

COMMISSION COMMENT

Fall

2006

2007 License Renewal

We are approaching the 2007 real estate license renewal period. All real estate Brokers or Salespeople WILL be sent a renewal notice along with a partially completed renewal form for use in renewing their license for 2007. Your renewal will be mailed to your broker's main office address, unless you have informed us of your preferred contact address. Then the renewal will be mailed to the requested contact address. **If you do not receive your renewal by early October please contact the Real Estate Commission Office as soon as possible.** In order for mail to be deliverable, the Post Office must have the names of all persons receiving mail at that address.

DEADLINE REMINDER

November 30, 2006, is the deadline for submitting renewal applica-

Commission Meeting Schedule

August 24-25Lincoln
 October 5-6Lincoln

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tion materials for all active and inactive salespersons and brokers, along with the proper fees and, if needed, proof of continuing education and errors and omissions insurance. Renewal materials may be post-marked (postal meter marks will NOT be considered) through

attempt to use someone else's form, the barcode will not accommodate this. Please take care not to lose your individualized form. Every year we spend a great deal of time and resources duplicating the original mailing for those who have misplaced the documents. If you do lose



November 30. The Office is open until 5:00 P.M. (CST).

LICENSES HELD ON INACTIVE STATUS MUST BE RENEWED EACH YEAR, TOO.

Renewal forms and renewal instructions specific to inactive licenses will be mailed along with all others and are subject to the same deadlines as described in this article.

INDIVIDUALIZED FORMS

Mailed renewal forms are produced from our database and are individualized to the named licensee. Please take the time to read the supplied information carefully and make any corrections necessary. **Do not**

the mailed renewal – Remember you can download a generic renewal from our website at: www.nrec.state.ne.us. **Please be aware that a downloaded form is NOT individualized, therefore, it is very important that you fill-in the contact information at the top of the form in order to be properly identified.** You can also file directly on-line by going to www.nrec.state.ne.us. Please see the paragraph on this topic later in this article.

INCOMPLETE APPLICATIONS

NO RENEWALS WILL BE ACCEPTED UNLESS THEY

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Nebraska Real Estate Commission
COMMISSION COMMENT

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DIRECTOR'S DESK

Trust Account and License Manual Updates to be Mailed

Updates to both the License Manual and the Trust Account Manual will be mailed in late September. Please update your manual, or both manuals, as the case may be, as soon as received. Instructions will accompany the updates to assist in inserting new pages and discarding pages which have changed. All licensees and subscribers will receive the License Manual Update. All designated brokers and subscribers will receive the Trust Account Manual Update.



Updates to both the License Manual and the Trust Account Manual will be mailed in late September. Please update your manual, or both manuals, as the case may be, as soon as received. Instructions will accompany the updates to assist in inserting new pages and discarding pages which have changed. All licensees and subscribers will receive the License Manual Update. All designated brokers and subscribers will receive the Trust Account Manual Update.

Unclaimed Trust Funds

The State Treasurer recently contacted our office regarding brokers sending unclaimed funds to the Treasurer's Unclaimed Property Division in the name of both the buyer and the seller. The Treasurer's Office does not make the determination to whom the unclaimed trust funds belong. That is not its job. The broker must make that decision prior to sending the funds.

Following is an excerpt from the upcoming **Trust Account Manual Update** regarding this issue:

- The Nebraska Real Estate Commission receives numerous inquiries regarding trust funds which have been in the designated broker's trust account for extended periods of time, but have never been claimed by the rightful owner. Unclaimed funds are usually in the form of earnest monies, escrowed funds, rental proceeds, security deposits, or uncashed trust account checks.
- Neb. Rev. Stat. § 69-1301 et seq., relating to the disposition of unclaimed property, provides that, although not mandatory, the unclaimed funds may be maintained by the designated broker for a period of five (5) years. The designated broker must make a determined effort to find the rightful owner of the funds, at least once, by first-class mail to the last known address of the rightful owner. Proof of such attempt should be maintained by the designated broker. If after attempting to find the rightful owner, the rightful owner cannot be located, then the designated broker "may" send the funds to the State Treasurer's Office – Unclaimed Property Division. When submitting the unclaimed funds, the designated broker should do so immediately after determining that the rightful owner cannot be located and should provide the State Treasurer with the name of the rightful owner and his/her last known mailing address. Unclaimed funds should never be submitted under the names of both the buyer and seller or, in other words, in more than one rightful owner's name. A claim can then be made with the State Treasurer's Office by the rightful owner should they re-appear. Additionally, unclaimed funds are never to be transferred to the designated broker's Broker Equity account.
- The above applies only to unclaimed or abandoned funds. It does not apply to funds placed in dispute by the parties to a real estate transaction. Funds which are "in dispute" must remain in the designated broker's trust account

