Green Title & Escrow
ALTA Universal ID:
16909 Lakeside Hills Plaza
Suite 119
Omaha, NE 68130-4653

File No./Escrow No.: 2236384
 Print Date & Time: December 15, 2022 11:52 am
 Officer/Escrow Officer: Michelle Stark
 Settlement Location: 16909 Lakeside Hills Plaza, Suite 119
 Omaha, NE 68130-4653
 Property Address: 5741 Tucker Cir
 Omaha, NE 68152
 Buyer: Garrett Karthaus
 5741 Tucker Cir
 Omaha, NE 68152
 Seller: Martha E. Ross
 Settlement Date : December 16, 2022
 Disbursement Date : December 16, 2022

Description	Seller	
	Debit	Credit
Financial		
Sale Price of Property		346,000.00
Prorations/Adjustments		
County Taxes 12/16/22-01/01/23		191.13
Title Charges and Escrow/Settlement Charges		
Closing Protection Letter to Chicago Title Insurance Company	12.50	
Escrow Holdback to Green Title & Escrow	50.00	
Settlement Fee - Escrow to Green Title & Escrow	275.00	
Escrow Holdback - 4 Mo. Rent - \$1,700 per month to Green Title & Escrow	6,800.00	
Owner's Title Insurance to Green Title & Escrow Coverage: \$346,000.00 Premium: \$1,209.00 Version: ALTA Homeowner's Policy (12/13)	604.50	
Commissions		
Real Estate Broker Admin Fee to BHHS	995.00	
Real Estate Commission to BHHS	24,220.00	

Description	Seller	
	Debit	Credit
Commissions (continued)		
Government Recording and Transfer Charges		
Recording Fees to Douglas County Register of Deeds Death Cert	16.00	
Transfer Taxes to Douglas County Register of Deeds	778.50	
Miscellaneous		
E Record Fee to Douglas County Register of Deeds	4.25	
Property Taxes 2021 + Penalty 12/20 to Douglas County Treasurer 4877 0000 20	4,699.65	
Lawn Mowing Payoff to Straightline Inc.	450.00	
December Rent to Garrett Karthausser	850.00	
Security Deposit to Garrett Karthausser	1,700.00	
	Debit	Credit
Subtotals	41,455.40	346,191.13
Due to Seller	304,735.73	
Totals	346,191.13	346,191.13

Acknowledgement

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize Green Title & Escrow to cause the funds to be disbursed in accordance with this statement.

Seller

Martha E. Ross

Michelle Stark

Green Title & Escrow
ALTA Universal ID:
16909 Lakeside Hills Plaza
Suite 119
Omaha, NE 68130-4653

File No./Escrow No.: 2237525
 Print Date & Time: January 04, 2023 2:22 pm
 Officer/Escrow Officer: Michelle Stark
 Settlement Location: 16909 Lakeside Hills Plaza, Suite 119
 Omaha, NE 68130-4653
 Property Address: 5741 Tucker Cir
 Omaha, NE 68152
 Borrower: AKAB Properties, LLC, a Nebraska limited liability company

 Seller: Martha E. Ross
 5741 Tucker Cir
 Omaha, NE 68152
 Lender: Commercial State Bank
 Settlement Date : January 09, 2023
 Disbursement Date : January 09, 2023

Description	Seller	
	Debit	Credit
Financial		
Sale Price of Property		311,500.00
Prorations/Adjustments		
County Taxes 01/01/23-01/09/23	110.65	
Title Charges and Escrow/Settlement Charges		
Technology Fee to Green Title & Escrow	25.00	
Closing Protection Letter to Chicago Title Insurance Company	12.50	
Lender's Title Insurance to Green Title & Escrow	37.50	
Coverage: \$272,000.00		
Premium: \$75.00		
Version: ALTA Loan Policy (06/17/06)		
Settlement Fee - Escrow to Green Title & Escrow	275.00	
Owner's Title Insurance to Green Title & Escrow	557.75	
Coverage: \$311,500.00		
Premium: \$1,115.50		
Version: ALTA Homeowner's Policy (12/13)		

Description	Seller	
	Debit	Credit
Government Recording and Transfer Charges		
Recording Fees to Douglas County Register of Deeds Death Cert	16.00	
Transfer Taxes to Douglas County Register of Deeds	702.00	
Miscellaneous		
Property Taxes 2021 + Penalty 1/13 to Douglas County Treasurer 4877 0000 20	4,739.79	
Release of Lien to Straightline Inc	450.00	
	Debit	Credit
	6,926.19	311,500.00
Subtotals		
Due to Seller	304,573.81	
Totals	311,500.00	311,500.00

Acknowledgement

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize Green Title & Escrow to cause the funds to be disbursed in accordance with this statement.

Seller

Martha E. Ross

Michelle Stark

PURCHASE AGREEMENT

(This is a legally binding contract. If not understood, seek legal advice.)

The REALTOR® negotiating this agreement is a member of the National Association of REALTORS® and as such is governed by the applicable Code of Ethics and Rules of Fair Business Practice.

Berkshire Hathaway HomeServices Ambassador Real Estate, REALTORS® (Broker) Date: 12/20/2022 ("Date of Offer")

The undersigned Purchaser, (whether one or more) agrees to purchase the Property described as follows:

1. **Property Address:** 5741 Tucker Omaha, NE **Zip Code** 68152

2. **Legal Description (Property):** RAVEN OAKS LOT 18 BLOCK 2 IRREG as surveyed, platted and recorded in Douglas County **County, NE** **State** including all fixtures and equipment permanently attached to the Property.

3. **Personal Property:** The only personal property included is as follows: range/cooktop oven refrigerator microwave dishwasher all window coverings all window covering hardware all light fixtures all ceiling fans washer dryer all TV mounts garage door opener(s) with all remotes outdoor play equipment propane tank (unless rented) storage shed work bench security cameras (unless rented) video doorbells digital/smart thermostats and light switches shelving located in _____, other (list in space) _____ all as in place at the time of showing of the Property together with any other property which is permanently affixed to the Property.

4. **Conveyance:** Provided that the Seller (whether one or more) has good, valid and marketable title, in fee simple, Seller agrees to convey title to Property to Purchaser or their nominee by form of warranty deed or _____, free and clear of all liens, encumbrances or special taxes levied or assessed, no exceptions except _____ and subject to all building and use restrictions, utility easements abutting the boundary of the Property, and protective covenants now of record.

5. **Assessments:** Within five (5) calendar days of the execution of this Agreement, Seller agrees to provide notice to Purchaser of all public improvements related to the Property which have been ordered but not yet commenced and shall timely supplement such information as new or updated information or improvements become known to Seller prior to Closing. After receiving Notice under this Section from Seller, Purchaser may terminate this Agreement within five (5) calendar days of such notice. Except as agreed between Purchaser and Seller, special assessments for public improvements not commenced as of Closing shall be the responsibility of Purchaser. Seller agrees to pay any special assessments for public improvements previously constructed or under construction as of Closing. For the purpose of this paragraph, public improvement shall mean improvements constructed by or on behalf of a government entity including, but not limited to, paving, curb, sidewalk and utilities.

6. **Consideration:** Purchaser agrees to pay to Seller, via certified funds, unless otherwise set forth in this Agreement, the total purchase price in the amount of three hundred eleven thousand five hundred DOLLARS (\$311,500) on the following terms: \$4,000 (Earnest Money) deposited herewith as evidenced by the receipt below unless otherwise provided in Section 7, below, with the balance thereof, together with all other amounts required under this Agreement, to be paid at Closing.

7. **Receipt and Delivery of Earnest Money:** Earnest Money is made payable and delivered to as follows: delivered with this Agreement to be delivered within 72 hours of final acceptance of this Agreement. to be delivered later (if to be delivered later, see Section 10).

Earnest Money payable to Escrow Agent Purchaser Broker Seller Broker Seller.

Delivered by: Aaron Krier Name Received by: Green Title Name

PROPERTY ADDRESS: 5741 Tucker, Omaha, NE 68152

AK

GT

If the Earnest Money is paid by check, it will be cashed following acceptance of this Agreement or as otherwise agreed herein. In the event this offer is not accepted by the Seller of the Property within the time specified, the Earnest Money shall be returned to Purchaser. In the event there are any defects in the title which cannot be cured as specified below, the Earnest Money shall be paid to Purchaser. In the event of wrongful refusal or failure of the Purchaser to consummate the purchase, the Seller may, at his option, demand or retain the Earnest Money for failure to carry out the terms of this Purchase Agreement and pursue the Purchaser for any damages in excess of such amount, subject to the terms of the listing agreement. If the Earnest Money is held by either Broker, it may be transferred to an Escrow Agent at any time. In the case of a dispute over the return or forfeiture of the Earnest Money, the holder of the Earnest Money may require the agreement of Seller and Purchaser to release the Earnest Money. The holder of the Earnest Money may pay any Earnest Money into court upon the filing of any legal action related thereto. Such legal action shall not be maintained against Broker when the dispute is between Purchaser and Seller. Any party naming Broker as a party to any proceeding despite the aforementioned sentences shall be liable to Broker for all legal fees and costs.

8. Payment of Purchase Price. Purchaser shall pay the Purchase Price at Closing as follows (select one):

8.1 All Cash: Balance of the Purchase Price, after accounting for the Earnest Money, shall be paid in wire transferred funds, or certified or cashier's check at time of delivery of deed, no financing being required.

8.2 Conditional Upon Financing: This Agreement shall be conditional upon Purchaser obtaining financing, under the terms set forth below, if selected:

8.2.1 Terms of Financing. Balance of the Purchase Price, after accounting for the Earnest Money, shall be paid in wire transferred funds, or by certified or cashier's check at time of delivery of deed, conditioned upon Purchaser's ability to obtain financing to be secured by first mortgage or deed of trust, on above-described Property in the amount of \$ TBD (loan amount). The financing will be (select one) VA, FHA, CONVENTIONAL, USDA or _____, check here if loan to be NIFA qualified and for an initial interest rate not exceeding _____ % per annum, plus mortgage insurance. Financing will be for a period of not less than 30 _____ years. Loan origination/service fee to be paid by Purchaser except as otherwise agreed herein. In the event that the Purchaser has selected a governmental loan program which prohibits the Purchaser from paying closing costs in the manner required by the terms of this Agreement, said loan program requirements shall supersede the terms of this Agreement.

Seller Financing: - See attached addendum Loan Assumption: - See attached addendum.

8.2.2 Purchaser Loan Application Requirements: Purchaser agrees to make application for financing within five (5) or _____ business days of acceptance of this offer to one or more of the following:

<input checked="" type="checkbox"/>	Commercial State Bank	Chad Sonderman	_____	or
	Company Name	Loan Officer Name	Phone Number	
<input type="checkbox"/>	_____	_____	_____	or
	Company Name	Loan Officer Name	Phone Number	
<input type="checkbox"/>	_____	_____	_____	
	Company Name	Loan Officer Name	Phone Number	

Purchaser agrees to provide verification to Seller that a loan application has been submitted, Purchaser agrees to close within original set closing date, or, if the loan has not been approved or denied prior to the Closing date, Closing shall be automatically extended until approval or denial is issued, subject to the terms of Section 13, below. Upon notification to Purchaser of a loan denial, Purchaser shall notify Seller of such denial within one (1) business day. Unless otherwise agreed by Purchaser and Seller, this Agreement shall be deemed void null and void five (5) days following such notice to Seller.

9. SALE CONTINGENCY: (Check one if applicable):

9.1. Contingent Upon Sale and Closing: This offer is contingent upon the sale and closing of Purchaser's property located at: _____ (address) to be listed by _____ (brokerage) _____ (agent) on or before _____ (date). See attached addendum.

PROPERTY ADDRESS: 5741 Tucker, Omaha, NE 68152

Purchaser(s) Initials:

AK

Seller(s) Initials:

MSK

9.2. Contingent Upon Closing of Purchaser's Property Currently Under Contract: This offer is contingent upon Purchaser first obtaining the proceeds from the closing of the Purchaser's property located at _____ scheduled to close on approximately _____ (date).

If such closing does not occur on the closing date as scheduled, Closing Date shall be automatically extended until such contingent closing occurs. In the event that Closing Date is automatically extended pursuant to this section, the parties shall reasonably cooperate to schedule Closing on a date and time consistent with such extension. In the event that automatic extension of the Closing has delayed Closing by more than fourteen (14) calendar days, either Purchaser or Seller, upon written notice to the other, may declare this Agreement void, and the Earnest Money shall be returned to the Purchaser, less any and all costs which Purchaser is obligated to pay, including, but not limited to, costs of inspections and surveys ordered by or on behalf of Purchaser as invoiced to or made known to Escrow Agent.

10. Other Provisions (if attaching addenda, list in Section 33):

As a result of the previous buyer backing out on buying the house. AKAB properties has agreed to step in and buy the house from Martha Ross and net her roughly the same amount as she was going to net from the previous buyer. House to be fully insurable. Seller understand that Aaron Krier & Adam Briley are licensed real estate agents in the State of Nebraska. Seller understands Buyer is to purchase as an investment with the intentions to Flip the property to Turn a profit and or wholesale the property or be used as a rental. Seller Understands by not putting home on the Active Market (on the MLS) they may/ will be giving up on more potential money.
Purchasers agree to allow Seller to live in the house until April 30th 2023. At the end of the day April 30th 2023 seller to have all personal belonging removed from the home. Seller will maintain the home and keep it in good condition. Seller will also have renters insurance on the home. Seller will keep all utilities in her name until the day she moves out. See attached post occupancy agreement. -Seller and purchaser to make sure HVAC system in sunroom is fully functioning prior to closing by working through AHS Home Warranty. *except for the HVAC system*
Purchaser is buying the house on as is condition.

11. Taxes: If the Property is located in **Douglas or Sarpy County, Nebraska**, all consolidated real estate taxes which become delinquent in the year of Closing (as are typically paid in the year of Closing) are Current Taxes for the purposes of this Agreement. If the Property is located in any other county, all consolidated real estate taxes for the year in which Closing takes place (as are typically paid in the year following the year of Closing) are Current Taxes for the purposes of this Agreement (based on the most recently published preliminary or final assessed value and tax rate as of the date of Closing). Current Taxes shall include any property tax credit applicable to the Property under the Nebraska Property Tax Credit Act for such year. Such Current Taxes shall be prorated as of date of Closing, possession or _____.

12. Conveyance of Title and Closing.

12.1 Title Insurance Agent and Elections. The Real Estate Settlement Procedures Act ("RESPA") and its accompanying regulations make it clear that if the Purchaser pays any part of the title insurance policy, the Seller cannot make the sale conditioned on the use of a particular title insurance company. According to the Purchaser's rights under RESPA, Purchaser hereby directs the title insurance work to Ambassador Title Services, _____, or _____. Purchaser hereby selects the expanded ALTA Homeowners Policy of Title or _____. The cost of any title insurance policies and endorsements shall be equally divided between Purchaser and Seller or _____.

12.2. Title and Title Exceptions. Seller shall through Seller's Agent or Closing agent furnish a current title insurance commitment or complete abstract of title to Purchaser as soon as practical. If title defects are found, Seller must cure them within a reasonable time, and Closing shall be automatically extended until such defects are cured, in accordance with Section 13, below.

12.3 Closing and Closing Date. "Closing Date" as used herein shall be 12-15-2022 1-9-2023 or sooner, and possession date shall be Closing Date, or 04/30/2023. The time of the transfer of possession shall be as agreed upon by Purchaser and Seller, at a time not later than 4:00 PM on the day of Closing, but not before the time of Closing. At the time of transfer of possession, Seller shall leave the Property in broom-clean condition, free of any personal property not conveyed hereunder, and shall deliver all keys to the Property to Purchaser. "Closing" as used herein shall mean the event of the exchange of the Purchase Price for the deed to be conducted in accordance with Section 14, below.

