



COMMISSION COMMENT

Winter

1998

Governor Appoints Janice Wiebusch to Commission

Governor E. Benjamin Nelson appointed Janice Wiebusch to a six-year term on the Real Estate Commission beginning September, 1998. Ms. Wiebusch is the broker for Century 21 Midlands in Kearney, Nebraska. Ms. Wiebusch became a real estate salesperson in June 1976 and received her broker license in August 1979.

Janice is a graduate of the University of Nebraska with a Masters Degree in Music. In addition to an early career in teaching, Janice has served her community in an impressive and extensive variety of endeavors. She is an involved and active member in her church. She is currently the Fundraising Chairperson on the Habitat for Humanity Board of Directors; Chairperson, Kearney Area Community Foundation; current member and Past Chairperson, of Kearney Area Chamber of Commerce Board of Directors; Past Kearney City Councilwoman 1990-1994; with many more affiliations, past and present, with organizations

associated with the arts, the community, and business.

Having served as President of the Nebraska REALTORS Association in 1995, Janice has an extensive history with the REALTORS Association. She currently serves as a National Director 1996-1998 and Member of the Business Issues Committee at the National level. She also serves as the Chairperson, Education & Member Services Committee; Vice-Chairperson, Strategic Planning Committee; and as a member of several other committees at the State Association level.

Janice likes to travel, particularly enjoying snow skiing and boating on the Mississippi. But its always nice to be home in Kearney where Janice and her husband, Jack, enjoy and help others to enjoy Nebraska's "Good Life."



Commissioner Wiebusch and Secretary of State Moore

Commission Meeting Schedule

December 7-8, 1998	Omaha
January 12-14, 1998	Omaha
February 24-25, 1999	TBA
March 23-24, 1999	TBA

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Commission Members: back row l to r: Fred Fletcher, John Hansen, Scott Moore, Jerry Schleich front row l to r: Janice Wiebusch, Paul Landow, Joan Nigro

Nebraska Real Estate Commission
COMMISSION COMMENT

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

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

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GREETINGS,

As we get ready for the biggest New Year's Eve party of all New Year's Eve parties, on December 31, 1999 - one year from now, we all have to ask ourselves "are we ready?" I do not mean for the party! I mean - are we ready for the new Millennium in a business sense? Are we positioned to compete in the market and maximize all the resources that are available.

Just like each of you has in your own business, we at the Real Estate Commission have been preparing for the next century. We are doing so by applying new technology to eliminate many of the time and distance barriers that have plagued Nebraska since Statehood.

In July of 1998, we converted to computerized examinations for applicants. This one change greatly impacts the average citizen interested in a real estate license in all corners of the state. For instance, in Scottsbluff prior to computerized testing the paper test was offered three times a year in the Panhandle or, of course, the applicant could travel to another site for testing if they could not wait. With computerized examinations the applicant has an opportunity to test over 250 days a year in Scottsbluff.

In the next 12 months the Nebraska Real Estate Commission will adopt Rules and Regulations for Distance Education Courses that will allow licensees to meet continuing education requirements through a variety of delivery methods. We will also develop a Commission website, complete the process of bringing our records in-house, equip examiners with laptops in the field and have e-mail addresses for all staff in the next year.

All of these efforts taken together prepare the Commission to conduct business with and for the public and licensees in a modern and efficient manner. We are also exploring ways to file certain documents on-line directly with the Commission when feasible. One such project we will specifically look into is the possibility of filing and paying the renewal fees on-line.

Yes, 1999 will be a big year for all of us as we prepare for what is literally a once in a millennium occasion. Come January 2000 the Nebraska Real Estate Commission will be ready to conduct business the way business should be conducted in the new century.



Scott Moore
Secretary of State

MEET THE REAL ESTATE COMMISSION STAFF

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

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

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

COMMUNICATIONS GUIDE

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

Commission Meeting Information	<i>Heidi Burkland</i>
Complaint Procedures	<i>Terry Mayrose</i>
Continuing Education History or Inquiries	<i>Julie Schurr</i>
Curriculum Design (Education & Instructor Approval)	<i>Teresa Hoffman</i>
Errors and Omissions Insurance Inquiries	<i>Teresa Hoffman</i>
License Applications Packet Requests	<i>Vera David-Beach</i>
License Applications Process	<i>Nancy Glaesemann</i>
Licensing and Education Requirements	<i>Teresa Hoffman</i>
New Licenses in Process	<i>Nancy Glaesemann</i>
Specialized Registrations	<i>Monica Wade</i>
Transfer of License	<i>Anita Cass</i>
Trust Account Matters	<i>Terry Mayrose</i>
	<i>John Clark</i>
	<i>Bob Arterburn</i>
	<i>Ron Pierson</i>

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1999 License Renewal

renewal fee, the sum of twenty-five dollars for each month, or fraction thereof, beginning with the first day of December; Provided that such late application is filed before July 1 of the ensuing year, i.e. by 5:00 P.M. (CDT) June 30, 1999.