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MEET THE REAL ESTATE COMMISSION STAFF

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

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

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

COMMUNICATIONS GUIDE

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

Commission Meeting Information . . .	<i>Monica Wade</i> InfoTech@nrec.ne.gov
Complaint Procedures	<i>Terry Mayrose</i> DDEnf@nrec.ne.gov
Continuing Education History or Inquiries	<i>Melanie Patrick-Heather</i> EdEnf@nrec.ne.gov
Curriculum Design (Education & Instructor Approval)	<i>Teresa Hoffman</i> DeputyD@nrec.ne.gov
Errors and Omissions Insurance Inquiries	<i>Teresa Hoffman</i> DeputyD@nrec.ne.gov
Financial Officer	<i>Diane Wotipka</i> Finance@nrec.ne.gov
License Applications Packet Requests	<i>General Staff</i>
License Applications Process	<i>Marilyn Masters</i> Applic@nrec.ne.gov
Licensing and Education Requirements	<i>Teresa Hoffman</i> DeputyD@nrec.ne.gov
New Licenses in Process	<i>Marilyn Masters</i> Applic@nrec.ne.gov
Specialized Registrations	<i>Monica Wade</i> InfoTech@nrec.ne.gov
Transfer of License	<i>Tawny Snider</i> LicTsf@nrec.ne.gov
Trust Account Matters	<i>Terry Mayrose</i> DDEnf@nrec.ne.gov <i>John Clark</i> <i>Patricia Stehly</i> <i>Ron Pierson</i>
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WEBSITE: www.nrec.state.ne.us

TELEPHONE NUMBER

(402) 471-2004

FAX NUMBER

(402) 471-4492

ADDRESS:

Nebraska Real Estate Commission
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Lincoln, NE 68509-4667

Disciplinary Actions Taken by the Real Estate Commission

(Does Not Include Cases on Appeal)

2006-008 – Commission vs Michelle Lynn Haywood, Salesperson. License censured; plus an additional six (6) hours of continuing education in the area of license law, all to be completed before transferring to “active” status. [Violated Neb. Rev. Stat. §81-885.24 (29) Demonstrating negligence to act as a salesperson by failing to responsibly ensure that all proper documentation relating to the transfer of her real estate license had been received by the Nebraska Real Estate Commission, and that her real estate salesperson’s license had been properly transferred from “inactive” status to “active” status prior to participating in a licensed real estate activity. May 3, 2006

2006-030 – Commission vs Daniel Jay Dunne, Salesperson. Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education with three (3) hours in the area of license law and three (3) hours in the area of agency, all to be completed by September 12, 2006. [Violated Neb. Rev. Stat. §76-2418 (1) A licensee representing a buyer or tenant as a buyer’s or tenant’s agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including: (ii) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease. Dunne failed to present an Offer in a timely manner; Neb. Rev. Stat. §76-2422 (4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a dual agent shall obtain the written consent of the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The consent shall include a licensee’s duties and responsibilities specified in