13. Delay and Extension of Closing. In the event that Closing Date as set forth in Section 12.3 is automatically extended pursuant to Section 8.2.2, 9.2, or 12.2 of this Agreement, the parties shall reasonably cooperate to schedule Closing on a date and time consistent with such extension. In the event that automatic extension of the Closing has delayed Closing by more than fourteen (14) calendar days, either Purchaser or Seller, upon written notice to the other, may declare this Agreement void, and the Earnest Money shall be returned to the Purchaser, less any and all costs which Purchaser is obligated to pay, including, but not limited to, costs of inspections and surveys ordered by or on behalf of Purchaser as invoiced to or made known to Escrow Agent. Purchaser and Seller release and agree to hold harmless all listing

PROPERTY ADDRESS: 5741 Tucker, Omaha, NE 68152

Purchaser(s) Initials:

AK

Seller(s) Initials:

[Signature]

and selling brokers, title insurance companies, escrow agents and lenders, if any, together with their employees and associates, from and against any and all claims related to any delay in the occurrence of Closing.

14. Escrow Closing: Purchaser and Seller acknowledge and understand that the Closing of the sale may be handled by an Escrow Agent and that the Broker is authorized to transfer the Earnest Money or any other funds it receives to said Escrow Agent. After said transfer, Broker shall have no further responsibility or liability to Purchaser or Seller for the accounting for said funds. Escrow Agent's or the Broker's charge for the escrow Closing shall be equally divided between Purchaser and Seller. The State Documentary Tax on the deed shall be paid by the Seller. Escrow Agent shall be Ambassador Title Services, Green Title & Escrow, or . If no Escrow Agent is selected, the title insurance agent, above, shall be the Escrow Agent. At Closing Purchaser shall make payment of all amounts due in good funds, as determined by the Escrow Agent.

15. Survey: Purchaser is aware of the availability of having a survey to determine the property limits, measurements, building locations, encroachments from adjoining lands, and registered Easements which may affect the property. Purchaser may obtain and pay for one or more of the following:

1. Improvement Location Survey / Plot Plan (minimum survey; or relied upon for establishment of structure or other improvements),
 2. Boundary and Improvement Location Survey (corners located/verified; improvements located; parcel checked for encroachments, may be used for construction with regard to local, state and federal regulations),
 3. ALTA (American Land Title Association) Survey (most comprehensive survey, covers all aspects of above survey options and identifies any additional evidence of possession or use which could be adverse to Purchaser).
- In most situations, even if a survey is not required, one of the surveys is recommended.

16. Home Warranty Acknowledgment: Purchaser has been advised of the availability of Home warranty.

Purchaser shall receive a home warranty, provided at the expense of Purchaser Seller or . Purchaser selects the warranty type Non-Evaluated Warranty Evaluated Warranty (if available) with No Exclusions*. Cost is \$_____ plus applicable taxes. Home warranty plan benefits are limited to and defined by the plan documents, which Purchaser is advised to review. *(Seller is responsible to ensure issuance of warranty with no exclusions under this option.) Home warranty provider shall be American Home Shield (AHS) or .

Home warranty coverage rejected by Purchaser.

17. Wood Infestation: Purchaser (Seller, in the case of a new VA loan) agrees to pay the cost of a wood destroying insect inspection of the Property, and Seller agrees to pay for any treatment or repair work found necessary for issuance of a wood destroying insects warranty. Termite inspection work is to be performed by Integrity Termite, Red Termite, Bug-Z Pest Control, or Lien. Purchaser agrees to accept the treated Property upon completion of repairs. Provided, however, if treatment and repairs exceed 2% of the purchase price or , this Purchase Agreement may be cancelled by Seller and/or Purchaser, by written notice delivered to the other party within five (5) calendar days of such terminating party's receipt of the wood destroying insect inspection report. Such inspection report must be delivered to the Seller and Purchaser not later than ten (10) or calendar days prior to the Closing Date, at which time Purchaser shall be paid the Earnest Money with no further agreement or release required.

18. Property Inspections: Purchaser has been advised of the availability of property inspections/tests. Unsatisfactory Home Conditions, Asbestos, Mold, Lead, Radon and other contaminants may exist in the Property of which the Broker or Agent is unaware. Suspected Contaminants and home condition may be identified with a typical air quality or home inspection(s). Broker recommends Purchaser obtain inspection(s) of Purchaser's choice to better determine the presence of contaminants and home condition.

Select and Initial One:

Purchaser elects NOT to obtain Property inspections.
 Purchaser reserves the right to perform Property inspections

PROPERTY ADDRESS: 5741 Tucker, Omaha, NE 68152

Purchaser(s) Initials: Seller(s) Initials:

If Purchaser has reserved the right to obtain property inspections, then the following provisions shall apply:

18.1 Purchaser, at Purchaser’s expense, shall have the right to perform any inspections or investigation related to the Property that Purchaser desires, including a survey. If the condition of the Property is unsatisfactory in Purchaser’s subjective discretion, Purchaser shall provide Seller with:

18.1.1 An Inspection Notice Addendum that sets out in writing any unsatisfactory physical items Purchaser requests Seller to correct;

OR

18.1.2 A Rejection Notice that notifies Seller that after inspection, Purchaser finds the Property to be in unsatisfactory condition (a rejection of the property).

18.2 To be effective, the Inspection Notice Addendum or Rejection Notice must be received by Seller no later than 5:00 p.m. on the 14th calendar day after the acceptance date (“Inspection Objection Deadline”).

18.3 If an Inspection Notice Addendum or Rejection Notice is not received by Seller by 5:00 p.m. on the 14th calendar day after the acceptance date (“Inspection Objection Deadline”), the Property shall be deemed to be satisfactory to Purchaser.

18.4 If a Rejection Notice is received by Seller by the Inspection Objection Deadline this Agreement shall automatically terminate.

18.5 If an Inspection Notice Addendum containing requests for action by Seller is received by Seller by the Inspection Objection Deadline and Purchaser and Seller have not agreed in writing as to what action is to be taken regarding the items by 5:00 p.m. on the 18th calendar day after the acceptance date of the Agreement (“Resolution Deadline”), this Agreement shall automatically terminate on the Resolution Deadline unless, before such termination, Purchaser’s written notice of withdrawal of the requirement that Seller correct the items contained in the Inspection Notice Addendum is received by Seller.

18.6 Upon termination of this Agreement under this Section 18, the Earnest Money, less amounts necessary to pay any expenses incurred by REALTOR® or escrow agent holding the Earnest Money, shall be refunded to Purchaser promptly, upon Purchaser providing written notification of the facts constituting termination to the party holding the Earnest Money, without further documentation being required, other than documentation of payment of known expenses incurred by or on behalf of Purchaser. Purchaser shall be responsible for payment of all inspections, surveys, engineering reports or for additional work performed at Purchaser’s request and shall pay for any damage which occurs to the real and personal property as a result of such activities. The provisions of this paragraph shall survive termination of the Agreement.

18.7 Purchaser does not, by acceptance of the real and personal property identified in this Agreement, waive, release or relinquish any right or claim Purchaser may have against Seller by reason of any misrepresentation, concealment or fraud.

18.8. If Purchaser chooses to have a radon test, and the results of the radon test show average radon levels below 4.0 picocuries per liter of air (pCi/L), such results shall be deemed acceptable to Purchaser.

19. Purchaser’s Personal Inspection: This offer is based upon Purchaser’s personal inspection or investigation of the property and not upon any representation or warranties of condition by Seller or any limited agents involved in this transaction. If finished sq. ft., age, location of property lines, lot size, condition of improvements, protective covenants, designated school or school district, or other specific requirements are important to Purchaser’s decision to purchase, Purchaser acknowledges the limited agents have advised Purchaser to make or procure independent investigations.

20. Utilities: Purchaser agrees to have all utilities transferred into their name, as of the date of Closing or possession, whichever is earlier. If there are any “Smart Home” or utility-connected devices controlled by online services on the Property, Seller agrees to remove the ability of Seller to control such devices and disable Seller’s own access. Purchaser agrees to reset all such devices to prevent such devices from connecting to Seller’s related accounts.

21. Condition of Property: Seller represents to the best of Seller’s knowledge, information and belief, there are no material, latent defects in the Property nor any conditions present or existing with respect to the Property which may give rise to or create Environmental

PROPERTY ADDRESS: 5741 Tucker, Omaha, NE 68152

Purchaser(s) Initials:

AK

Seller(s) Initials:

AK

Hazards or Liabilities and there are no enforcement actions pending or threatened with respect to the Property or any conditions present on it, except as have been disclosed in writing to Purchaser. Seller agrees to maintain the lawn care, landscaping, sprinkler system, heating, air conditioning, water heater, sewer, plumbing, electrical systems and any built-in appliances in functional and operable condition as existed as of the date of this Agreement until delivery of possession, unless otherwise noted in the Seller Property Condition Disclosure Statement or specified herein. Seller will allow Purchaser to walk through Property within 1 calendar days before Closing to confirm compliance with this Purchase Agreement. Following Closing, Purchaser shall be responsible for all maintenance and care for the Property.

22. **Rents, Leases and Tax Deferred Exchange:** All leases and rents shall be current and not in default at Closing. Any tenant deposits and leases shall be assigned to Purchaser at no cost. All rents shall be prorated to date of Closing. Copies of all current leases shall be provided to the Purchaser within three (3) calendar days of acceptance of this Agreement. Purchaser and Seller each reserve the right to classify this transaction as a like-kind exchange under Section 1031 of the Internal Revenue Code. Each party shall cooperate with the other in such exchange, but shall not be required to incur additional expense or delays, by reason of the other party's intended exchange.

23. **Homeowners Association and Protective Covenants:** Purchaser acknowledges that the Property may be subject to protective covenants that govern Purchaser's use of the Property, and that may be enforced by the homeowners association or its members. Purchaser can obtain a copy of the protective covenants from the designated title insurance company. Seller shall pay all homeowners and neighborhood association assessments levied and due as of Closing. Homeowners or neighborhood association dues shall be prorated to the date of Closing. Purchaser shall be responsible for all future homeowners or neighborhood association dues, if any.

24. **Release of Information:** Purchaser and Seller authorize the release by Broker and/or its agents of information including price, financing and Property information regarding the purchase of this Property to the Great Plains Regional MLS, LLC, its members and affiliates, its participants and government entities. Purchaser authorizes selling agent/broker to market the fact of the sale of this Property and related information including, but not limited to, the purchase price.

25. **Government Required Actions and Disclosures:**

25.1 **Seller Property Condition Disclosure:** Purchaser acknowledges receipt of Seller Property Condition Disclosure Statement dated _____ unless not required by law.

25.2 **Lead Based Paint:** Was property built before 1978? Yes No. If yes, Purchaser and Seller must complete Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards.

25.3 **SID:** Is the property located within an SID? Yes No. Purchaser understands that this Property is located within S.I.D. # _____. If the Property is located within an SID, Purchaser acknowledges receipt of the most recently filed S.I.D. Statement and understands: (i) the Property is located within a sanitary and Improvement district; (ii) sanitary and Improvement districts are located outside the corporate limits of any municipality; (iii) residents of sanitary and improvement districts are not eligible to vote in municipal elections; and (iv) owners of Property located within sanitary and improvement districts have limited access to services provided by nearby municipalities until and unless the Property is annexed by the municipality.

25.4 **Fair Housing.** It is unlawful to discriminate against any person in the terms, conditions or privileges of sale, purchase or lease of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, ethnic origin, familial status, sex (including gender identity and sexual orientation) handicap or disability. Local laws may apply to prohibit other kinds of discrimination. All references made (i) in any gender shall be deemed to have been made in all genders; (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well.

25.5 **Safety:** Seller agrees to install, at Seller's expense, smoke detectors and carbon monoxide alarms as required by law.

25.6 **Affiliated Business Arrangements:** Purchaser and Seller acknowledge and understand that real estate brokers involved in this transaction may receive financial remuneration from the sale of title insurance or other forms of insurance or service as defined in the Affiliated Business Arrangement Disclosure, if applicable.

26. **Insurance and Property Damage:** Seller shall insure the property for fire, wind, hail, explosion, water or any other cause at no less than replacement cost until Closing. Risk of loss or damage to Property, prior to Closing, shall be the responsibility of Seller. If, following the effective date of this Agreement, the Seller(s) has knowledge that the structure(s) on the Property are materially damaged; Seller shall immediately notify the Purchaser in writing of the damage. If storm damage is suspected but not actually known by Seller, Seller shall notify

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Purchaser(s) Initials:

AK

Seller(s) Initials:

AK

Purchaser and Seller and Purchaser shall have the right to have the Property inspected by an Insurance adjustor or contractor, provided that such contractor must be licensed, if required, in the state, county, or city in which the Property is located. If damage is found, Seller shall be obligated to repair such damage prior to Closing unless Purchaser and Seller agree to allow repair to be made after Closing and Seller agrees to have held by the Escrow Agent one and one-half times the cost of repairs. Notwithstanding the foregoing, in the event that the cost of such repairs exceed 5% of the Purchase Price or _____, Purchaser may terminate this Agreement. Purchaser and Seller acknowledge and agree that there may be additional documentation and access needed to facilitate the repairs. As such, Seller and Purchaser agree to cooperate in executing documents necessary to complete the sale in a timely manner. Access to the property for repairs will not be unreasonably withheld.

27. Notice, Delivery and Time. Any notice permitted or required to be delivered to either party under this Agreement shall be sufficiently made via email or hand delivery to each party's agent or Broker as named herein, regardless of whether such notice is reviewed. Any notice required to be made under this Agreement shall be required to be made before 5:00 P.M. of the prevailing local time of the Property. In measuring the number of days elapsed for any notice or other requirement under this Agreement, the counting of days shall exclude the day of the triggering event or notice.

28. Modification in Writing: Any modification of the terms of this agreement must be in writing and signed by all parties.

29. Electronic Transaction Authorization: The undersigned agree that all documents bearing signatures, initials or other marks of acknowledgement by a Purchaser, Seller and/or Broker/agent relating to a real estate transaction contemplated under this Agreement, including offers, counteroffers and acceptances: (1) may be transmitted electronically, and/or may use digital signature technology which is compliant with state UETA and/or federal E-SIGN requirements and (2) that digital signatures as well as electronic copies of manual signatures, whether scanned, digital photograph, facsimile or other means of image reproduction shall be treated in all respects as originals, and (3) that they will submit all original signatures if requested by the other party. This Agreement and any addendums or modifications may be signed in counterparts and such counterparts shall be considered as one document.

30. Compensation of Selling Broker: Purchaser shall pay Selling Broker compensation of \$ 0 at Closing. The compensation will be collected in all cases except if Purchaser secures a loan that does not allow Purchaser to pay for such compensation. If this compensation is paid by Purchaser to Selling Broker, Seller and Purchaser agree that Selling Broker, which may be the same as the Listing Broker, or any cooperating broker may collect compensation from both Seller and Purchaser.

31. Arbitration and Mediation:

31.1 Disputes: The term "Dispute" shall include, without limitation, any controversy, complaint, dispute, claim or disagreement relating to or arising out of the construction, interpretation, enforcement, or breach of the terms of this Purchase Agreement between Purchaser and Seller.

31.2 Mediation: In the event of any Dispute, any party to the Dispute may seek non-binding mediation in an attempt to resolve the dispute by giving fifteen (15) calendar days written notice of a request for such mediation to all other parties to the Dispute. The request for mediation must be made within three hundred sixty-five (365) calendar days after the party making the request knew, or exercising reasonable diligence and care, should have known, of the Dispute. In no case shall such request be made after the statute of limitations on a civil suit based on the Dispute would have run. Such mediation shall be administered by the American Arbitration Association and shall be conducted according to the American Arbitration Association's Commercial Rules – Real Estate Industry Arbitration Rules (including a Mediation Alternative) or such other mediation service versed in real estate practices of the locality.