Every individual licensee is responsible for the renewal of his or her own license. However, some firms have a practice of holding renewals until they have collected all the renewals of the licensees with the firm and then submitting them to the Commission all together. There are two general approaches to this "bundling" practice. One, all renewals for the firm are collected, with individual checks attached to each renewal, and then all renewals for the firm are sent, under one cover, to our Office. Two, all renewals for the firm are collected with the firm writing one check to cover the total amount needed to renew all licensees in the "bundle" and then they are sent, under one cover, to our Office. Both practices can cause situations to occur where late penalty fees can accrue, if the "bundled" renewals are not sent considerably early, to allow for the review and processing to take place prior to November 30.

In the first scenario, the licensee may have turned his/her renewal and check into the firm a month or more in advance. The "bundle" arrives at the Commission Office a day or two before the deadline. In processing, it is found that questions have not been answered; the form is unsigned; proof of continuing education or errors and omissions insurance is needed; and/or an individual licensee's check is not correct. The individual licensee will owe a late penalty fee if the correction cannot be made prior to November 30 at 5:00 P.M.

In the second scenario, the licensee had turned his/her check and form into the firm a month or more in advance and the "bundle" arrives at our Office on or close to the deadline. Again, the review process finds that an individual application, or more than one, is incomplete or proof of continuing education or errors and

In September, all persons holding a Real Estate Broker or Salesperson license were sent a renewal notice along with a partially completed renewal form for use in renewing their license for 1999. If you have not received your renewal please contact the Real Estate Commission office as soon as possible. In order for mail to be deliverable, the Post Office must have the names of all persons receiving mail at that address.

A REMINDER: November 30, 1998, is the deadline for submitting renewal application materials for salespersons and brokers, along with the proper fees and, if needed, proof of continuing education and errors and omissions insurance. When mailed, these materials must be post-marked no later than November 30, 1998. If not mailed, renewal materials must be delivered and received in the Office of the Nebraska Real Estate Commission by 5:00 P.M. (CST) November 30, 1998. The Office is located at, 1200 'N' Street, Suite 402, PO Box 94667, Lincoln, NE 68509. Because the deadline falls on a Monday this year, NO EXTENSIONS OF THE DEADLINE WILL BE GRANTED.

LICENSES HELD ON INACTIVE STATUS MUST BE RENEWED EACH YEAR. Renewal forms and renewal instructions specific to inactive licenses have been mailed along with all others and are subject to the same deadlines as described in this article.

NO RENEWALS WILL BE ACCEPTED UNLESS THEY ARE ON THE COMPUTER PREPARED FORMS WHICH HAVE BEEN SUPPLIED, AND ARE FILLED OUT COMPLETELY AND SIGNED BY THE LICENSEE.

Any salesperson or broker who fails to file an application for renewal of a license and pay the renewal fee by the November 30 date, as provided in the Nebraska Real Estate License Act and Neb. Rev. Stat. § 49-1203, may file a late renewal application with all required information included and must pay, in addition to the

(Continued from page 3)

omissions insurance is needed. This time, however, if the correction cannot be made by the deadline, ALL renewal applications covered by the single check are late and the late penalty fee accrues to all the renewal applications.

The processing of renewal applications, as the volume of renewals received increases near the deadline, can be as long as a week to ten days. This being the case, the return of the individual application or "bundled" applications, by mail, in and of itself, will cause late penalties to occur. Therefore, we encourage each of you,

and those of you who "bundle", to mail your renewals early and not wait until the last minute. We want to sincerely thank the many licensees who have renewed their licenses already, allowing us to serve you much more efficiently.

It should also be pointed out that the License Act provides that the issuance of an insufficient funds check may be grounds for denial or revocation of a license - this includes the renewal of a license.

**REMEMBER:
LICENSE RENEWAL FEES
CANNOT BE COMBINED WITH
TRANSFER FEES OR EXAMI-**

NATION FEES. PLEASE SEND SUCH REQUESTS AND THE APPROPRIATE FEE UNDER SEPARATE COVER.