section 76-2419. The requirements of this subsection are met as to a seller or landlord if the written agreement entered into with the seller or landlord complies with this subsection. The requirements of this subsection are met as to a buyer or tenant if a consent or buyer’s or tenant’s agency agreement is signed by a potential buyer or tenant which complies with this subsection. The consent of the buyer or tenant does not need to refer to a specific property and may refer generally to all properties for which the buyer’s or tenant’s agent may also be acting as a seller’s or landlord’s agent and would be a dual agent. If a licensee is acting as a dual agent with regard to a specific property, the seller and buyer or landlord and tenant shall confirm in writing the dual-agency status and the party or parties responsible for paying any compensation prior to or at the time a contract to purchase a property or a lease or letter of intent to lease is entered into for the specific property. Dunne failed to have the seller sign a Consent To Dual Agency Agreement until February 3, 2006, which was the day following acceptance of the Offer by the seller; and Neb. Rev. Stat. §81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson. Dunne failed to present an Offer to the seller in a timely manner; Dunne inaccurately disclosed to a buyer that he was acting as a limited Buyer’s Agent when he was actually acting as a limited Seller’s Agent; and Dunne failed to have the seller sign the Consent To Dual Agency Agreement until February 3, 2006, which was the day following acceptance of the Offer. June 14, 2006

2005-040 – Commission vs Steven Lee Taylor, Salesperson. Stipulation and Consent Order. License censured; plus an additional three (3) hours of continuing education in the area of disclosures to be completed by September 12, 2006. [Violated Neb. Rev. Stat. § 81-885.24 (22) Making any substantial misrepre-

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Affiliated Licensees May Be Compensated Through Professional Corporations But Not Through Regular Corporations

This article is being written to give guidance to affiliated licensees, associate brokers and salespersons regarding the formation of corporate entities into which the designated broker may pay commissions.

NEB. REV. STAT. §§ 21-2201 TO 21-2222 are identified as the Nebraska Professional Corporation Act. A professional corporation is a corporation organized for the purpose of rendering professional services and which has, as its shareholders, only individuals who themselves are licensed. Professional services means any type of professional service to the public which requires, as a condition precedent to the render of such service, the obtaining of a license or other legal authorization and includes the personal services rendered by a real estate broker, associate real estate broker or a real estate salesperson. The Professional Corporation Act provides that the license holder remain personally and

fully liable, and accountable for any neglect or wrongful act or misconduct committed by him or her while rendering professional services. One of the general principles of a corporation is that it establishes a separate legal entity which can shield shareholders from personal liability in excess of their capital investment.

It has been the policy of the Commission that affiliated licensees may operate as professional corporations but not as regular corporations. This policy is based on Neb. Rev. Stat. § 81-885.24 (18) which provides that it is an unfair trade practice for a licensee to provide any form of compensation or consideration to any person for performing the services of a broker, associate broker or salesperson who has not first secured his or her license under the Nebraska Real Estate License Act.

Generally, an affiliated licensee will receive a percentage of the commission for his or her performance in a real estate transaction. The affiliated licensee performs his or her duties as outlined in Neb. Rev. Stat. § 81-885.01 (2) with the intent of being compensated for performing those duties. Neb. Rev. Stat. § 81-885.24(18) provides that the designated broker may not provide compensation to any person who has not first secured his or her license. A regular corporation is a separate legal entity under the law, and would be considered a person under section 81-885.24 (18). Also, the License Act does not provide for the licensing of companies. Since companies cannot be licensed, the payment of the compensation to such an entity for the affiliated licensee's work at the close of a real estate transaction would be a violation of section 81-885.24 (18).

Designated brokers need to review

their procedures to assure that violations are not taking place with regard to the payment of commissions to affiliated licensees.

Licensees may choose to incorporate under the Nebraska Professional Corporation Act. Licensees should contact their attorney or financial consultant on the advisability of such option. A professional corporation must submit an application to the Real Estate Commission for a Certificate of Registration certifying that each shareholder, officer, director and professional employee, except the secretary and assistant secretary, is licensed by the Commission and not otherwise disqualified to render services. This application may be obtained from the Real Estate Commission by calling and requesting one or by going to the Commission's website at: <http://www.nrec.state.ne.us/pc.htm> and downloading the application or submitting it on-line. A satisfactory application and a \$25 fee will result in a Certificate of Registration. Filing of the Certificate of Registration is then made with the Secretary of State's Office. Additional information on this process and the forms are available from the Secretary of State's Office. ■

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Disciplinary Action (Cont'd)

sentations. Taylor incorrectly advertised the property as "nearly three acres" in size when the property was actually 1.3 acres in size, and Taylor disseminated to the public, a postcard bearing a picture of a home other than the home actually listed; and Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence to act as a salesperson. Taylor incorrectly advertised the property as "nearly three acres" in size when the property was actually 1.3 acres in size, and Taylor disseminated to the public, a postcard bearing a picture of a home other than the home actually listed.