31.3 Arbitration: Any Dispute that is not resolved by informal settlement or mediation shall be resolved exclusively by binding arbitration. Such arbitration shall be administered by the American Arbitration Association and shall be conducted according to the American Arbitration Association's Commercial Rules – Real Estate Industry Arbitration Rules (including a Mediation Alternative). The arbitrator(s) shall apply substantive and procedural law of the jurisdiction of the Property to the arbitration proceeding. Arbitration shall be commenced by written demand made by any one or more of the parties to the Dispute given to all other parties to the Dispute. The demand for arbitration must be in writing and must be given by personal delivery or certified mail, return receipt requested, within three hundred sixty-five (365) days after the party making the demand knew, or exercising reasonable diligence and care, should have known, of the Dispute. Notwithstanding the previous sentence, in the case that the parties unsuccessfully attempt mediation to resolve a Dispute, the demand for arbitration shall be made within sixty (60) days of the final mediation session. However, in no case shall such demand be made after the statute of limitations on a civil suit based on the Dispute would have run.

PROPERTY ADDRESS: 5741 Tucker, Omaha, NE 68152

Purchaser(s) Initials:

AK

Seller(s) Initials:

MP

The prevailing party shall be entitled to costs and fees of the arbitration and, in the discretion of the arbitrator who shall take into account the relative merits of the opponent's case, the arbiter may award attorney's fees and arbitration costs to the prevailing party.

31.4 Provisional Remedies. The filing of a judicial action to enable the reporting of a notice of pending action, for order of attachment, receivership, injunction, or other like provisional remedies, shall not constitute a waiver of mediation or arbitration under this provision, nor shall it constitute a breach of the duty to arbitrate.

31.5 Exclusions. The terms of this Section shall not apply to: 1) Foreclosure or other action or proceeding to enforce a deed of trust, mortgage or land contract; 2) the filing or enforcement of a construction or similar lien, or 3) an action filed and held in "Small Claims Court, as defined in Neb. Res. Stat 25-2801 to 2804, provided, however, that any attempt to transfer such a proceeding to county or district court shall make this Section applicable to such action.

31.6 Waiver. BY SIGNING THIS PURCHASE AGREEMENT, THE PARTIES AGREE THAT EVERY DISPUTE DESCRIBED ABOVE THAT IS NOT RESOLVED BY INFORMAL SETTLEMENT OR MEDIATION WILL BE DECIDED EXCLUSIVELY BY ARBITRATION AND THAT ANY ARBITRATION DECISION WILL BE FINAL AND BINDING. THE PARTIES AGREE THAT THEY WILL RECEIVE ALL THE RIGHTS AND BENEFITS OF ARBITRATION BUT ARE GIVING UP RIGHTS THEY MIGHT HAVE TO LITIGATE THOSE CLAIMS AND DISPUTES IN A COURT OR JURY TRIAL, OR TO PARTICIPATE AS A REPRESENTATIVE OR MEMBER OF ANY CLASS OF CLAIMANTS IN CONNECTION WITH ANY SUCH DISPUTES. NO PARTY TO THIS AGREEMENT, WHETHER REALTOR® OR SELLER, SHALL BE ENTITLED TO JOIN OR CONSOLIDATE DISPUTES BY OR AGAINST OTHERS IN ANY ARBITRATION, OR TO INCLUDE IN ANY ARBITRATION ANY DISPUTE AS A REPRESENTATIVE OR MEMBER OF A CLASS, OR TO ACT IN ANY ARBITRATION IN THE INTEREST OF THE GENERAL PUBLIC OR IN ANY PRIVATE ATTORNEY GENERAL CAPACITY.

Section 31 is hereby waived by all parties if this Section Initialed

Purchaser(s) Initials:

32. Offer Expiration: This offer to purchase is subject to acceptance by Seller on or before 12-20-2022, at 11:59 o'clock P. M., prevailing local time.

33. List of Attachments and Addenda, and Disclosures. Purchaser and Seller acknowledge delivery and receipt of the following:

Addenda

HUD/FHA/VA Mortgage Addendum

Disclosures and Attachments Provided Between Purchaser and Seller

- Seller Property Condition Disclosure Statement Signed and Dated _____
- Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards
- Limited Dual Agency Agreement
- S.I.D. Statement
- Preapproval/Prequalification Letter

Checklist of Documents provided to Purchaser from Purchaser's Broker

- Affiliated Business Arrangement Disclosure
- Wire Fraud Notice

Each of the undersigned parties executing this Agreement and each individual executing this Agreement on behalf of an entity represents and warrants that they are duly authorized to do so.

The arbitration provisions of this Agreement are contained in Section 31, unless waived or modified.

PROPERTY ADDRESS: 5741 Tucker, Omaha, NE 68152

Purchaser(s) Initials:

Seller(s) Initials:

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

Purchaser: [Signature]
(date)

Aaron Krier
Purchaser's Name (Printed)

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

Purchaser: _____
(date)

Purchaser's Name (Printed)

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

Purchaser acknowledges receipt of a signed copy of this Purchase Agreement, as well as Estimated Purchaser's Closing Cost Statement if required by law.

NAMES FOR DEED (Purchaser retains the right to change prior to Closing)

NAME(S) FOR DEED (Optional) AKAB Properties LLC
 Single Individual(s) Married Individual(s) A Married Couple Other

PURCHASER AGENT INFO

Berkshire Hathaway HomeServices
REALTOR® (Company Name), Broker
331 Village Point Plaza, Omaha NE 68118
OFFICE ADDRESS
4300
OFFICE MLS ID.#
402-493-4663
OFFICE PHONE #

Cara Crawford Aaron Krier/Adam Briley
AGENT NAME (Printed)
cara@caracrawford.homes aaron.krier@bhhsamb.com
AGENT E-MAIL ADDRESS
20200041 20190532
AGENT MLS ID # / AGENT NREC LICENSE #
832-721-2272 712-221-0378
AGENT PHONE #

SELLER ACCEPTANCE OR COUNTER

(CHECK ONE AND SIGN BELOW)

Seller Acceptance. The Seller, whether one or more, accepts the foregoing offer to purchase on the terms stated and agrees to convey title to the Property, deliver possession, and perform all the terms and conditions set forth:

This acceptance is made as of the date of the Seller signature below (or, if more than one, the last of the Seller signatures).

Seller Counteroffer. The Seller, whether one or more, counters the foregoing offer to purchase on the terms stated and agrees to convey title to the Property, deliver possession, and perform all the terms and conditions set forth, except as follows:

[Empty box for counteroffer details]

PROPERTY ADDRESS: 5741 Tucker, Omaha, NE 68152

Purchaser(s) Initials:

AK

Seller(s) Initials:

[Signature]

This counteroffer is made as of the date of the Seller signature below (or, if more than one, the last of the Seller signatures). This counteroffer to purchase is subject to acceptance by Purchaser on or before _____ at _____ o'clock _____ M., prevailing local time.

Seller acknowledges receipt of a copy of this Agreement with all identified addenda and, if required by law, an Estimated Seller's Closing Statement. The undersigned Seller executes this agreement as of the date set forth above.

The arbitration provisions of this Agreement are contained in Section 31, unless waived or modified.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

Seller: [Signature] 12-20-22
(date)

Seller: _____
(date)

Seller's Name (Printed)

Seller's Name (Printed)

If Seller is a married individual, the Seller's spouse will be required to sign the Deed and other closing documents.
Seller is: Single Individual(s) Married Individual(s) A Married Couple A Legal Entity.

SELLER AGENT INFO

Berkshire Hathaway
REALTOR® (Company Name), Broker

Aaron Krier
AGENT NAME (Printed)

OFFICE ADDRESS

aaron.krier@bhhsamb.com
AGENT E-MAIL ADDRESS

OFFICE MLS ID #

/ 20190532
AGENT MLS ID # / AGENT NREC LICENSE #

712-221-0378
OFFICE PHONE #

7122210378
AGENT PHONE #

PURCHASER ACCEPTANCE OR COUNTER

(CHECK ONE AND SIGN BELOW)

Purchaser Acceptance. The Purchaser, whether one or more, accepts the foregoing Seller's counteroffer to purchase on the terms stated and perform all the terms and conditions set forth therein, without counter or modification:

This acceptance made as of the date of the Purchaser signature below (or, if more than one, the last of the Purchaser signatures).

Purchaser Counteroffer. The Purchaser, whether one or more, counters the foregoing offer to purchase on the terms stated and agrees to convey title to the Property, deliver possession, and perform all the terms and conditions set forth, except as follows:

[Empty box for counteroffer details]

PROPERTY ADDRESS: 5741 Tucker, Omaha, NE 68152

Purchaser(s) Initials: AK

Seller(s) Initials: [Signature]

This counteroffer is made as of the date of the Purchaser signature below (or, if more than one, the last of the Purchaser signatures). This counteroffer to purchase is subject to acceptance by Purchaser on or before _____, at _____ o'clock ____ M., prevailing local time.

Purchaser acknowledges receipt of a copy of this Agreement with all identified addenda and, if required by law, an Estimated Purchaser's Closing Statement. The undersigned Purchaser executes this agreement as of the date set forth above.

The arbitration provisions of this Agreement are contained in Section 31, unless waived or modified.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

Purchaser: _____
(date)

Purchaser: _____
(date)

Purchaser's Name (Printed)

Purchaser's Name (Printed)

SELLER ACCEPTANCE OR COUNTER

(CHECK ONE AND SIGN BELOW)

THE UNDERSIGNED SELLER:

- accepts the terms above.
- makes a counteroffer with an attached addendum.

This acceptance or counter is made as of the date of the Seller signature below (or, if more than one, the last of the Seller signatures). The arbitration provisions of this Agreement are contained in Section 31, unless waived or modified.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION IN SECTION 31 WHICH MAY BE ENFORCED BY THE PARTIES.

Seller: _____
(date)

Seller: _____
(date)

Seller's Name (Printed)

Seller's Name (Printed)

PROPERTY ADDRESS: 5741 Tucker, Omaha, NE 68152

Purchaser(s) Initials:

AK

Seller(s) Initials:

ME

CORRESPONDENCE

Aaron, Jan &
Company are
Top Quality

Salvatore
you Aaron
& Adam
#1



Your Customer
Care is
Remarkable



You took
a negative
&
Made a positive

Thank you for everything you do! & did
God Bless America
- Mary Martha ...

**BEFORE THE STATE REAL ESTATE COMMISSION
OF THE STATE OF NEBRASKA**

STATE OF NEBRASKA, *ex rel.*,
THE STATE REAL ESTATE
COMMISSION OF THE STATE OF
NEBRASKA, DR. SHIRLEY MCKELLAR,
and BELINDA MORROW

Complainants,

v.

AARON SCOTT KRIER,

Respondent.

Case No. 2023-015

**FIRST AMENDED
FINAL PREHEARING ORDER**

A final prehearing conference was held on Wednesday March 13, 2024, at 1:00 p.m., by telephone conference call. Appearing for the parties were J.L. Spray for Complainant State of Nebraska Real Estate Commission ("Commission") and Douglas Ruge for Respondent Aaron Scott Krier ("Respondent").

1. *Exhibits.* Exhibit lists shall be as attached hereto as Exhibit A. Failure to list an exhibit, other than exhibits used solely for purposes of impeachment, shall result in its non-admissibility. The failure to state objections on the exhibit list shall be deemed a waiver of such objections. Copies of state statutes, state regulations, or of case law shall not be identified as exhibits but shall be included in the briefs to be submitted by the parties.

2. *Uncontroverted Facts.* The parties have agreed that the following may be accepted as established facts for the purposes of this case only:

- a) Respondent is and has been at all times relevant the holder of a Nebraska real estate salesperson's license first issued by the Commission on June 21, 2019.
- b) Respondent is and has been at all times relevant affiliated with Vincent W. Leisey, designated broker for Ambassador Real Estate Company, located at 331 Village Pointe Plaza Omaha, Nebraska 68118 (the "Brokerage").
- c) Respondent was the seller's agent for Ms. Martha E. Ross ("Ms. Ross") in the sale of her home located at 5741 Tucker Circle in Omaha, Nebraska 68152 (the "Tucker Cir. Home") in the fall and winter of 2022.
- d) The list price in the listing agreement between Ms. Ross and Respondent for the Tucker Cir. Home was \$330,000.00.
- e) On or around October 22, 2022, Ms. Ross received and accepted an offer of \$346,000.00 from a Garrett A. Karthausser ("Mr. Karthausser") with a closing date set for December 2, 2022.
- f) On or around December 18, 2022, Mr. Karthausser did a final walkthrough

- the Tucker Cir. Home for closing of the sale.
- g) On or around December 18, 2022, Mr. Karthausser informed Respondent he would not close the sale pursuant to the purchase agreement.
 - h) On or around December 20, 2022, Respondent and his business partner, Mr. Adam Briley, through their business, AKAB Properties, LLC, executed a Purchase Agreement with Ms. Ross to purchase the Tucker Cir. Home at the price of \$311,500.00.
 - i) The sale of the Tucker Cir. Home from Ms. Ross to Respondent, Adam Briley, and AKAB Properties, LLC closed on or around January 9, 2023.
 - j) On or around January 9, 2023, Respondent, Adam Briley, and AKAB Properties, LLC executed a new listing agreement (“Respondent’s Listing”) for the Tucker Cir. Home.
 - k) Under Respondent’s Listing, the list price for the Tucker Cir. Home would be \$375,000.00, Respondent was the seller’s agent, and Ambassador Real Estate (the “Brokerage”) was to receive a 2.4% commission on the sale.
 - l) On January 9, 2023, Respondent executed a purchase agreement with Jena and Stuart Bailey (the “Baileys”) with a purchase price of \$375,000.00.
 - m) The Baileys’ purchase price was adjusted to \$365,000.00 per an addendum to the purchase agreement dated January 10, 2023.
 - n) The sale of the Tucker Cir. Home to the Baileys for \$365,000.00 closed on or around March 1, 2023.

3. *Controverted and Unresolved Issues.* The issues remaining to be determined and unresolved matters for the commission’s attention are:

- a) Whether Ms. Ross lacked the requisite capacity to enter into contracts including the listing agreement with Respondent and the Purchase Agreements executed by her due to dementia or other mental health issues existing at the times relevant to this matter.
- b) Whether Respondent had any knowledge that Ms. Ross lacked the requisite capacity to enter into contracts including the listing agreement with Respondent and the Purchase Agreements executed by her.
- c) Whether Respondent violated his duties as a seller’s agent under NEB. REV. STAT. § 76–2417(1)(a)-(c) to perform the terms of the written agreement made with the client; exercise reasonable skill and care for the client; promote the interests of the client with the utmost good faith, loyalty, and fidelity.
- d) Whether the Purchase Agreement between Mr. Karthausser and Ms. Ross required Ms. Ross to leave the Tucker Cir. Home in “broom-clean condition, free of any personal property not conveyed” at the time for transfer of possession.
- e) Whether, during his final walkthrough, Mr. Karthausser found the Tucker Cir. Home to be in a state of disorder with certain HVAC components not functioning and Ms. Ross’s belongings unpacked and piled up throughout the Tucker Cir. Home.