RENEW EARLY! MAKE SURE THAT THE APPLICATION IS COMPLETED FULLY AND SIGNED. MAKE SURE YOUR CHECK IS ENCLOSED AND IN THE CORRECT AMOUNT. IF ACTIVE, DO NOT FORGET ABOUT THE ERRORS & OMISSIONS INSURANCE AND CONTINUING EDUCATION.

Acceptable Subject Matter for Continuing Education

Throughout the evolution of real estate continuing education, a prevailing concern continues to be a definition of what constitutes approvable subject matter for continuing education programs. With a dynamic and diverse industry such as real estate, approvable subject matter is wide ranging, as evidenced by the over 400 different subject matters reflected in our "Approved Continuing Education Lists" which are available to anyone upon request. With each new development in real estate, we anticipate expansion in the number of approved continuing education subjects.

Guidelines for approvable subject matter include the fact that it must advance the purpose of continuing education as stated in section 81-885.49 of the Nebraska Real Estate License Act: "... to establish requirements for continuing education of real estate brokers and salespersons who are licensed in order to maintain and improve the quality of real estate services provided to the public." Continuing education subject matter is further defined by Title 299, Chapter 7, Section 003 of the Rules and Regulations of the Commission which states the following:

"003 The following activities cannot be used toward meeting the continuing education requirement:

003.01 Those which are specifically examination preparation in nature.

003.02 Those which deal with office or business skills, such as typing, speed reading, memory improve-

ment, body language, motivation and similar activities.

003.03 Those which are completed by a challenge examination (testing-out of the activity).

003.04 Sales promotion or sales meetings held in conjunction with a brokerage firm's general business.

003.05 Orientation courses for licensees held by trade organizations.

003.06 Continuing education activities taken prior to approval date of the continuing education activity.

003.07 Continuing education activities of the same content, or if in the opinion of the Commission, an activity is so similar as to be indistinguishable in content, cannot be used for a minimum of four years after its use toward meeting the continuing education requirement, except that courses meeting the required hours set forth in Section 001 of this Chapter may be repeated but not in the same two-year continuing education period." (Note: *The Commissioners have interpreted this to mean that general course content may be repeated after a four-year interim from when the course was originally taken, ie: course #0039 taken 7/1/90 may be repeated 7/2/94. Required subject matter (R courses) are also an exception in that they may be duplicated in every subsequent continuing education period.*)

"003.08 Broker licensees cannot retake courses taken as part of their pre license requirement and use them toward meeting their continuing edu-

cation requirement except as provided in Title 299, Chapter 7, Section 003.07.

003.09 Continuing education activities taken to make up a deficiency of the continuing education requirement from a previous continuing education period may not be used toward the current period's continuing education requirement."

Additionally, product promotion of any kind is prohibited during instruction time. The Commission feels strongly that taking advantage of a "captive audience" to promote products is not acceptable. Licensees have indicated to us that they resent such exploitation, as well.

We know that some people have been discouraged by various reports they may have heard, "Don't bother, they won't approve it anyway". To the contrary, we appreciate the opportunity to consider programs and to work with educators in the development of fine continuing education programs.

Some people find these guidelines very restrictive; however, we have found that within these guidelines, there are a multitude of possible programs that may be considered. We would encourage you to feel free to refer, to the Commission, programs you have found of value for either a formal application for continuing education approval or, if preferred, a more informal review where concepts may be discussed prior to finalization of programs. Our hope is to help insure a sound value for your continuing education investment.

Optional Alternative To Brokerage Relationships Pamphlet Available

During the summer, the Real Estate Commission was approached by members of the Nebraska REALTORS Association and encouraged to consider revising the Brokerage Relationships Pamphlet currently required to be used as the document disclosing limited agency relationships. The Commission encouraged the REALTORS to develop such a document and to bring it to the Commission for its consideration.

The REALTORS did submit a document for this purpose, indicating that a Task Force had been assigned the task and had received support in submitting the document for consideration. After some further revisions were agreed upon between the REALTORS and the Commission the final document was reviewed.

The Real Estate Commission has approved the Brokerage Relationships document, a sample of which is

enclosed in this newsletter, as an alternative to the Brokerage Relationships Pamphlet. **IT IS IMPORTANT TO NOTE THAT THERE HAS BEEN NO CHANGE TO THE STATUTE OR REGULATION, THIS IS PURELY A MATTER OF LICENSEES BEING GIVEN A CHOICE OF LIMITED AGENCY DISCLOSURE DOCUMENTS.** Either document may be used for disclosure purposes, the pamphlet or the newly designed document (sample enclosed). Whichever the Broker for the real estate company chooses to utilize in a firm's procedures, it should be used consistently and in compliance with Neb. Rev. Stat. § 76-2421.