June 14, 2006



Tax Rules for Foreign Investors in U.S. Real Property

[Editor's note: The following article was sent to the Commission office by Pat Buttweiler, Senior Stakeholder Liaison with the Internal Revenue Service. Ms. Buttweiler encourages our readers to visit www.irs.gov to review the helpful information that can be found there. This is also the way to contact the Internal Revenue Service with any questions that you may have on this and any other federal tax related subject. Ms. Buttweiler is also available for presentations on FIRPTA and may be contacted by telephone at: (651)726-1582 or by email at: patricia.a.buttweiler@irs.gov.]

U.S. real estate licensees and rental agents/property managers are encountering an increasing number of situations that involve foreign persons acquiring U.S. real estate. The tax rules governing ownership disposition of U.S. real estate by foreign persons vary in many ways from those that apply to U.S. persons. Understanding the tax laws is critical for real estate professionals to avoid personal liability for improper U.S. federal income tax compliance.

The disposition of a U.S. real property interest by a foreign person (transferor) is subject to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) income tax withholding. FIRPTA authorized the United States for the first time to tax foreign persons on disposition of U.S. Real Property Interests (USRPI).

A USRPI includes sales of interests in parcels of real property, as well as sales of shares in certain U.S. corporations that are considered U.S. real property holding corporations. Any purchaser of a USRPI from a foreign seller must withhold ten percent (10%) of the gross purchase price and remit such amount to the IRS within 20 days of closing, using Form 8288, and [Form 8288-A](#).

The purchaser (transferee) of the property must determine if the seller (transferor) is a foreign person. If the transferor is a foreign person and withholding does not take place in accordance with the law, the transferee and the agent or settlement officer may be held liable for the tax.

There are exceptions to the withholding requirements of Internal Revenue Code section 1445. One of the most common exceptions to FIRPTA withholding is that the transferee (purchaser/buyer) does not have to withhold in a situation where the buyer purchases real estate for use as a home and the purchase price is not more than \$300,000. However, the purchaser must reside in the home for a specific number of days following the date of transfer. For an explanation of this FIRPTA withholding exception and others, refer to [IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities](#), and at www.irs.gov, using "FIRPTA" as a key search word.

In certain situations, such as when the tax due on the transferor's gain from the sale is less than the withholding, the foreign transferor (or the transferee) can request a reduction or elimination of withholding from the IRS. The [FIRPTA Withholding](#) pages on www.irs.gov have more information about reducing the withholding rate.

Withholding on Rental Income paid to a Foreign Person

If a foreign person owns U.S. rental property and receives rental/investment income not connected with a U.S. business, the

renter must withhold a flat rate of 30% (without deductions) of the rents, unless a tax treaty provides a lower rate or an exemption. Here are some basic rules regarding withholding on rent:

- IRC section 1441 provides for the withholding of tax paid by a withholding agent to a nonresident alien on various items of income, including rental income. The person paying rent, as well as the real property manager who collects rent on behalf of a foreign owner, is considered a withholding agent.
- The person making payment of U.S. source rents to a foreign person must withhold 30% unless the foreign person claims reduced withholding based on a tax treaty (W-8BEN) or makes an irrevocable election with the IRS to treat the income as effectively connected to a U.S. trade or business (W-8EIC).
- Withholding agents must use Form 1042 and 1042S to report the tax withheld.
- The requirement to withhold 30% extends to the manager of the rental property if the tenant has not done the 30% withholding. Property managers who do not comply with these rules will be held liable for 30% of gross rent, plus penalties and interest.

Additional Sources of Information:

- **IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities* Publication 519, *U.S. Tax Guide for Aliens***

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License Renewal ... (Cont'd)

ARE FILLED OUT COMPLETELY AND SIGNED BY THE LICENSEE. Make sure your check or credit card information is enclosed, filled out properly, legible, and in the correct amount. If active, do not forget about the errors & omissions insurance and continuing education.