- f) Whether Ms. Ross had not packed in advance of moving.
- g) Whether Ms. Ross then tried to renegotiate the purchase agreement with Mr. Karthausser regarding leaving some furniture.
- h) Whether Ms. Ross tried to have Mr. Karthausser accept a leaseback even though the purchase agreement he signed did not include one.
- i) Whether the condition of the Tucker Cir. Home and Ms. Ross's failure to pack and move out as found by Mr. Karthausser was the reason he backed out of the sale.
- j) Whether Respondent's violations of his duties as a seller's agent under NEB. REV. STAT. § 76-2417(1)(a)-(c) constitute an unfair trade practice under NEB. REV. STAT. § 81-885.24(16).
- k) Whether Respondent demonstrated "negligence, incompetency, or unworthiness to act as a broker or salesperson" under NEB. REV. STAT. § 81-885.24(29) by engaging in the conduct described in the Complaint.
- l) Whether Respondent committed any unfair trade practice under NEB. REV. STAT. § 81-885.24(22) by making any substantial misrepresentations.

4. *Rules of Evidence.* A statement of intent has been made by the following parties to waive their right to request that the hearing be conducted according to the rules of evidence applicable in a district court: **OR** A statement of intent to request that the commission be bound by the rules of evidence applicable in district court has been made by the following parties:

The parties waive their rights to request that the hearing be conducted according to the Rules of Evidence.

5. *Witnesses.*

- (A) All witnesses, including rebuttal witnesses and expert witnesses (stating their profession and area of expertise), whom the complainant expects to call to testify, except those who may be called for impeachment purposes only, are (give name, address and telephone number):

See Exhibit B Joint Witness List. Witnesses may be called to testify via remote means pursuant to 305 NEB. ADMIN. CODE Ch. 4-007.03.

- (B) All witnesses, including rebuttal witnesses and expert witnesses (stating their profession and area of expertise), whom the respondent expects to call to testify, except those who may be called solely for impeachment purposes, are (give name, address and telephone number):

See Exhibit B Joint Witness List.

No witness whose name, address and telephone number does not appear herein shall be permitted to testify for any purpose, except impeachment.

6. *Depositions and Other Discovery Documents.*

(A) All depositions, answers to written interrogatories, and requests for admissions or portions thereof which are expected to be offered in evidence by the complainant as part of its case-in-chief are:

- i. **Respondent's Answers to Complainant's First Set of Interrogatories.**
- ii. **Respondent's Responses to Complainant's First Set of Requests for Production of Documents.**
- iii. **Responses of University of Nebraska Medical Center to Complainant's document Subpoena.**

(B) All depositions, answers to written interrogatories, and requests for admissions or portions thereof which are expected to be offered in evidence by the respondent as part of the Respondent's case-in-chief are:

- i. **Complainant's Answers to Respondent's First Set of Interrogatories.**
- ii. **Complainant's Responses to Respondent's First Set of Requests for Production of Documents.**

(C) All discovery identified above must be included in the Exhibit List.

(D) Complainant shall issue its document subpoena referenced in 6(A)(iii) no later than March 18, 2024. Respondent shall issue its discovery requests to Complainant no later than March 18, 2024. Both parties shall respond to the other party's discovery requests within two weeks of this order or receipt of the requests, whichever is later.

(E) Any third party document production or response shall be provided to the other party within 24 hours of receipt and any motions in limine or motions for continuance in connection with such production responses shall be filed with 48 hours of receipt with a request for a telephonic hearing. The hearing officer reserves the right to rule on any such motion.

7. *Length of Hearing.* The parties estimate the hearing will last **three** hours.

8. *Manner of Testimony.* **Witness oral testimony.**

9. *Hearing Date, Time and Location.* The Hearing is scheduled to commence on: Thursday April 25, 2024, at 10:30 a.m. in the Telegraph Lofts East Center, 4th Floor Conference Room located at 200 South 21st Street, Lincoln, NE.

10. *Motions in Limine.* The parties are given until April 15, 2024, to file motions in limine. Any such motion shall be supported by a brief which shall be submitted to the prehearing officer contemporaneously with the filing of the motion in limine. A brief in opposition to any motion in limine shall be submitted to the prehearing officer on or before April 20, 2024.

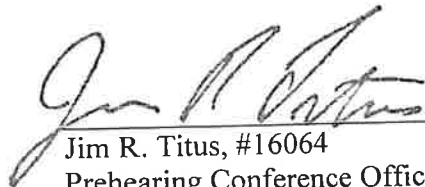
11. *Hearing Briefs.* It is ordered that the parties shall submit a legal brief addressing their respective arguments for a finding of guilt or innocence on each charge and their suggested disposition in the event of a finding of guilt as to each specific charge. The parties may include arguments in their briefs on any other issues they deem pertinent to the commission's resolution of the charges. Each party shall submit an original plus eight copies of their brief to the commission's director, Greg Lemon, Nebraska Real Estate Commission, P.O. Box 94667, Lincoln, NE 68509-4667, so that the brief is received by the director at least ten business days before the date on which the hearing is scheduled to commence, in order to allow the director to distribute copies of the brief to the chairperson and all commission members at least seven business days before the date on which the hearing is scheduled to commence. A copy of the brief shall also be served on opposing parties or their counsel at the time of submission to the commission.

12. *Rulings on Non-dispositive Motions.* **Not applicable.**

13. *Suggested Rulings on Objections to Exhibits* (Objections: R - Relevancy; H - Hearsay; A - Authenticity; F - Foundation; O - Other). **Not applicable.**

14. All exhibits shall be received and shall be given the weight and relevance which the Commissioners deem appropriate.

DATED: March 15, 2024.



Jim R. Titus, #16064
Prehearing Conference Officer
Peetz Koerwitz & Lafleur, PC LLO
5825 South 14th Street, Ste. 200
Lincoln, NE 68512
Phone: 402-434-5203
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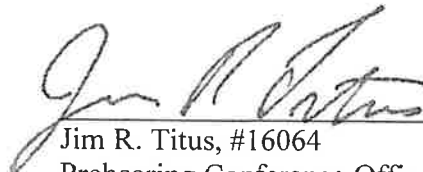
CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2024, I served a true and correct copy of the foregoing document by email and/or by first-class United States mail, postage prepaid on the following parties:

Aaron Scott Krier, via counsel
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**BEFORE THE STATE REAL ESTATE COMMISSION
OF THE STATE OF NEBRASKA**

STATE OF NEBRASKA, *ex rel.*,
THE STATE REAL ESTATE
COMMISSION OF THE STATE OF
NEBRASKA, DR. SHIRLEY MCKELLAR,
and BELINDA MORROW

Complainants,

v.

AARON SCOTT KRIER,

Respondent.

Case No. 2023-015

**COMPLAINANT'S
HEARING BRIEF**

INTRODUCTION

This is a disciplinary proceeding brought by Complainant the State of Nebraska, *ex rel.* the State Real Estate Commission of the State of Nebraska (the "Commission") against Aaron Scott Krier ("Respondent") involving his purchase of real property located at 5741 Tucker Circle in Omaha, Nebraska 68152 (the "Tucker Circle Home") from Mrs. Martha E. Ross ("Mrs. Ross") in December 2022 to January 2023. Prior to the purchase at issue, Respondent represented Mrs. Ross as her seller's agent in her listing the Tucker Circle Home for sale.

STATEMENT OF FACTS

Respondent holds a Nebraska real estate salesperson's license first issued by the Commission on June 21, 2019. *See* First Amended Final Prehearing Order ("Prehearing Order") at p. 1, ¶ 2(a). Respondent is, and has been at all times relevant, affiliated with Vincent W. Leisey, designated broker for Ambassador Real Estate Company, located at 331 Village Pointe Plaza Omaha, Nebraska 68118 (the "Brokerage"). *Id.* at ¶ 2(b). Again, Respondent represented Mrs. Ross as her seller's agent in listing her Tucker Circle Home for sale over the fall and winter of 2022. *Id.* at ¶ 2(c). The initial listing price for the Tucker Circle Home was \$330,000.00. *Id.* at ¶ 2(d).

On or around October 22, 2022, Mrs. Ross received and accepted an offer of \$346,000.00 for the Tucker Circle Home ("Karthausser Agreement") from a Garrett A. Karthausser ("Mr.

Karthauser”) with a closing date set for December 2, 2022. *Id.* at ¶ 2(e); *see also* Ex. 5. Mr. Karthauser did a final walkthrough of the Tucker Circle Home for closing of the sale on or around December 18, 2022. Prehearing Order at ¶ 2(f). The closing date had been extended because Mr. Karthauser had seen Mrs. Ross was not yet ready to move at the time of the offer. *See* Ex. 26 at p. 1. After the execution of the Karthauser Agreement, Mrs. Ross began to ask Mr. Karthauser for a leaseback. Ex. 26 at p. 1. Mr. Karthauser was asked to close earlier without a plan for Mrs. Ross to vacate and remove her possessions. *Id.* Mr. Karthauser was asked again to close with a two-week post occupancy for Mrs. Ross because Mrs. Ross needed funds before she could move. *Id.*

When the day for the final walkthrough came, Mr. Karthauser arrived and found the Tucker Circle Home in disrepair and Mrs. Ross unprepared to move. *Id.* He discovered a heating unit to a large sunroom was not working, the room had multiple space heaters running, and the windows were covered with black plastic. *Id.* Mrs. Ross had disclosed that all the mechanical systems were functioning. *Id.* Several rooms in the Tucker Circle Home were inaccessible due to the volume of Mrs. Ross’s belongings throughout the home. *Id.* Mrs. Ross also asked Mr. Karthauser about him buying various furniture items in the Tucker Circle Home. *Id.* The Karthasuer Agreement did not include personal property other than certain fixtures and appliances listed therein. *See* Ex. 27 at p. 1, ¶ 3. The Karthauser Agreement also required the Tucker Circle Home to be left in a “broom-clean condition, free of any personal property not conveyed” in the contract. *See id.* at p. 2, ¶ 12.3. Due to Mrs. Ross’ lack of readiness to sell and vacate, Mr. Karthauser backed out of the purchase and requested return of the earnest money deposit he had paid. *See* Ex. 26; Prehearing Order at p. 2, ¶ 2(g).

Respondent asserts in his Answer that Mrs. Ross asked him and his business partner, Adam Briley (“Mr. Briley”), to step in and buy the Tucker Circle Home from her because she was done and wanted her money. *See* Ex. 40 at p. 4. On December 20, 2022, Respondent and Mr. Briley agreed to purchase the Tucker Circle Home from Mrs. Ross under their separate company, AKAB Properties, LLC (“AKAB”). *Id.* Still in his Answer, Respondent and Mr. Briley told her they would give her roughly the same net amount for the Tucker Circle Home as if Mr. Karthauser had closed his sale. *Id.* Respondent and Mr. Briley also based their price on no commissions to themselves. *Id.* Respondent and Mr. Briley also agreed to a leaseback agreement with Mrs. Ross so she could stay in the Tucker Circle Home until late April 2023. *Id.*

Pursuant to this discussion laid out in Respondent's Answer, on or about December 20, 2022, Respondent and Mrs. Ross executed a new purchase agreement ("AKAB Agreement") wherein Mrs. Ross agreed to sell the Tucker Circle Home to Respondent and Mr. Briley via their company AKAB. *See* Ex. 27. In the AKAB Agreement, Mrs. Ross agreed to a sale price of \$311,500. *Id.* at p.2, ¶ 6; Prehearing Order at p. 2, ¶ 2(h). In Paragraph 10 of the AKAB Agreement, Respondent and Mr. Briley added some other provisions:

-As a result of the previous buyer backing out on buying the house, AKAB properties [sic] has agreed to step in and buy the house from Marth Ross and net her roughly the same amount as she was going to net from the previous buyer. House to be fully insurable. Seller understands [sic] that Aaron Krier & Adam Briley are licensed real estate agents in the State of Nebraska. Seller understands Buyer is to purchase as an investment with the intentions to Flip the property to Turn a profit and or [sic] wholesale the property or be used as a rental. Seller Understands by not putting home on the Active Market (on the MLS) they may/ will be giving up on the potential money.

-Purchasers agree to allow Seller to live in the house until April 30, 2023. At the end of the day April 30th 2023 seller to have all personal belonging [sic] removed from the home. Seller will maintain the home and keep it in good condition. Seller will also have renter's insurance on the home. Seller will keep all utilities in her name until the day she moves out. *See* attached post occupancy agreement. -Seller and purchaser to make sure HVAC system in sunroom is fully functioning prior to closing by working through AHS Home Warranty. [Handwritten:] Except for the HVAC system Purchaser is buying the house in as is condition.

Ex. 27 at p. 3, ¶ 10. The sale to AKAB closed on or around January 9, 2023. *See* Prehearing Order at p. 2, ¶ 2(i). On the same day, Respondent and Mr. Briley executed a listing agreement ("Respondent's Listing") with AKAB to relist the Tucker Circle Home. *Id.* at ¶ 2(j); Ex. 30. The Respondent's Listing provided for a list price of \$375,000.00. Prehearing Order at p. 2, ¶ 2(k); Ex. 30 at p. 2, ¶ 7. The Respondent's Listing also included a 2.4% broker's commission for Respondent and Mr. Briley. Prehearing Order at p. 2, ¶ 2(k); Ex. 30 at p. 2, ¶ 8.

Respondent and Mr. Briley sold the Tucker Circle Home the same day they listed it to a Jena and Stuart Bailey (the "Baileys" collectively, "Ms. Bailey" and "Mr. Bailey" respectively). Prehearing Order at p. 2, ¶ 2(l); *see generally* Ex. 32. It is undisputed that the Baileys initially executed a purchase agreement with Respondent and Mr. Briley for the list price of \$375,000.00

but adjusted the price down to \$365,000.00 the next day. Prehearing Order at p. 2, ¶ 2(l)–(m). The sale from AKAB to the Baileys closed on March 1, 2023. *Id.* at ¶2(n). The Baileys also purchased the Tucker Circle Home subject to the post occupancy agreement (the “Post Occupancy”) which Respondent and Mr. Briley agreed to give to Mrs. Ross in the AKAB Agreement. *See* Ex. 32 at pp. 31–32.

Despite the lengthy time period between when Mrs. Ross received her first offer on the Tucker Circle Home from Mr. Karthausser on October 22, 2022, and April 2023, Mrs. Ross asked the Baileys for more time to find a new home on or around April 12, 2023. *See* Ex. 33 at p. 1. Ms. Bailey responded to Mrs. Ross in a letter dated April 12, 2023, to inform her that the Baileys had accommodated her by agreeing to the Post Occupancy but could not do so any longer as they were paying both a mortgage on the Tucker Circle Home and rent to live elsewhere temporarily. *Id.* Thus, Mrs. Ross would have to vacate on April 30 as agreed in the Post Occupancy. *Id.* Despite this, Mrs. Ross did not vacate on April 30 and did not do so until May 28, 2023. *See* Ex. 58 at p. 74.

ISSUES

Some of the issues in this matter are straightforward and others are more complicated. First, based on the facts above, other facts in the record, and those to be presented at the Hearing in this matter, Complainants will show that Respondent Krier violated his statutory duties under NEB. REV. STAT. § 76–2417(1)(a)-(c) as a seller’s agent to Mrs. Ross by purchasing her home and reselling it at an exorbitant profit within a little more than a day. These violations are unfair trade practices under NEB. REV. STAT. § 81–885.24(16). Second, Complainants will also show Respondent knowingly took advantage of Mrs. Ross, who, due to age and mental conditions, lacked the requisite capacity to execute the contracts at issue in this matter. Finally, Complainants will show Respondent demonstrated “negligence, incompetency, or unworthiness to act as a broker or salesperson” under NEB. REV. STAT. § 81–885.24(29) by engaging in the conduct described in the Complaint.