Although the layout and appearance of this document are different, its content is nearly the same and its use and options to personalize it are the same as available through the

pamphlet. Licensees must disclose which types of agency relationships their firm offers and the services they provide to unrepresented parties, this document may be used for these purposes. Spacing, although limited, is included in this document to personalize it, previous guidelines should be consulted when doing so. **HOWEVER, THE COMMISSION HAS DETERMINED THAT THE FIRM'S NAME AND/OR LOGO MAY NOT BE TYPESET ON THIS DOCUMENT.** There is concern that if this is done, the document will more easily be misconstrued as a contract.

Please review the enclosed sample of the document. If you, **AS THE BROKER FOR THE REAL ESTATE COMPANY**, decide to utilize this format, camera-ready copies of this document, as enclosed, are available in English, Spanish, and Vietnamese by contacting the Commission at (402) 471-2004.

Disciplinary Actions Taken by The Real Estate Commission (Does Not Include Cases on Appeal)

98-008 - Commission vs. Thomas D. Eacher, broker - Stipulation and Consent Order. License suspended for thirty (30) days, followed by ninety (90) days served on probation, from May 19, 1998 through September 19, 1998, with an additional six (6) hours of continuing education to include three hours in law and three hours in property management to be completed by November 14, 1998. (Violated Section 76-2422(6) by failing to perform the terms of the Management Agreements by not sending excess rents to the banker, authorizing payment of invoices without first obtaining permission, and disclosing confidential financial information when the Respondent was not required by statute, rule or regulation to do so and Section 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a broker.)
May 19, 1998

98-011 - Commission vs. Robert Joseph Patenaude, broker - Stipulation and Consent Order. License Censured. (Violated Section 81-885.24(24) and Section 81-885.24(29) by negligently failing as an associate broker, to place as soon after receipt as practicable in the custody of his employing broker any deposit money entrusted to him by any person dealing with him as the representative of his licensed broker.)
May 19, 1998

98-012 - Commission vs. Mark F. Abboud, broker - Stipulation and Consent Order. License suspended for two years, with said suspension stayed and served on probation from May 29, 1998 through May 29, 2000, with an additional twelve (12) hours of continuing education to include three hours in trust accounts, three hours on agency, three hours in disclosure law, and three hours in disclosures to be completed by March 1,

1999. (Violated Section 81-885.24(19) by failing to include a fixed date of expiration in any written listing agreement; Section 81-885.24(26) by violating a rule or regulation adapted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, specifically Title 299, N.A.C., (a) Ch. 3-002 by failing to maintain a bookkeeping system which accurately and clearly discloses full compliance with the laws relating to the maintaining of trust accounts; (b) Ch. 5-003.10 by failing to identify to the seller, in writing, at the time the offer is presented and accepted, those categories of costs the seller will be expected to pay at closing, failing to prepare a written estimate of the costs the seller will be expected to pay at closing, and failing to obtain the signature of the seller on said written document; (c) Ch. 5-003.11 by failing to identify to

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the prospective purchaser, in writing, at the time the offer is written by the purchaser or a counteroffer is accepted by the purchaser, those categories of costs the purchaser will be expected to pay at closing, and by failing to obtain the signature of the purchaser on said document; (d) Ch. 5-003.14 by failing to deposit any funds received as an earnest money deposit within 48 hours or before the end of the next banking day after an offer was accepted; (e) Ch. 5 003.23 by failing to assure that a copy of the Seller Property Condition Disclosure Statement was delivered to the purchaser or to the agent of the purchaser, on or before the effective date of any contract entered into which binds the purchaser to purchase the residential real property; (f) Ch. 5 003.24 by failing, as the agent of the purchaser, to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser on or before the effective date of any contract entered into which binds the purchaser to purchase the residential real property and to obtain the signed receipt of the purchaser; (g) Ch. 5-003.07 and Ch. 5-003.08 by failing to comply with Neb. Rev. Stat. §§ 76-2401 through 76-2430, particularly Neb. Rev. Stat. § 76-2417 by acting as an agent for the seller without benefit of a written contract, Neb. Rev. Stat. § 76-2420 by failing to adopt a written policy which identifies and describes the relationships in which the designated broker and affiliated licensees may engage with any seller, landlord, buyer, or tenant as part of any real estate brokerage activities, Neb. Rev. Stat. § 76-2421 by failing to provide a written copy of the current brokerage disclosure pamphlet to a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker at the earliest practicable opportunity during or following the first substantial contact, and Neb. Rev. Stat. § 76-2422(04) by acting as a dual agent without obtaining the written agreement of the seller and the buyer; (h) Ch. 3-006 by failing, in the case of cooperative sales between brokers, to

deposit earnest money payment in the Respondent's real estate trust account within 48 hours or before the end of the next banking day after an offer is accepted, in writing, and then forthwith transferring such earnest money deposit to the listing broker; and Neb. Rev. Stat. § 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as the broker.)

May 19, 1998
98-015 - Commission vs. Fred L. Swett, broker - Stipulation and Consent Order. License suspended for two (2) years, with said suspension stayed and served on probation from May 19, 1998 to May 19, 2000, with an additional twelve (12) hours of continuing education to include three hours in trust accounts, three hours in disclosures, three hours in agency, and three hours in rules and regulations to be complete by November 19, 1998. (Violated Neb. Rev. Stat. § 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, specifically Title 299, N.A.C.; (a) Ch. 3-002 by failing to maintain a bookkeeping system which will accurately and clearly disclose full compliance with the laws relating to the maintaining of trust accounts; (b) Ch. 5-003.23 by failing to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser or the agent of the purchaser, on or before the effective date of any contract which binds the purchaser to purchase the residential real property; (c) Ch. 5-003.24 by failing to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser on or before the effective date of any contract entered into which binds the purchaser to purchase the residential real property and to obtain the signed receipt of the purchaser; (d) Ch. 5 003.13 by failing to identify to the seller, in writing, at the time the offer is presented and accepted, those categories of costs the seller will be expected to pay at closing and to prepare a written estimate of the costs the

seller will be expected to pay at closing; (e) Ch. 5-003.11 by failing to identify to the prospective purchaser, in writing, at the time an offer is prepared by the purchaser or a counteroffer is accepted by the purchaser, those categories of costs the purchaser will be expected to pay at closing and a written estimate of the costs the purchaser will be expected to pay at closing; (f) Ch. 5-003.07 and Ch. 5-003.08 by failing to comply with Neb. Rev. Stat. § 76-2401 through § 76-2430, in particular, Neb. Rev. Stat. § 76-2417 by representing a seller without a written listing agreement, Neb. Rev. Stat. § 76-2421 by failing to provide, at the earliest practicable opportunity during or following the first substantial contact with the seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with as designated broker, a written disclosure regarding agency, Neb. Rev. Stat. § 76-2422 by failing to authorize affiliated licensees, in writing, what agreements may be entered into on behalf of the Respondent; and Neb. Rev. Stat. § 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a broker.)

May 19, 1998
98-014 - Commission vs. Melissa L. Jarecke, broker - License suspended for six (6) months with said suspension stayed and served on probation from September 9, 1998 through March 8, 1999, with an additional three (3) hours of continuing education in trust accounts to be completed by March 8, 1999. (Violated Neb.Rev.Stat. § 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, specifically, Title 299, NAC, Chapter 3-002 by failing to maintain a bookkeeping system which will accurately and clearly disclose full compliance with the laws relating to the maintaining of trust accounts; and Neb.Rev.Stat. § 81-885.24(29) by demonstrating negligence to act as a broker.)

September 9, 1998

Long on Ethics . . . Promote ethics in the workplace by taking responsibility for your moral actions

Dr. Deborah Long

(Editor's Note: This article is reprinted with permission from Dr. Long GRI, CRS, DREL. Dr. Long has written eight textbooks and numerous education programs. Her area of expertise is in the study of ethics.)

It's easy to blame moral poverty on other people. Today's headlines give us plenty of moral failures, from government officials to celebrated athletes to famous entertainers.

By blaming others, we feel less responsible and less likely to act ethically ourselves. I call this tendency the "Doctrine of Relative Filth." In other words, "I'm not so bad; there are other people out there who are worse."

In my profession — real estate — we always point to used car salespeople as ethical illiterates. Attorneys point to real estate agents. Doctors point to attorneys. And so on.

It's easy to point the fingers of blame at others. What is more difficult is accepting responsibility for some of our profession's ills and taking action to remedy those problems.

What can licensees do to take responsibility and create a more ethical workplace and profession? Here are some suggestions:

1. Support tougher standards for obtaining professional licenses and for keeping them.

Research on moral reasoning skills indicates that ethical judgment is related to education: that is, individuals who have more years of secondary education perform better on tests of ethical judgment. (Interestingly, education is much more strongly associated with mature ethical judgment than with chronological age. Getting older doesn't necessarily mean getting more ethical.)

Thus efforts to "raise the bar" by requiring more classroom hours in pre- and post-licensing courses may promote more ethical judgment among licensees.