ARGUMENT

The Commission has the “power to revoke or suspend any license if the licensee has been

found guilty of any of numerous specified unfair trade practices, including the violation of any rule or regulation promulgated by the commission in the interest of the public, or actions demonstrating unworthiness or incompetency to act as a broker or salesman.” *Haller v. State ex rel. State Real Est. Comm’n*, 198 Neb. 437, 440 (1977). For the reasons stated herein and pursuant to the evidence produced at or prior to the Hearing, the Commission should find Respondent committed the violations alleged in the Complaint and impose disciplinary measures as the Commission sees fit.

I. Respondent violated his statutory duties as a seller’s agent under NEB. REV. STAT. § 76–2417(1) irrespective of Mrs. Ross’s mental condition.

A. It is impermissible for a seller’s agent to self-deal or work against the interests of his or her client under all circumstances.

“A brokerage relationship is a limited agency relationship, and the services a broker can offer to a client are limited by statute.” *Professional Management Midwest, Inc. v. Lund Co.*, 284 Neb. 777, 797 (2012) (citing NEB. REV. STAT. §§ 76–2416 to 76–2418; then citing NEB. REV. STAT. § 81–885.01(2)). A licensee representing a seller or landlord as a seller’s agent or a landlord’s agent shall be a limited agent with the following duties and obligations [to] promote the interests of the client with the *utmost good faith, loyalty, and fidelity*[.]” NEB. REV. STAT. § 76–2417(1)(c) (emphasis added). Webster’s Dictionary defines the adjective “utmost” as “of the greatest or highest degree, quantity, number, or amount[.]” See Merriam-Webster.com Dictionary, s.v. “utmost,” accessed March 4, 2024, <https://www.merriam-webster.com/dictionary/utmost>.

The statutory scheme first enacted in 1994 governing brokerage relationships *supersedes* the common law fiduciary duties of licensees, including fiduciary duties under agency law. *Id.* at 797–98 (citing NEB. REV. STAT. § 76–2429). Today,

A real estate seller’s agent has a duty (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*; (d) to account in a timely manner for all money and property received; (e) to comply with all requirements of Neb.Rev.Stat. §§ 76–2401 to 76–2430 (Reissue 1996), 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 and regulations.

Agri Affiliates, Inc. v. Bones, 265 Neb. 798, 798–99 (2003) (syllabus by the court) (emphasis added).

Prior to the enactment of the current statutory scheme, a broker's duties to a client were essentially the same as those of a common law agent to a principal. *See Gillespie v. State Real Est. Comm'n*, 172 Neb. 308, 312 (1961) (citing *Gesselman v. Phillips*, 110 Neb. 416, 193 N.W. 750 (1923)).

The duties and liabilities of a broker to his employer are essentially those which an agent owes to his principal. A broker owes to his employer the duty of good faith and loyalty, and is required to use such skill as is necessary to accomplish the object of his employment It is also his duty to give his client the fullest information concerning his transactions and dealings in relation to the property with reference to which he is employed.

Schepers v. Lautenschlager, 173 Neb. 107, 117–18 (1962) (quoting 8 Am.Jur., Brokers, § 85, p. 1035). At common law in Nebraska, an agent's duty of loyalty or fidelity was a duty to act in the principal's (that is, the client's) interests and not the agent's interests without the knowledge and consent of the principal. "The doctrine is well settled that an agent cannot, either directly or indirectly, have an interest in the subject matter of the agency *without the consent of his principal*, freely given, after full knowledge of every matter known to the agent which might affect the principal." *Id.* at 119 (1962) (emphasis added).

Respondent's defense to the charge he violated his statutory duties in his Answer is that he and Mr. Briley fully disclosed to her what they intended to do. *See* Ex. 40 at p. 5. Such disclosure was indeed made in the AKAB Agreement. Ex. 27 at p. 3, ¶ 10. Under the Nebraska common law duties of agents, this would not be a violation. However, the current statutes explicitly override the common law.

Sections 76–2401 to 76–2430 shall *supersede* the duties and responsibilities of the parties under the common law, *including fiduciary responsibilities of an agent* to a principal, except as provided in subsection (6) of section 76–2422. Sections 76–2401 to 76–2430 shall be construed broadly to accomplish their purposes.

NEB. REV. STAT. § 76–2429 (emphasis added). NEB. REV. STAT. § 76–2422(6) deals with

situations where a broker intends to enter a brokerage relationship where the duties exceed the statutory minimums and is not relevant to this matter.

By superseding the common law duties of agents to their principals and by requiring the “utmost good faith, loyalty, and fidelity,” the Nebraska Real Estate License Act requires a seller’s agent to act with a higher degree of good faith, loyalty, and fidelity than the common law allowed. Where Nebraska law previously allowed a licensee to have an interest in a client’s transaction within the subject matter of the agency with the client’s informed consent, the current statutory scheme requires a seller’s agent to act with the highest degree of “good faith, loyalty, and fidelity” to the client. The highest degree of “good faith, loyalty, and fidelity” by a seller’s agent can only mean the seller’s agent must act solely in the client’s interests. Anything less would not be the “utmost.”

Here, the undisputed facts show Respondent did not act with the highest degree of “good faith, loyalty, and fidelity” as Mrs. Ross’s seller’s agent. It is undisputed that Respondent and Mr. Briley bought the Tucker Circle Home, which Respondent had been hired by Mrs. Ross to list, through their business, AKAB. *See* Prehearing Order at p. 2, ¶ 2(h). It is undisputed that Respondent and Mr. Briley, through AKAB, paid \$311,500.00 for the Tucker Circle Home. *Id.* It is also undisputed that Respondent and Mr. Briley, on behalf of their company, AKAB, immediately listed the Tucker Circle Home for \$375,000.00. *Id.* at 2(j)–(k). It is undisputed that Respondent and Mr. Briley, on behalf of their company, AKAB, sold the Tucker Circle Home subject to their Post Occupancy Agreement with Mrs. Ross for \$375,000.00, which was adjusted the next day to \$365,000.00. *Id.* at ¶ 2(k)–(l). These facts show Respondent’s lack of good faith because he did not try to sell the home for Mrs. Ross at as high a price as he thought he could sell it for in January 2023. These facts also show Respondent’s failure to act in the utmost loyalty or fidelity to Mrs. Ross because he acted in his own interests by buying the Tucker Circle Home through AKAB, then selling the same house *the same day his purchase closed* for a significantly higher price than he had even *tried* to get for Mrs. Ross.

It is important to note that even assuming Respondent was attempting to help Mrs. Ross by stepping in to purchase the Tucker Circle Home and that Mrs. Ross’s net receipts from AKAB are more or less equal to the net receipts she would have received from Mr. Karthausser, Respondent

still did not act in Mrs. Ross's best interests. He acted in his own. This is true even if Mrs. Ross had full capacity to make all of these decisions.

Because the Nebraska Real Estate License Act required Respondent as a seller's agent to act with the "utmost good faith, loyalty, and fidelity" to his client, Mrs. Ross; because this requirement supersedes the common law duties of agents in real estate transactions; and because Respondent acted in his own business interests in his representation of Mrs. Ross, disciplinary measures are warranted.

B. Respondent violated his statutory duty to exercise reasonable skill and care for Mrs. Ross as his client under NEB. REV. STAT. § 76-2417(1)(b).

"A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations [to] exercise reasonable skill and care for the client[.]" NEB. REV. STAT. § 76-2417(1)(b). Unlike the requirement NEB. REV. STAT. § 76-2417(1)(c) for a seller's agent to exercise duties to the "utmost," NEB. REV. STAT. § 76-2417(1)(b) incorporates the common law language for the duties of reasonable skill and care. *See Tetherow v. Wolfe*, 223 Neb. 631, 635-36 (1986) (citing *Vogt v. Town & Country Realty of Lincoln, Inc.*, 194 Neb. 308 (1975); then citing *Schepers v. Lautenschlager*, 173 Neb. 107 (1962)) ("A real estate broker owes a duty to his employer, the property owner, to use reasonable care, skill, and diligence to bring about the desires of the property owner."). To violate the duty of reasonable skill and care is negligence. *See Tetherow* at 635-36.

In *Tetherow*, the undisputed evidence was that the sale at the heart of that case was to be an unconditional cash sale. *Id.* at 635. It was also undisputed the written contract included a condition that the buyer receive financing for the purchase. *Id.* The Nebraska Supreme Court held that this undisputed evidence was sufficient to uphold the jury's finding the agent there was negligent in using a written purchase agreement form which did not conform to the sale terms the parties agreed upon and where he assured his client that an unconditional cash sale was provided for in the written agreement despite the condition's inclusion. *Id.* at 635-36.

Here, Respondent was negligent in not procuring another offer. Again, it is undisputed that Respondent and Mr. Briley bought the Tucker Circle Home from Mrs. Ross through AKAB and paid \$311,500.00 on or around December 20, 2022. *See Prehearing Order* at p. 2, ¶ 2(h). It is

undisputed that Respondent and Mr. Briley then listed the Tucker Circle Home for \$375,000.00 and ultimately sold it for \$365,000.00 on January 9 and 10, 2023. *Id.* at ¶ 2(j)–(l). Despite Respondent’s assertion he purchased the Tucker Circle Home at Mrs. Ross’s request (*see* Ex. 40 at p. 4), he was still able to find a new buyer for the Tucker Circle Home *less than three weeks* after Mrs. Ross purportedly asked him to buy it. It was negligent for Respondent not to seek such an offer in the first instance.

II. Respondent’s violations of his statutory duties under NEB. REV. STAT. § 76–2417 are also violations of his duties under his written listing agreement with Mrs. Ross.

Respondent and Mrs. Ross executed a written listing agreement on or around October 20, 2022 (“Ross Listing Agreement”). *See generally* Ex. 48. The Ross Listing Agreement provides identical language to the language of NEB. REV. STAT. § 76–2417(1) to describe Respondent’s duties to Mrs. Ross. *Id.* at p. 1. Therefore, Respondent’s violations of his statutory duties are also violations of his written agreement with Mrs. Ross.

III. Respondent’s violations of his statutory duties under NEB. REV. STAT. § 76–2417(1)(a)–(c) are unfair trade practices under NEB. REV. STAT. § 81–885.24(16).

Any violation of the provisions in NEB. REV. STAT. §§ 76-2401 to 76-2430 is an unfair trade practice under NEB. REV. STAT. § 81–885.24(16) for which the Commission has the authority to discipline Respondent.

IV. Respondent took advantage of Mrs. Ross, who he knew was elderly and suffering from dementia.

This is another key issue in this matter. At the hearing, the Complainant will show that Mrs. Ross lacked the capacity to enter into the contracts at the heart of this matter, including the listing agreement with Respondent and the contracts to sell her Tucker Circle Home. In addition to witness testimony at the Hearing, the evidence in the record will show both Mrs. Ross’s fading mental health and Respondent’s knowledge of her fading mental health.

V. Respondent committed an unfair trade practice by demonstrating “negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson” under NEB. REV. STAT. § 81–885.24(29).

Under NEB. REV. STAT. § 81–885.24(29), it is an unfair trade practice for a licensee to demonstrate “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[.]” (emphasis added). For the reasons stated below, Respondent has demonstrated negligence, incompetency, or unworthiness to act as an associate broker in Nebraska.

A. Respondent demonstrated incompetence under the statute by his failure to meet requirements for a minimal level of acceptable conduct.

As used in § 81–885.24(29), “incompetence means failure to meet requirements for a minimal level of acceptable conduct.” *Weiner v. State ex rel. State Real Est. Comm’n*, 217 Neb. 372, 372 (1984).

Section 81–885.24 supplies sufficient notice to all real estate brokers about certain, minimal requirements for continued enjoyment of a license, namely, compliance with the statutory prescriptions and proscriptions concerning conduct of real estate brokers. Implicitly contained in the minimal standard for a state licensee’s acceptable conduct is obedience to state law governing a licensee’s practices and activities. . . . [F]ailure to meet the requirements of § 81–885.24 is conduct falling below the statutory standards and demonstrates incompetence on the part of [a licensee].

Id., at 377.

Here, Respondent demonstrated negligence, incompetency, or unworthiness in that he failed “to meet requirements for a minimal level of accepted conduct.” *See Weiner*, at 376. Respondent’s negligence, incompetency, and unworthiness can be understood in connection with NEV. REV. STAT. § 81–885.12(1), which provides in pertinent part:

Licenses shall be granted only to persons who bear a *good reputation for honesty, trustworthiness, integrity, and competence* to transact the business of broker or salesperson in such manner *as to safeguard the interest of the public* and only after satisfactory proof of such qualifications has been presented to the commission.

See NEB. REV. STAT. § 81–885.12(1) (emphasis added). This disregard is outside of the “minimal level of acceptable conduct.” *See Weiner* at 372. Therefore, disciplinary measures are warranted in this case.

B. Respondent demonstrated “unworthiness” to act as a salesperson by violating his fiduciary duties to Mrs. Ross.

“The word ‘unworthiness,’ in the context [of the real estate profession] here, signifies a lack of those ethical qualities that befit the vocation.” *Wright v. State ex rel. State Real Est. Comm’n*, 208 Neb. 467, 473 (1981) (quoting *Goodley v. N. J. Real Estate Com.*, 29 N.J. Super. 178, 102 A.2d 65 (1954)). See also *Clark v. Tyrrell*, 16 Neb. App. 692, 703–04 (2008) (holding a broker demonstrated unworthiness by allowing his son, also a Nebraska licensee, to represent a buyer in a sale of Iowa real estate without an Iowa license and because the broker held himself out as the buyer’s agent when he was not) (quoting *Wright* at 473 (quoting *Goodley*, 29 N.J. Super. 178, 102 A.2d 65)).

In *Wright*, the licensee, Wright, sold his own home in Custer County to an elderly couple for \$26,000.00. *Wright*, 208 Neb. at 468. After closing, Wright failed to pay off his mortgage on the home with the sale proceeds as he agreed to do in the sale contract, opting instead to pay his other debts. *Id.* Later, the husband of the elderly couple died and the wife was placed in a rest home. *Id.* The wife’s guardian, a bank and trust company, decided to sell the home for her support and discovered the unpaid mortgage. *Id.* at 468–69. An employee of the guardian bank and trust company filed a complaint with the Commission. *Id.* at 469. At the hearing, the Commission revoked Wright’s real estate broker’s license “on the grounds that Wright’s actions demonstrated his unworthiness and incompetence to act as a real estate broker.” *Id.* (citing NEB. REV. STAT. § 81–885.24(28) (Reissue 1976)).

Wright appealed the revocation of his license to the District Court of Douglas County. *Id.* On appeal, the district court affirmed the Commission’s order finding the Commission acted within its authority, there was substantial evidence to support the Commission’s order, and the Commission’s actions were not arbitrary or capricious. *Id.* at 469. Wright then appealed to the Nebraska Supreme Court, assigning that the District Court erred in its determinations that the Commission’s actions were supported by substantial evidence, were not arbitrary and capricious, and by affirming the Commission’s order to revoke his license. *Id.* The principal issue was whether Wright could be subject to the discipline of the Commission when he was not acting in the capacity of a licensee. *Id.* at 470, 472.

The Nebraska Supreme Court considered whether a licensee committed an unfair trade practice by demonstrating “unworthiness” under NEB. REV. STAT. § 81–885.24(28) (Reissue 1976). See *Wright* at 72. The language of NEB. REV. STAT. § 81–885.24(28) (Reissue 1976) was substantially similar to present day NEB. REV. STAT. § 81–885.24(29) (Reissue 2014). Compare NEB. REV. STAT. § 81–885.24(28) (Reissue 1976) (“Demonstrating unworthiness or incompetency to act as a broker, associate broker, or salesman, whether of the same or of a different character as hereinbefore specified.”) with NEB. REV. STAT. § 81–885.24(29) (Reissue 2014) (“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”).