2. Promote the discussion of ethics in

professional meetings. Discuss and analyze transactions/events where licensees had problems solving ethical problems.

Give this discussion special priority in these meetings by providing them early in the agenda. It's also important to make ethics a topic of conversation at the dinner table at home.

3. Give recognition for civic contributions and de-emphasize promotions and publicity for financial achievement.

Discourage the promotion of "top producer" and "million dollar sales clubs" and similar advertisements that emphasize financial success rather than other important individual or team contributions.

Too many licensees are encouraged to be successful only in financial terms. This is particularly true in industries where licensees are compensated on a commission basis.

The public is often confused about the meaning of such terms such as "million dollar clubs" and become cynical about an industry's perceived obsession with income.

Insurance companies have done much to restore the public's perception of them by promoting their contributions to charities such as United Way instead of the number of policies insurance salespeople and their firms sold.

4. Support the implementation of a regional or national ethics help line and ombudsperson for your industry.

Early attempts to implement ethics offices resulted in ethics "hotlines" where callers may have felt that they were turning in colleagues to regulatory agencies.

A "help line" provides callers opportunities to talk to neutral but expert individuals who assist callers in sorting through ethical aspects of their problems and refer them to appropriate resources for additional information.

The expert would have no vested interest in the outcome of the problem

except to help the individual make a mature ethical decision.

5. Become an ethical mentor and role model.

Of all the suggestions here, this one is the toughest. First it requires an acknowledgment that we all have the power to influence others, and equally important, our colleagues, our friends and our children are all learning from our conduct.

Individuals who have this attitude believe that they can make a difference in the world around them.

Sadly, many of us believe that what we do and what we say makes no difference at all. The authors of *Chicken Soup for the Soul* advise us otherwise.

They tell the story of a tourist walking along a starlit beach. The tide is out, and many starfish at the beach's edge are exposed and dying. Coming from the opposite direction, another tourist is walking along the shore's edge, periodically stooping over, picking up a starfish and flinging it back into the sea.

As the two tourists approach each other, the first says, "What are you doing? There must be a million starfish here. You can't throw them all back into the sea. You can't save them all. You can't possibly make a difference."

The second tourist stops, bends over, picks up yet another starfish and throws it into the ocean and says, "Made a difference to that one."

Our ethical conduct may not save the world, nor may it even save a small nation, but our ethical conduct and willingness to be an example of moral courage and ethical will to others, may make a profound difference in the people with whom we work.

After all, we do not learn our ethics from ethics teachers. We learn our ethics from people who have influence on us.



Commission-offered Errors and Omissions Insurance 1999 Policy Information

Williams Underwriting Group, as Program Administrators of the Nebraska Real Estate Commission Group Errors and Omissions Insurance program, and the Real Estate Commission have reviewed and agreed on a new carrier for the Commission-offered 1999 E & O policy. The carrier is Trumbull Insurance Company a member of The Hartford Insurance Group.

The coverages will remain the same as the current policy with one noted improvement, the 10% ownership provision will be increased to 25% ownership.

The premium will remain at \$71.00/licensee for the Mandatory Coverage limits of \$100,000/\$300,000. An OPTIONAL plan, which allows licensees to buy-up limits under the same coverage is also available for \$131/licensee with limits of \$250,000/\$750,000.

In addition to the mandatory coverage and enhanced limits described above, Williams Underwriting is also making available Excess Plus Coverage. After having received numerous inquiries as to the availability of excess coverage which would address some major concerns of the real estate industry i.e. discrimination, owned property, pollution etc., Williams will be offering Excess Plus Coverage to the firms by application.

Brief highlights of the Excess Plus Coverage:

1. Failure to detect pollutants \$1,000,000 residential; \$100,000 commercial paid claim and/or defense
2. Discrimination/Steering \$100,000 paid claim and/or defense
3. Personal injury excluding advertising

4. Sale of personal residence by a Firm member (covering Firm- NOT owner-licensee)

5. Lockbox/Keyless Entry

6. Defense of Regulatory Complaints \$5,000/\$10,000

7. First dollar defense

Available by Endorsement:

1. Sale of owned property

2. Sale of residential construction/development property

Available by Separate Application:

1. Employment Practices Liability--Sexual Harassment

To obtain additional information and/or application for Excess Plus Coverage (mandatory coverage materials were included with 1999 license renewal materials), please contact Williams Underwriting Group @ 800-222-4035 or Fax @ (812) 284-3252.