The Supreme Court noted Wright’s assertion that the elderly couple gave him permission to pay off his other debts first and the mortgage later but found the only evidence for this assertion was Wright’s own testimony, which had not persuaded either the Commission or the district court. *Id.* at 469–70. The Court then looked to other provisions of NEB. REV. STAT. §§ 81–885.01 to 81–887.03. *Id.* Among those provisions, the Court examined NEB. REV. STAT. § 81–885.12, which “sets out the personal requirements for applicants for such licenses and provides that licenses shall be granted only to persons ‘who bear a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of broker or salesman in such manner as to safeguard the interests of the public, and only after satisfactory proof of such qualifications has been presented to the commission.’” *Id.* (quoting NEB. REV. STAT. § 81–885.12 (Reissue 1976)).

The *Wright* court was also “persuaded and convinced by the language and reasoning in cases such as *Goodley v. N.J. Real Estate Com.*, 29 N.J. Super. 178, 102 A.2d 65 (1954),” where the Superior Court of New Jersey Appellate Division held “unworthiness,” as used in the New Jersey statute, “signified the lack of those ethical qualities that befit the vocation.” 208 Neb. at 472. In *Goodley*, a broker negotiated a sale and received a commission, but was also the president of the corporation selling the property. *Id.* at 472 (citing *Goodley*, 29 N.J. Super. 178, 102 A.2d 65).

Goodley occupies two roles in this transaction, real estate broker and president of the corporate grantor. However, he cannot, under the circumstances here, escape a charge of unworthiness because the onus of the charge falls in part upon himself in a capacity other than as real estate broker. We conclude that under the

circumstances his refusal to assist in the rectification of a default brought about by his own negligence justifies a finding of unworthiness.

The word ‘unworthiness,’ [sic] in the context here, signifies a lack of those ethical qualities that befit the vocation. By including the matter of unworthiness in N.J.S.A. 45:15-17(e), the Legislature has charged the Commission with the high responsibility of maintaining ethical standards among real estate brokers and salesmen. The maintenance of those standards serves the vocation well.

Id. at 473 (quoting *Goodley*, 29 N.J. Super. at 181–82, 102 A.2d at 67).

The Court also cited a factually similar case from Pennsylvania where a broker had also sold his own home, failed to pay off his mortgage post-closing as agreed in the sale contract, and the broker failed to appear at closing. *Id.* at 474–75 (citing *Yingling, Jr. v. State Real Est. Comm.*, 8 Pa. Cmwlth. 556, 304 A.2d 524 (1973)).

“The Commission’s first conclusion of law was that it had jurisdiction. Appellant in this appeal contends that the Commission was in error relative to this conclusion of law since he was selling property that he owned and therefore was not acting as a broker under the Act. This same contention was rejected by us in *Fibus v. State Real Estate Commission*, 7 Pa.Cmwlth. 74, 299 A.2d 375 (1973), where we followed *State Real Estate Commission v. Tice*, 200 Pa.Super. 553, 190 A.2d 188 (1963), and held that a broker’s license may be suspended or revoked for misconduct occurring in a real estate transaction when the broker is acting for himself, as well as when he acts for others. We are not persuaded that we should abandon *Fibus* and therefore we hold that the Commission did have jurisdiction here.”

Id. at 475 (quoting *Yingling, Jr.*, 8 Pa. Cmwlth. at 60–61, 304 A.2d at 526–27).

Respondent here has demonstrated “unworthiness,” as used in NEB. REV. STAT. § 81–885.24(29), by demonstrating his “lack of those ethical qualities that befit the vocation[.]” See *Wright*, at 472 (quoting *Goodley*, 29 N.J. Super. at 181–82, 102 A.2d at 67). Where the broker in *Wright* demonstrated unworthiness by merely failing to pay off his prior mortgage as he had agreed in his contract with the elderly couple, he acted outside of his capacity as a licensee. Here, Respondent acted within his capacity as a licensee and seller’s agent to act in his own interests despite his statutory duties to act in Mrs. Ross’s interests. Respondent purchased an elderly woman’s home from her at a discount through his company, then sold it for a \$53,500.00 profit a

few weeks later. As will be shown at the Hearing, Mrs. Ross had a diminished capacity which Respondent took advantage of.

CONCLUSION

For the reasons stated above and to be shown through evidence at the forthcoming Hearing, the Commission should impose such sanctions on the Respondent as it sees fit.

DATED this 12th day of April 2024.

THE STATE REAL ESTATE
COMMISSION OF THE STATE OF
NEBRASKA, Complainant.

/s/ J.L. Spray

J.L. Spray, #18405

Mattson Ricketts Law Firm

Special Assistant Attorney General

134 S. 13th Street, Suite 1200

Lincoln, NE 68508

(402) 475-8433

jls@mattsonricketts.com

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2024, I served a true and correct copy of the foregoing document by email and/or by first-class United States mail, postage prepaid on the following parties:

Aaron Scott Krier, via counsel
Douglas W. Ruge
Attorney at Law
331 Village Point Plaza
Omaha, NE 68118
doug@rugelaw.com

Greg Lemon
Samantha Lowery
Nebraska Real Estate Commission
301 Centennial Mall South
P.O. Box 94667
Lincoln, NE 68509-4667
greg.lemon@nebraska.gov
Samantha.Lowery@nebraska.gov

/s/ J.L. Spray

J.L. Spray, #18405
Mattson Ricketts Law Firm
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BEFORE THE STATE REAL ESTATE COMMISSION
OF THE STATE OF NEBRASKA

STATE OF NEBRASKA, ex rel.,
STATE REAL ESTATE COMMISSION
OF THE STATE OF NEBRASKA,

Complainant,

v.

AARON KRIER,

Respondent.

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Case No. 2023-015

BRIEF OF RESPONDENT

It is alleged that the respondent violated *Neb. Rev. Stat.* 76-2417 (1)(a-c). These relate to a seller's agent performing the terms of the written agreement, exercising reasonable skill and care for the client and promoting the interest of the client with the upmost good faith loyalty and fidelity, including seeking a price in terms which were acceptable to the client. It is also alleged that the respondent violated *Neb. Rev. Stat.* 81-885.24 (16) (22) and (29). These sections relate to making substantial misrepresentations and demonstrating negligence and incompetency as a real estate agent.

The Briley group, of which the respondent is a member, sent out mailings to various people offering to buy their house. Ms. Ross was one of those solicited via mail. In response to the mailing, Ms. Ross contacted the respondent's group. In discussions with her, she believed she would be better off trying to list and sell the property first. This is how the contact with Ms. Ross came about.

It is important to note that the complaint is made by the sisters of the seller who the respondent represented, Ms. Martha Ross. It is alleged that Ms. Ross is suffering from early dementia, depression and anxiety. It is important to note that the respondent at no time thought she was suffering from any mental impairment. Further, the title company and closing agent who dealt with Ms. Ross extensively on this transaction was not under the impression that she had any mental impairment. Please see the affidavit of Nate Jaeger. Ms. Ross had called the respondent a few days before the respondent received the complaint. She wanted the telephone number for the

eventual purchasers of the property which the respondent gave to her. It was a friendly conversation. Therefore, upon receiving the complaint, the respondent called her. She expressed that she does not suffer from dementia and has never been diagnosed as such. She also stated that she was unaware of the complaint and did not sanction it. She was quite upset with her sisters for filing the complaint and expressed in no way did she feel wronged. It is true as alleged that she was sad at the loss of her husband. She had expressed that to the respondent. The respondent felt that this was a normal to express as the respondent had a good relationship with her.

Turning to the transaction, the respondent put her home on the market with a full set of photos. The respondent's group arrived a listing price of \$330,000 based on a set of comparables. See the enclosed. The comparable listed by the Complainants was in much better shape than Ms. Ross' property. There was a great turnout with showings the first day and the respondent's group received a very solid cash offer accepting the house in as is condition for \$346,000. This was 16,000 over the asking price of \$330,000. Throughout the showings during that day, Ms. Ross required that she be home for any and the last showing was the offer mentioned above. Ms. Ross sat down and talked to the potential buyer of the house, Garrett Karthaus, and said that she really connected with him and wanted to go with the offer. The respondent told Ms. Ross it was a good offer and that the respondent wasn't sure if the respondent's group would get a better offer but recommended keeping the house on the market through the weekend and through the open house. Ms. Ross said she did not want to do that because she did not want more people coming through the home and really had a connection with the buyer because they were both originally from Texas and the buyer expressed that he wanted to keep the house the same but just make it look new again. Therefore, Ms. Ross proceeded with the offer and accepted it. Ms. Ross was very happy.

Ms. Ross' sisters got involved on November 1, 2022 after the property was under contract. The respondent had multiple phone calls with them and Martha on three way calls. There was no mention of Ms. Ross having any mental infirmity. The sisters informed the respondent that they had contacted other realtors in the past and that Ms. Ross needed to take the house off the market and list it with someone better. After having a few phone calls with them, Ms. Ross instructed the respondent and Michelle Stark at the title company handling the closing to stop corresponding with the sisters until further notice. Ms. Ross felt that her sisters were trying to get involved in her business and it was none of their concern. At that time, about a week after they initially made contact, the respondent no longer responded to her sisters.

On December 18, 2022, the buyers decided they weren't going to purchase the home and close on it. At that time Ms. Ross asked the respondent if Adam Briley and the respondent would step in and buy the house from her because she wanted to be done with it and wanted her money. On December 20, 2022, Adam and agreed to buy the house from Ms. Ross under the respondent's limited liability company, AKAB Properties, LLC. The respondent's group told Ms. Ross they would buy the house from her and net her roughly the same amount of money with no commissions involved. The respondent's group based the purchase price factoring in no commissions. Enclosed please find the closing statements from the transaction with Mr. Karthaus and the closing statement on the eventual closing. They show nearly the same amount of net proceeds to Ms. Ross. It was also agreed that the respondent's group would also allow her to stay in the home rent free until the end of April. This is in section 10 of the attached purchase agreement. Ms. Ross was also informed that she could be giving up potential proceeds and the respondent's group told her that the respondent's group would be looking at turning around and selling the house. Ms. Ross was happy with all of this and said the sooner the respondent's group could close the better. Ms. Ross sent Adam Briley and the respondent a gift after the respondent's group closed on the house because she was very happy with the process and how "Aaron you and company are top quality" she also wrote "we took a negative and turned it into a positive" for her. Please see the enclosed correspondence.

After closing on the house, the respondent's group sold the house to a new buyer subject to the occupancy and no rent through the end of April.

Hancock v. State ex rel. State Real Estate Com'n 213 Neb. 807, 331 N.W.2d 526, (1983) held that license law statutes and rules and regulations subjecting licensees to discipline are penal in nature because the subject the licensee's license to forfeiture. Accordingly they will be strictly construed by the courts. *Hancock* stated:

A penal statute is strictly construed, and its import may not be extended by construction to situations not clearly within its provisions. *Anderson v. Robbins Incubator Co.*, 143 Neb. 40, 8 N.W.2d 446 (1943); *Shamberg v. City of Lincoln*, 174 Neb. 146, 116 N.W.2d 18 (1962); *Misle v. Miller*, 176 Neb. 113, 125 N.W.2d 512 (1963); *Bachus v. Swanson*, 179 Neb. 1, 136 N.W.2d 189 (1965). In construing a penal statute nothing will be recognized,

presumed, or inferred that is not expressed, unless necessarily or unmistakably implied in order to give effect to the statute.

Hancock involved whether an agent had actual knowledge of an existing listing agreement even though there was evidence the agent should have known. The *Hancock* case refused to read more into the statute than what it unmistakably stated and imply any standard less than proof of actual knowledge by the licensee to establish violation of these penal rules and regulations. Similarly, there is no evidence that the respondent had knowledge that Ms. Ross had any mental infirmity. In fact, she denies having any such infirmity. Similarly, the closing agent had no indication of any mental infirmity. It is also of note that Ms. Ross filed against Mr. Karthaus for the deposit, testified in court and was awarded the deposit. The court apparently believed she was competent and believed her story in awarding the deposit. Therefore, under the standard in *Hancock*, the respondent cannot be held liable for any mental infirmity of Ms. Ross of which there was no knowledge. Further, there is no evidence that the respondent made any substantial misrepresentations. The original list price was based on comparables. The property brought more than the list price with standard marketing efforts which was not unusual due to market conditions in the time frame of the listing. It was clear that the sisters had an ax to grind against the respondent when they stepped in during the initial pending purchase agreement and attempted to get the listing transferred to another broker. Ms. Ross told the respondent and the title company to stop communicating with them. Ms. Ross approached the respondent's group about purchasing after the initial purchase agreement failed. That was not the idea of the respondent. Further, Ms. Ross consented to the terms of the sale with the respondent's group which netted proceeds to her nearly the same as the initial buyer who backed out. While the respondent's group was able to sell the property for a little more than the original buyer's offer, there is almost never going to be the same offer when a property is relisted. It could just as well have sold for less than the original offer. The market showed that the property was worth \$346,000 based on the initial showings. Further, the comparable cited by the sisters reflects a property in much better condition than Ms. Ross' which had much deferred maintenance. In short, the respondent made no substantial misrepresentations to Ms. Ross and represented her faithfully. The respondent respectfully requests that the Complaint be dismissed.

/s/Douglas W. Ruge

Douglas W. Ruge, #20479
331 Village Pointe Plaza
Omaha, NE 68118
(402) 964-4617
doug@rugelaw.com
Attorney for Respondent

Nate Jaeger



STATE OF NEBRASKA)
)
COUNTY OF DOUGLAS)

ss.

Subscribed and sworn to before me this 18th day of January, 2024.


NOTARY PUBLIC



Green Title & Escrow
ALTA Universal ID:
16909 Lakeside Hills Plaza
Suite 119
Omaha, NE 68130-4653

File No./Escrow No.: 2236384
 Print Date & Time: December 15, 2022 11:52 am
 Officer/Escrow Officer: Michelle Stark
 Settlement Location: 16909 Lakeside Hills Plaza, Suite 119
 Omaha, NE 68130-4653
 Property Address: 5741 Tucker Cir
 Omaha, NE 68152
 Buyer: Garrett Karthaus
 5741 Tucker Cir
 Omaha, NE 68152
 Seller: Martha E. Ross
 Settlement Date : December 16, 2022
 Disbursement Date : December 16, 2022

Description	Seller	
	Debit	Credit
Financial		
Sale Price of Property		346,000.00
Prorations/Adjustments		
County Taxes 12/16/22-01/01/23		191.13
Title Charges and Escrow/Settlement Charges		
Closing Protection Letter to Chicago Title Insurance Company	12.50	
Escrow Holdback to Green Title & Escrow	50.00	
Settlement Fee - Escrow to Green Title & Escrow	275.00	
Escrow Holdback - 4 Mo. Rent - \$1,700 per month to Green Title & Escrow	6,800.00	
Owner's Title Insurance to Green Title & Escrow	604.50	
Coverage: \$346,000.00		
Premium: \$1,209.00		
Version: ALTA Homeowner's Policy (12/13)		
Commissions		
Real Estate Broker Admin Fee to BHHS	995.00	
Real Estate Commission to BHHS	24,220.00	

Description	Seller	
	Debit	Credit
Commissions (continued)		
Government Recording and Transfer Charges		
Recording Fees to Douglas County Register of Deeds Death Cert	16.00	
Transfer Taxes to Douglas County Register of Deeds	778.50	
Miscellaneous		
E Record Fee to Douglas County Register of Deeds	4.25	
Property Taxes 2021 + Penalty 12/20 to Douglas County Treasurer 4877 0000 20	4,699.65	
Lawn Mowing Payoff to Straightline Inc.	450.00	
December Rent to Garrett Karthausser	850.00	
Security Deposit to Garrett Karthausser	1,700.00	
	Debit	Credit
Subtotals	41,455.40	346,191.13
Due to Seller	304,735.73	
Totals	346,191.13	346,191.13

Acknowledgement

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize Green Title & Escrow to cause the funds to be disbursed in accordance with this statement.

Seller

Martha E. Ross

Michelle Stark

Green Title & Escrow
ALTA Universal ID:
16909 Lakeside Hills Plaza
Suite 119
Omaha, NE 68130-4653

File No./Escrow No.: 2237525
 Print Date & Time: January 04, 2023 2:22 pm
 Officer/Escrow Officer: Michelle Stark
 Settlement Location: 16909 Lakeside Hills Plaza, Suite 119
 Omaha, NE 68130-4653
 Property Address: 5741 Tucker Cir
 Omaha, NE 68152
 Borrower: AKAB Properties, LLC, a Nebraska limited liability company
 Seller: Martha E. Ross
 5741 Tucker Cir
 Omaha, NE 68152
 Lender: Commercial State Bank
 Settlement Date : January 09, 2023
 Disbursement Date : January 09, 2023

Description	Seller	
	Debit	Credit
Financial		
Sale Price of Property		311,500.00
Prorations/Adjustments		
County Taxes 01/01/23-01/09/23	110.65	
Title Charges and Escrow/Settlement Charges		
Technology Fee to Green Title & Escrow	25.00	
Closing Protection Letter to Chicago Title Insurance Company	12.50	
Lender's Title Insurance to Green Title & Escrow	37.50	
Coverage: \$272,000.00		
Premium: \$75.00		
Version: ALTA Loan Policy (06/17/06)		
Settlement Fee - Escrow to Green Title & Escrow	275.00	
Owner's Title Insurance to Green Title & Escrow	557.75	
Coverage: \$311,500.00		
Premium: \$1,115.50		
Version: ALTA Homeowner's Policy (12/13)		



Description	Seller	
	Debit	Credit
Government Recording and Transfer Charges		
Recording Fees to Douglas County Register of Deeds Death Cert	16.00	
Transfer Taxes to Douglas County Register of Deeds	702.00	
Miscellaneous		
Property Taxes 2021 + Penalty 1/13 to Douglas County Treasurer 4877 0000 20	4,739.79	
Release of Lien to Straightline Inc	450.00	
	Debit	Credit
Subtotals	6,926.19	311,500.00
Due to Seller	304,573.81	
Totals	311,500.00	311,500.00

Acknowledgement

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize Green Title & Escrow to cause the funds to be disbursed in accordance with this statement.

Seller

Martha E. Ross

Michelle Stark



SORT BY



Sold

9129 N 52nd Avenue

Omaha, NE 68152 - MLS #22212606

RESIDENTIAL - Total Finished SqFt : 2,798

\$355,000

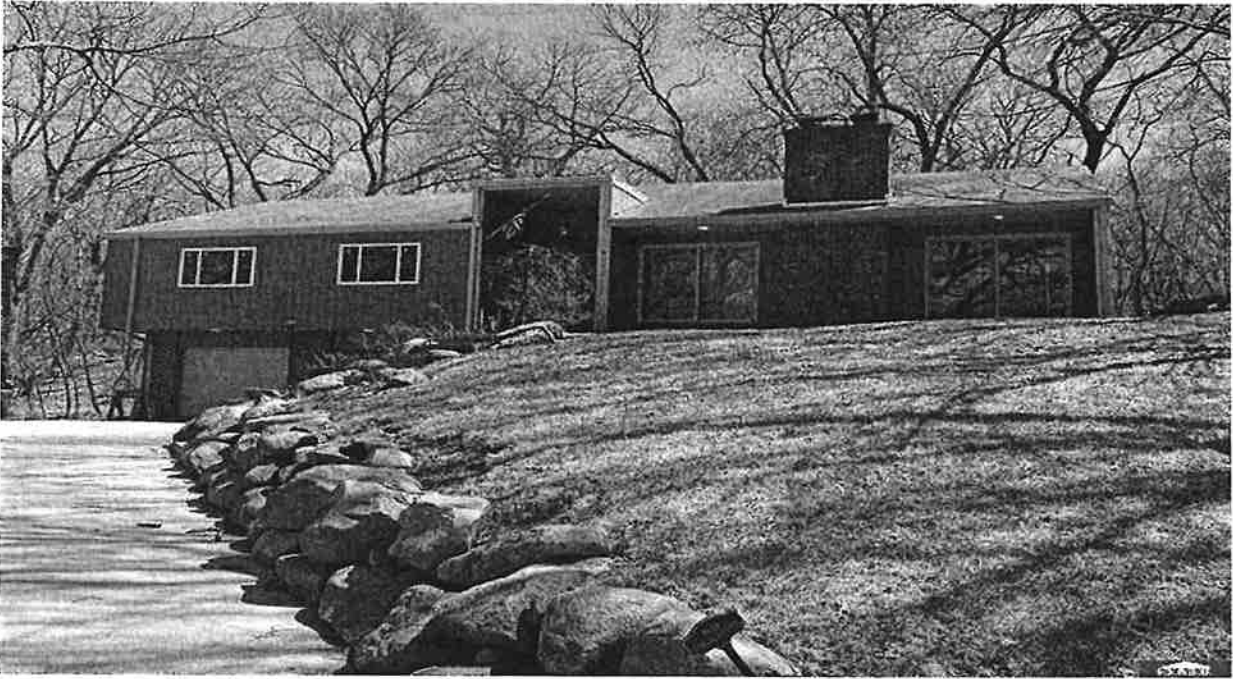
\$5,000

Great home in Raven Oaks, with 2 car oversized garage and 20 X 22 Detached 2 car garage. Backing to a reserve, this well-maintained home features 3 Bedrooms, 3 baths, and 4 garage spaces. This home sits on a double lot, has a generator. Newer Driveway replaced in 2021, Has 2 X 6 walls, Being sold as is.

BEDS: 3

BATHS: 3

AGSQFT : 1,957



Sold

5205 Hunt Circle

Omaha, NE 68152 - MLS #22207959

RESIDENTIAL - Total Finished SqFt : 2,884

\$340,000

\$100

'CONTRACT PENDING BACKUP OFFERS ONLY' "SHOWINGS BEGIN 4/22/22 12:00 NOON" SELLER WILL REVIEW ANY AND ALL OFFERS ON 4/25/22 BY 6 PM, SELLER RESERVES RIGHT TO ACCEPT ANY OFFER BEFORE 4/25/22. A true diamond in the rough. Raised ranch home with over 2100 feet above grade. Nestled at the top of the cul de sac backing to acres of wooded Forrest terrain. Wild life abounds. Just minutes to I 680 on ramp at 48th street. Newer HVAC with air filtering system, soft water. Property sold as is. Wonderful potential.

BEDS: 3

BATHS: 3

AGSQFT : 2,155



Sold

8738 N 52 Avenue

Omaha, NE 68152 - MLS #22215365

RESIDENTIAL - Total Finished SqFt : 3,073

\$335,000

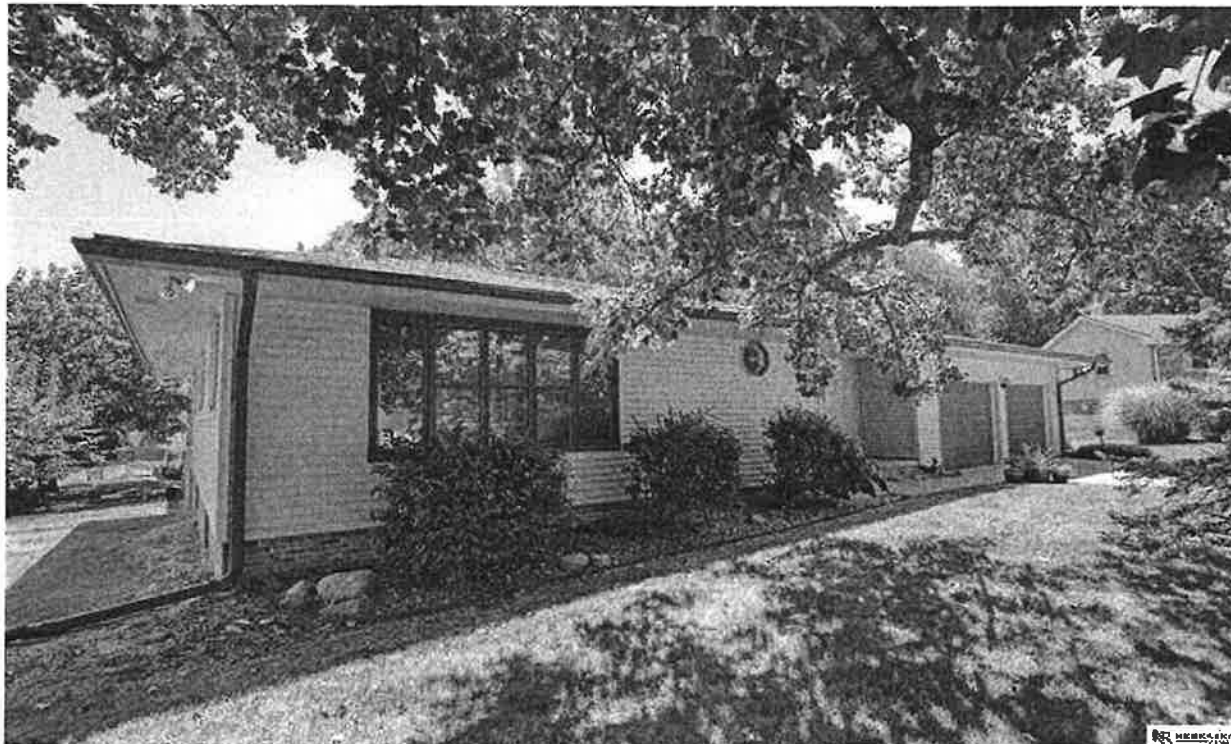
\$15,000

Enjoy peace and tranquility from this Raven Oaks home, nestled into the trees and providing wonderful views of nature and wildlife all year long. This spacious ranch style home includes kitchen open to family room with FP; kitchen was remodeled and includes a full wall of professionally installed cabinets with pull-outs. The adjacent sun room overlooks the grounds and provides a wonderful setting for relaxing or enjoying lunch/dinner. Formal living room & dining room are excellent for entertaining. Primary bedroom is huge and includes $\frac{3}{4}$ Bath, large walk-in closet, prof. installed built-ins for storage & access to deck overlooking forested area. Walkout basement has two more bedrooms plus two other rooms (each with abundant closet space), a rec room, updated bath and sauna. Additional storage area for lawn equipment and supplies, located under sun room. This home has been well maintained and has unlimited possibilities; furnace replaced in 2021. Seller prefers to sell "As Is."

BEDS: 4

BATHS: 3

AGSQFT : 2,058



Sold

5405 Reynolds Street

Omaha, NE 68152 - MLS #22220948

RESIDENTIAL - Total Finished SqFt : 1,827

\$294,800

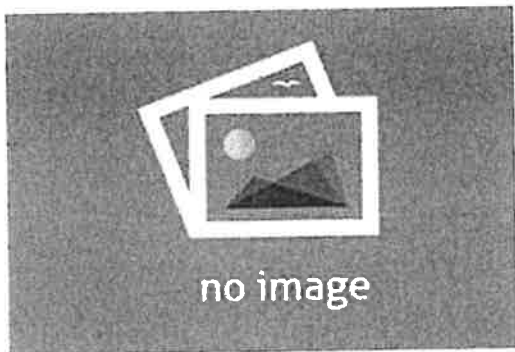
\$4,800

Nicely updated & well maintained ranch in popular Raven Oaks! Welcoming entry way opens to newly updated kitchen w/ designer backsplash, stainless steel appliances, solid surface countertops, & ample cabinet/counter space. Living room features large bay windows with loads of natural light! Finished basement with large rec room, fireplace, and non conforming bed. New paint & carpet w/ hardwood floors in bedrooms. Large corner lot with mature trees. Enjoy entertaining family/friends for summer on beautiful deck, private backyard & outdoor entertaining space.

BEDS: 3

BATHS: 3

AGSQFT : 1,320



Sold

8806 N 52 Avenue

Omaha, NE 68152 - MLS #22219580

RESIDENTIAL - Total Finished SqFt : 2,670

\$257,000

No property description available.

BEDS: 2

BATHS: 3

AGSQFT : 1,704



LISTING CONTRACT

(This is a legally binding contract. If not understood, seek legal advice.)

1. **NAME OF BROKER FIRM ("Broker")** Berkshire Hathaway HomeServices Ambassador Real Estate, Omaha Nebraska.

2. **APPOINTMENT OF BROKER:** In consideration of Broker's agreement to list and offer for sale the property described below, and to use Broker's efforts to find a purchaser therefore, Seller (whether one or more) hereby gives Broker the sole and exclusive right for sale of real property legally described as:

RAVEN OAKS LOT 18 BLOCK 2 IRREG

and commonly known as:

5741 Tucker Circle, Omaha NE 68152

ADDRESS	CITY	STATE	ZIP
---------	------	-------	-----

By appointing Broker as Seller's sole and exclusive agent, Seller agrees to conduct all negotiations for the sale of the Property through Broker and to refer to Broker all inquiries received in any form, written or oral, from any source during the term of this Listing Agreement.

3. **DUTIES AND RESPONSIBILITIES OF BROKER:** Broker shall have the following duties and obligations: a.) To perform the terms of this Listing Agreement; b.) To exercise reasonable skill and care for Seller; c.) To promote the interest of Seller with the utmost good faith, loyalty and fidelity including; 1.) Seeking the price and terms which are acceptable to Seller except that Broker shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale; 2.) Presenting all written offers to and from Seller in a timely manner regardless of whether the property is subject to a contract for sale; 3.) Disclosing in writing to Seller all adverse material facts actually known by Broker, and 4.) Advising Seller to obtain expert advice as to material matters of that which Broker knows but the specifics of which are beyond the expertise of Broker; d.) To account in a timely manner for all money and property received; e.) To comply with the requirements of agency relationships as defined in Neb. Rev. Stat. 76-2401 through 76-2430, the Nebraska Real Estate License Act, and any rules or 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 and regulations.

4. **DUTIES AND RESPONSIBILITIES OF SELLER'S LIMITED AGENT AS A LIMITED DUAL AGENT:** Seller's Limited Agent (as described in paragraph 28) has disclosed to Seller that Broker permits Seller's Limited Agent to act as an agent for sellers of property or for buyers of property, and with the informed written consent of both the seller and buyer of a particular property, to act as a Limited Dual Agent for both. Seller's Limited Agent agrees to promptly notify Seller whenever a Seller's Limited Agent is also representing a buyer when that buyer becomes interested in acquiring Seller's property. Seller consents to Seller's Limited Agent also serving as an agent of the Buyer for Seller's property and acknowledges that Seller's Limited Agent will then be a Limited Dual Agent of both Seller and Buyer, serving both Seller and Buyer as clients. As a Limited Dual Agent, Seller's Agent will owe to the Buyer the following duties and obligations as a Buyer's Agent: a.) To perform the terms of the written agreement made with the Buyer; b.) To exercise reasonable skill and care for the Buyer; c.) To promote the interests of the Buyer with utmost good faith, loyalty, and fidelity, including: 1.) Seeking a price and terms which are acceptable to the Buyer, except that the licensee shall not be obligated to seek other properties while the Buyer is a party to a contract to purchase property; 2.) Presenting all written offers to and from the Buyer in a timely manner regardless of whether the Buyer is already a party to a contract to purchase property; 3.) Disclosing in writing to the Buyer adverse material facts actually known by the Buyer's Limited Agent; 4.) Advising the Buyer to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the Buyer's Limited Agent; 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.) Comply with any applicable federal, state, and local laws, rules regulations, and ordinances, including fair housing and civil rights statutes or regulations. As a limited Dual Agent, Seller's Limited Agent also continues to owe Seller the duties and obligations as a Seller's Limited Agent set out in paragraph 3, and the Seller's Limited Agent also continues to owe to Buyer the duties and obligations as a Buyer's Limited Agent described above, except that a limited Dual Agent can

10. **PRICE TO INCLUDE:** The Price shall include all attached equipment and fixtures, except

which are reserved items. In order to exclude them from the sale, such items must also be excluded in the Purchase Agreement

11. **PERSONAL PROPERTY:** The following personal property shall be included in the sale

12. **SMOKE DETECTORS AND CARBON MONOXIDE ALARMS:** Prior to closing, Seller agrees to install at Seller's expense, smoke detectors and carbon monoxide alarms as required by law.