Nebraska Real Estate Commission
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THIS IS NOT A CONTRACT

General Information

Nebraska licensed real estate brokers, and their associate brokers and salespersons, are required by law to disclose the type of brokerage relationship they have with the buyers, tenants, sellers, or landlords to whom they are providing services in a real estate transaction. The buyers, tenants, sellers, or landlords may be either clients or customers of a licensee. A client of a licensee is a person or entity who has a brokerage relationship with that licensee. A customer of a licensee is a person or entity who does not have a brokerage relationship with that licensee, although the licensee is involved in the real estate transaction.

There are several types of brokerage relationships that are possible, and you, whether a client or a customer, should understand them at the time a licensee begins to provide brokerage services to you in a real estate transaction. They are: 1) Buyer Limited Agency; 2) Tenant Limited Agency; 3) Seller Limited Agency; 4) Landlord Limited Agency; 5) Dual Limited Agency; and 6) Common Law Agency.

All real estate licensees providing brokerage services are buyer's or tenant's limited agents, and no written agreement is necessary, unless:

- 1) the licensee has entered into a written agreement with a seller (a listing agreement) or a landlord (a management or leasing agreement) to represent the seller or landlord as their limited agent;
- 2) the licensee is providing brokerage services as a subagent of another broker who has an agency relationship with a client;
- 3) the licensee is providing brokerage services under a written dual agency agreement; or
- 4) the licensee is operating under a written common law agency agreement with a client.

The licensee who is offering brokerage services to you, or who is providing brokerage services for a particular property, must make certain disclosures regarding his/her brokerage relationship in the transaction. These disclosures must be made at the earliest practicable opportunity during or following the first substantial contact with a buyer, tenant, seller, or landlord who does not have a written agreement for brokerage services with another licensee.

It should be noted that, at the end of each of the four sections of this brochure, brokers were given space to include information specifying those brokerage relationships their firms offer and identifying the services they can provide within each relationship. Broker supplements to this brochure are distinguished by print type and are in addition to the language prepared and approved by the Nebraska Real Estate Commission.

Buyer or Tenant Agency

A buyer's or tenant's limited agent is an agent who represents a buyer or tenant. A real estate licensee is a buyer's or tenant's limited agent, unless one of the written agreements previously referred to is in place. A buyer's agency or tenant's agency may also be created by written agreement between you and a real estate broker. A buyer's or tenant's limited agent, in addition to performing under the terms of any written agreement made with the buyer or tenant, exercises reasonable skill and care for the buyer or tenant and promotes the interests of the buyer or tenant with the utmost good faith, loyalty, and fidelity. A buyer's or tenant's limited agent seeks a price and terms which are acceptable to the buyer or tenant; presents all written offers to and from the buyer or tenant in a timely manner; discloses, in writing, to the buyer or tenant all adverse material facts actually known by the limited agent; and advises the buyer or tenant to obtain expert advice on known matters beyond the limited agent's expertise. A buyer's or tenant's limited agent must account for all money and property received, and must comply with all applicable federal, state, and local statutes, rules, and ordinances.

A buyer's or tenant's limited agent shall not disclose any confidential information about the buyer or tenant unless required by statute or rule, or if failure to disclose would constitute fraudulent misrepresentation.

A buyer's or tenant's limited agent may retain and compensate other brokers as subagents only with the written agreement of the buyer or tenant. (Subagents have the same duties and obligations as the buyer's or tenant's limited agents.)

A buyer's or tenant's limited agent may show the same property to competing buyers and tenants, and assist competing buyers and tenants in attempting to purchase or lease said property, without breaching any duty or obligation to their client.

A buyer's or tenant's limited agent owes no duty or obligation to a customer (seller or landlord) except to disclose, in writing, all adverse material facts actually known by the licensee. Adverse material facts may include advise material facts concerning the buyer's or tenant's financial ability to perform the terms of the transaction.

A buyer's or tenant's limited agent must also act honestly and fairly in their dealings with a seller or landlord. A buyer's or tenant's limited agent owes no duty to conduct an independent investigation of the buyer's or tenant's financial condition for the benefit of the seller or landlord, or to independently verify the accuracy or completeness of statements made by the buyer or tenant or any independent inspector.

A buyer's or tenant's limited agent must, if the seller or landlord is not represented by another licensee, provide a list of tasks that the buyer's or tenant's limited agent intends to perform for the seller or landlord (customer).