13. **SELLER PROPERTY CONDITION DISCLOSURE STATEMENT:** Seller represents to the Broker solely for the purposes of this Listing Contract that Seller has completed the Seller Property Condition Disclosure Statement fully and correctly to the best of the Seller's knowledge. Seller further states that all oral representations made to Broker are accurate. Broker shall not accept nor attempt to solicit any offers to purchase until the Seller Property Condition Disclosure is completed by Seller and received by Broker. Seller understands that the Seller Property Condition Disclosure statement is based on their own representations and not the representations or inspection of the Broker and that Broker cannot assist Seller in filling out the disclosure.

14. **SELLER'S CERTIFICATION:** Seller certifies that to the best of Seller's knowledge, information and belief, the following describes the true condition of the Property: a.) All items set forth in paragraphs 10 and 11 above to be included in the sale are and will be in good working order on possession; b.) There are no structural defects, either latent or apparent; c.) There is no evidence of wood infestation on the Property; and d.) The lower level or basement level of all structures are free from leakage or seepage of water, e.) There are no known conditions present or existing with respect to the Property, unless provided in writing, which may give rise to create Environmental Hazards or Liabilities, and that there are no enforcement actions pending or threatened in connection therewith. Seller agrees to inform Broker if any such Environmental Hazards or Liabilities are discovered during the term of this Listing Contract or any extension thereof, and to provide Broker with full information with respect thereto. However, if any of the above conditions are found on the Property and it is known or discovered that any such condition existed prior to closing, Seller agrees to indemnify and hold harmless Broker, and Broker's sales persons, employees, associate brokers, cooperating broker or buyer's representative ("Broker Et Al"), from any and all causes of action, loss, damage or expense to which Broker Et Al may be subject in connection with this paragraph. It is understood there will be a wood infestation inspection and Seller agrees to pay for any treatment and/or repairs required. Seller further represents that, to the best of Seller's knowledge, all the mechanical elements and systems of the Property and the appliances being sold therewith including, but not limited to, heating, air conditioning, water heater, sewer, plumbing and electrical systems, security systems, intercom systems, in house vacuums and any built-in appliances and all items set forth in Paragraphs 10 and 11 above to be included in the sale are in proper working condition until delivery of possession, or will be restored to proper working condition as of the date of Buyer's possession of the Property.

15. **ASSESSMENTS:** Seller agrees to pay any assessments for paving, curb, sidewalk or utilities previously constructed, or ordered, or required to be constructed by the public authority, but not yet assessed. Seller is OR is not (check one) required to pay dues to a homeowner's association or neighborhood association or similar entity. The current assessment is _____ Dollars per _____ (e.g. year, month, etc). If the Seller is aware of an increase in the association dues, the increase is known to be _____.

16. **EARNEST DEPOSIT ("Deposit"):** Broker is authorized to receive and deposit in a trust account Earnest Deposit money from prospective buyers making written offers to acquire the Property, and Broker shall retain same until the closing unless transferred to an Escrow Agent. In the event of a dispute over the return or forfeiture of any Deposit held by the Broker/Escrow Agent, the Broker/Escrow Agent shall continue to hold Deposit in its trust account until Broker/Escrow Agent 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/Escrow Agent may pay it into court. If the Deposit is forfeited by a Buyer, after Broker's expenses are deducted, Seller shall receive one-half (1/2) and Broker one-half (1/2), to apply to damages which the Seller and Broker may suffer as a result of the default by Buyer.

17. **CLOSING:** Seller agrees that the closing of any sale made by Broker may be handled by an Escrow Agent and that the fee charged by said Escrow Agent shall be equally divided between Buyer and Seller, unless Buyer is obtaining a loan that does not allow Buyer to pay for such cost (such as V.A.), in which case cost of the closing shall be paid by Seller.

18. **TITLE AND CONVEYANCE:** Seller agrees to furnish a complete abstract of title certified to date of sale showing marketable title or a title insurance commitment if necessary to complete the sale and to pay any expense incurred in perfecting the title in case the same is found defective, and convey, within a reasonable period from date of sale by warranty deed, or _____ executed by all persons having any interest there in, and clear of all encumbrances except easements, deed restrictions, and covenants of record. Broker reserves the right to terminate this listing upon written notice that title is not satisfactory to Broker.
19. **POSSESSION:** Possession to be given _____ at closing.
20. **KEYS AND LOCK BOX:** Seller grants Broker permission to install and use a lock box containing a key to the Property. Seller acknowledges that: a.) a lock box and any other keys available to Broker will permit access to the Property by Broker and cooperating Brokers together with potential purchasers; b.) Seller will maintain in force adequate insurance to protect Seller in the event of any damage, loss or claims arising from entry to Property by persons through the above use of the key and agrees to hold the Broker harmless from any loss, claim, or damage resulting there from; c.) Seller will obtain and provide to Broker written permission from the occupant of the Property, if it is a person other than the Seller, allowing showings as described above, after giving occupant notice; d.) Seller authorizes Broker to allow access to the property by other persons, including but not limited to appraisers, inspectors, utility company personnel, as necessary to complete a sale. Seller further agrees that Buyer agents of Broker may conduct an open house on Property.
21. **MULTIPLE LISTING SERVICE ("MLS") AUTHORITY:** Seller authorizes Broker to process, advertise and distribute information about the Property through the MLS to its subscribers. Seller does, does not want name and telephone number in the MLS allowing cooperating agents to call Seller directly for showing appointments. Seller authorizes Broker to release all information regarding the completed sale of the Property to the Omaha Area Board of REALTORS®, Inc. and its assigns. ("The Seller understands that the information provided to any multiple listing service will be accessible by other REALTORS® and subscribers to the Great Plains REALTORS® Multiple Listing Service, Inc., and Seller agrees to the release of this information to the REALTORS®, sales persons and brokers associated with the Designated REALTORS®, and any other entity approved by the Board of Directors of the Great Plains REALTORS® Multiple Listing Service, Inc.")
22. **SIGNS, ADVERTISING, MLS AND INTELLECTUAL PROPERTY:** Broker is authorized to erect a "FOR SALE" sign on the Property, and, when sold, to place a "SOLD" sign thereon and otherwise reasonably advertise and promote the sale of the Property. This includes, but is not limited to, photographs and other information at the discretion of the Broker, except where prohibited by law. Broker is specifically authorized to use, for any purposes, any and all information obtained by or provided to Broker pursuant to this Listing Agreement (including contained in this Listing Agreement and any information concerning the price and terms of the sale of the property, length of time the property is on the market, and any other information relating to the property) (hereafter called the "Work(s)"), both before and after the sale or, in the event there is not a sale, after this listing has expired. I/we hereby assign to Broker any and all intellectual property rights I/we may have in the Works information contained in this listing and to any pictures or other reproductions of the property used in connection with the marketing of the property. Any and all rights assigned to Broker may be further assigned by Broker to any or all appropriate Multiple Listing Services in which Broker is a Participant, at Broker's discretion, including but not limited to the Omaha Area Board of REALTORS®, Inc. Multiple Listing Service (MLS), its participants and government entities. For purposes of clarity, Broker is the owner of any and all rights in the Work(s) and may further assign, license, sublicense, or otherwise dispose of these rights to any party for any and all purposes. If any moral rights are not transferred by the preceding sentences, I hereby waive all such rights. Seller specifically warrants and asserts that Seller has appropriate and sufficient rights in any and all images, plans or other intellectual property provided to Broker in connection with this Listing Agreement and has authority to assign such rights to Broker. Seller agrees to release, hold harmless and indemnify Broker from any loss, claim or damage resulting from the failure of such warranties by Seller to Broker.
23. **REMUNERATION:** Seller acknowledges and understands that Broker and/or its agents may receive financial remuneration from the sale of title insurance or other forms of insurance or services.
24. **RELEASE OF LOAN INFORMATION:** Seller authorizes present lender to provide Broker information regarding the status of loan.

Loan# _____ Lender: _____
 Address: _____ Phone#: _____

Seller acknowledges being advised to review any mortgage(s) now existing on the Property with the understanding that there could be terms and conditions including, but not limited to, prepayment penalties, notice to lender of payoff,

interest adjustments to the end of the month, escrow shortages, back real estate taxes, back mortgage payments and recapture clause, any or all of which may have some effect on the Seller's proceeds at the time of closing. Broker and its sales associates are not responsible for obtaining such information or its accuracy. If Seller's loan is an FHA loan secured on or before August 2, 1985, Seller understands that Seller must give written notice of payoff to the lender at least one full calendar month prior to actually paying off the loan to avoid lender's charging an additional 30 days interest.

25. **HOME WARRANTY ACKNOWLEDGEMENT:** Seller hereby acknowledges that Seller and Broker have discussed the availability of home warranty coverage for the Seller's listed property, including complimentary basic Seller coverage during the Listing Period with one of the providers named below. Seller acknowledges that the basic listing coverage offered by the below named providers will be complimentary and Seller will be automatically enrolled for the Seller's coverage. Seller understands that such coverage is not contingent on Seller's purchase, or commitment to purchase, home warranty coverage for Buyer. Seller further understands and acknowledges that Seller is solely responsible for any and all service call fees and/or deductibles.

Specific information on items covered by Seller listing coverage, options and fees for enhanced coverage, eligibility, liability limitations, geographical restrictions, service call fees, and more may be obtained from your Broker.

Seller selects complimentary basic home warranty coverage through:

American Home Shield [AHS]

2-10 Home Buyers Warranty

Optional AC and/or Heat Pump Seller's Coverage for \$50.00

OR:

Option Two:

--	--

(initial)

Seller has, or intends to seek, home warranty coverage through the following provider:

OR:

Option Three:

--	--

(initial)

Seller waives all home warranty coverage.

26. **ACKNOWLEDGMENTS:** For the purpose of this listing contract, the affiliated licensee(s) signing below as "Agent" shall constitute the specific Sellers Limited Agent, together with such other licensee(s) affiliated with Broker as may be assigned by Broker in writing. The affiliated licensee(s) named and the Seller's Limited Agents who may be appointed by the Broker are collectively referred to in this Listing Contract as Seller's Limited Agents. All responsibilities and duties of Broker shall also be the responsibilities and duties of the Seller's Limited Agent. Seller and Broker acknowledge that they have read this contract, that all information contained in this contract is true and accurate to the best of their knowledge, and they have each received a copy of the executed contract.
27. **COOPERATING WITH OTHER BROKERS:** Broker's policy is to offer cooperation and compensation to other MLS brokers who sell your property through the MLS. Listing Company will not extend an offer of Seller subagency to any broker. Compensation is offered to buyer brokers as advertised in the MLS, subject to differing arrangements with specific companies. For the commission to be offered to specific cooperating brokers, please consult the Broker.
28. **ELECTRONIC TRANSACTION AUTHORIZATION:** Seller agrees that all records relating to this Listing Agreement and the sale of this Property; including but not limited to all offers, counteroffers and acceptances (1) may be transmitted by electronic means including fax and email; (2) shall be treated in all respects as originals and shall satisfy all legal requirements, if any, that the records be in writing; (3) electronic signatures attached or affixed thereon shall be treated as original signatures and shall satisfy all legal requirements, if any, that the record be signed and (4) shall be re-executed by both parties on an original form if requested by either party.

29.

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30. **ARBITRATION:** Any controversy or claim between the parties to this Listing Agreement, its interpretation, enforcement or breach, including but not limited to claims arising from non-contractual injuries and damages (tort), shall be settled by binding arbitration in accordance with the provisions of the Commercial Rules – Real Estate Industry Arbitration Rules (including a Mediation Alternative) administered by the American Arbitration Association. The arbitrator(s) shall apply Nebraska substantive and procedural law to the arbitration proceedings. Arbitration shall be commenced by written demand made by any one or more of the parties to the Dispute given to all other parties to the Dispute. The demand for arbitration must be in writing and must be given by personal delivery, overnight mail/delivery or certified mail, return receipt requested within 365 days after the party giving the notice knew, or exercising reasonable diligence and care, should have known, of the Dispute. The parties agree that every dispute described above that is not resolved by informal settlement or mediation will be decided exclusively by arbitration and that any arbitration decision will be final and binding. The parties agree that they will receive all the rights and benefits of arbitration, but are giving up rights they may have to litigate those claims and disputes in a court or jury trial, or to participate as a representative or member of any class of claimants in connection with any such disputes. No party to this Listing Agreement shall be entitled to join or consolidate disputes by or against others in any arbitration, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in any private attorney general capacity.
31. **REPRESENTS & WARRANTIES:** The undersigned Seller(s) represents and warrants that Seller(s) is duly empowered and/or authorized, whether individually, on behalf of any entity or as a fiduciary, to enter into this Listing Agreement and create a valid and binding contract. And that all parties required to transfer title to the Property upon creation of a valid Purchase Agreement are parties to this contract.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

Signed this 20 day of October, 2022

SELLER NAME(S) PRINTED



**BERKSHIRE
HATHAWAY**
HomeServices

Broker #4300
(402) 493-4663

Ambassador Real Estate
331 Village Pointe Plaza Omaha, NE 68118

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SELLER SIGNATURE

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SELLER SIGNATURE

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SELLER'S LIMITED AGENT SIGNATURE

SELLER ADDRESS

SELLER PHONE NUMBER(S)

[Empty signature box]

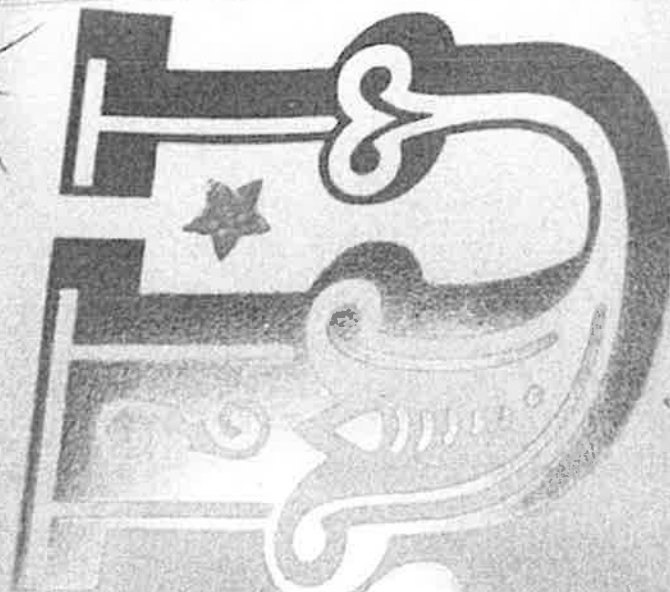
SELLER'S LIMITED AGENT SIGNATURE

SELLER EMAIL(S)

Marion
Company are &
Top Quality

5 checks
#100
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#100
#100
#100

My own is
Care
Pentax



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everything you do! & did
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Pentax