Seller or Landlord Agency

A seller's or landlord's limited agent is an agent who has entered into a written agreement to represent a seller or landlord. A seller's or landlord's limited agent performs under the terms of the written agreement; exercises reasonable skill and care for the seller or landlord; and promotes the interests of the seller or landlord with the utmost good faith, loyalty, and fidelity. A seller's or landlord's limited agent seeks a price and terms which are acceptable to the seller or landlord; presents all written offers to and from the seller or landlord in a timely manner; discloses, in writing, to the seller or landlord all adverse material facts actually known by the limited agent; and advises the seller or landlord to obtain any necessary expert advice on known matters beyond the limited agent's expertise. A seller's or landlord's limited agent must account for all money and property received, and must comply with all applicable federal, state, and local statutes, rules, and ordinances. A seller's or landlord's limited agent shall not disclose any confidential information about the seller or landlord unless required to do so by statute or rule, or if failure to disclose would constitute fraudulent misrepresentation.

A seller's or landlord's limited agent may retain and compensate other brokers as subagents only with the written agreement of the seller or landlord. (Subagents have the same duties and obligations as the seller's or landlord's limited agent.) A seller's or landlord's limited agent may show and list alternative or competing properties without

breaching any duty or obligation to the seller or landlord. A seller's or landlord's limited agent owes no duty or obligation to a customer (buyer or tenant) except to disclose, in writing, all adverse material facts actually known by the seller's or landlord's limited agent. An adverse material fact includes:

- 1) environmental hazards, affecting the property required by law to be disclosed;
- 2) physical condition of the property;
- 3) material defects in the property;
- 4) material defects in the title to the property; and
- 5) material limitations of the seller's or landlord's ability to perform under a contract.

A seller's or landlord's limited agent must also act honestly and fairly in their dealings with a seller or landlord. A seller's or landlord's limited agent owes no duty to conduct an independent inspection of the property for the benefit of the buyer or tenant, or to independently verify the accuracy or completeness of any statement made by the seller or landlord or an independent inspector. A seller's or landlord's limited agent must, if the buyer or tenant is not represented by another licensee, provide a list of tasks that the seller's or landlord's limited agent intends to perform for the buyer or tenant (customer).

Limited Dual Agency

A limited dual agent is an agent who, with the written, informed consent of all parties to a contemplated real estate transaction, represents both the seller and the buyer or both the landlord and the tenant. Both parties are clients of the licensee. A limited dual agent has the same duties and obligations of a limited agent to a seller or a landlord and the same duties and responsibilities of a limited agent to a buyer or a tenant as has been set out in this document, except as set out below.

A limited dual agent may disclose any information to one client that is gained from the other, if the information is relevant to the transaction or the client, except, a limited dual agent cannot disclose the following without the informed written consent of the client to whom the information pertains: 1) the buyer or tenant is willing to pay more than the purchase price or lease rate offered; 2) the seller or landlord is willing to accept less than the asking price or lease rate; 3) the motivating factors for any client buying, selling, or leasing; or 4) a client will agree to financing terms other than those offered. The limited dual agent cannot disclose to one client any confidential information about the other, unless required by statute or rule, or if failure to disclose would constitute fraudulent misrepresentation.

Common Law Agency

The duties and obligations of an agent under a common law agency agreement exceed the duties and obligations of a limited agent as described in this document and in Nebraska Statutes, Neb. Rev. Stat. § 76-2401 through 76-2430. For example, a licensee who is authorized by the principal to bind the principal to terms or conditions in a real estate transaction would be a common law agent. A buyer, tenant, seller, or landlord and the real estate broker must enter into this type of agency through a written agreement which specifies the agent's duties and responsibilities, including the duty of confidentiality and the terms of compensation. An agreement such as this will be subject to the common law requirements of agency applicable to real estate licensees.

Client Acknowledgment: By signing below, I acknowledge that I have received "Brokerage Relationships in Real Estate Transactions" at the earliest practicable opportunity during or following the first substantial contact between the licensee and myself. The licensee is: offering to act representing me as a: limited seller's agent; limited buyer's agent; limited dual agent; limited landlord's agent; limited tenant's agent; or as a common law agent.

Client (printed name) _____ Signature _____ Date _____

Client (printed name) _____ Signature _____ Date _____

Brokerage Firm & Licensee (printed) _____ Affiliated Licensee (printed name) _____ Date _____

Customer Acknowledgment: I acknowledge that I have received "Brokerage Relationships in Real Estate Transactions" at the earliest practicable opportunity during or following the first substantial contact between the licensee and myself. The licensee is not representing me, but is acting as a limited agent for the: buyer; seller; tenant; landlord; and the agent has provided me with a list of tasks the licensee intends to perform for me, as a customer.

Customer (printed name) _____ Signature _____ Date _____

Customer (printed name) _____ Signature _____ Date _____