LATE RENEWALS

Any salesperson or broker who fails to file an application for renewal of a license and pay the renewal fee by the November 30 date, as provided in the Nebraska Real Estate License Act and Neb. Rev. Stat. § 49-1203, may file a late renewal application with all required information included and must pay, in addition to the renewal fee, the sum of twenty-five dollars for each month, or fraction thereof, beginning with December 1, 2006; provided that such late application is filed before July 1 of the ensuing year, i.e. by 5:00 P.M. (CDT) June 30, 2007. (Because June 30, 2007, falls on a Saturday, postmarks and walk-ins will be honored through Monday, July 2, 2007.)

“BUNDLING” OF RENEWAL SUBMISSIONS

Every individual licensee is responsible for the renewal of his or her own license. However, some firms have a practice of holding renewals until they have collected all the renewals of the licensees with the firm and then submitting them to the Commission all together. There are two general approaches to this “bundling” practice. One, all renewals for the firm are collected, with individual checks attached to each renewal, and then all renewals for the firm are sent, under one cover, to our Office. Two, all renewals for

RENEW On-Line At

www.nrec.state.ne.us



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 the renewal deadline.

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 the renewal deadline.

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

however, if the correction cannot be made by the deadline, all renewal applications covered by the single check are late and the late penalty fee accrues to each and every renewal application in the bundle. **If the “bundling” option is used, please be sure to mail early!**

RENEW EARLY

The processing of renewal applications, as the volume of renewals received increases near the deadline, can be as long as a week to ten days. This being the case, the return of the individual application or “bundled” applications, by mail, in and of itself, will cause late penalties to occur. Therefore, **we encourage all licensees to mail renewals early and not wait until the last minute.**

OPPORTUNITIES TO RENEW ON-LINE

Our website has been developed to better serve you and we are constantly updating it to even better serve licensees and the public. We hope that you have acquainted yourself with the site and the tremendous amount of material available on it. We are seeking to bring you greater opportunities in this medium. While everyone will be mailed a renewal in the traditional fashion, the opportunity to submit a renewal online is also available to you. **Should you elect to renew online please**

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License Renewal ... (Cont'd)

remember that all deadlines apply to online renewals just as they would any other. Please also remember that you **CANNOT fill out online renewals for anyone but yourself**. Once you enter this page, your identification is automatically supplied on the form(s), therefore, any electronic signature besides your own will invalidate the renewal form.

CREDIT CARD PAYMENTS

Visa and Master Card only may

be used to pay fees associated with the renewal of licenses. **Debit cards will NOT be accepted.** Please review forms and supply the indicated information when opting for the credit card method of payment.

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

INSUFFICIENT FUNDS CHECKS

IT SHOULD ALSO BE POINTED OUT THAT THE LICENSE ACT PROVIDES THAT THE ISSUANCE OF AN INSUFFICIENT FUNDS CHECK MAY BE GROUNDS FOR DENIAL OR REVOCATION OF A LICENSE – THIS INCLUDES THE RENEWAL OF A LICENSE. A CHECK RETURNED FOR ANY REASON ACCRUES A \$35.00 PROCESSING FEE ■.

Top Seven List of Renewal Mistakes

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

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

1. NO ERRORS & OMISSIONS INSURANCE:

The Commission-offered E&O

Insurance plan for 2007 will be administered by Williams Underwriting Group, Inc. E & O Policies other than the NEBRASKA Commission-offered plan, require a current Certification of Coverage Form and, in some cases, an Endorsement Form either already in the file or submitted in conjunction with the renewal form. Please enroll for any equivalent policies far enough in advance that verification of coverage will not delay the renewal of your license.

Similarly, when indicating enrollment in the Nebraska Commission-offered plan, the renewal form reads that you have **MADE** application – key is the fact that you must follow up on this commitment and send the insurance enrollment materials to Williams Underwriting Group, Inc. preferably **prior to the time** you send your renewal materials to the Commission. *Whether enrolling in*

the Commission-offered plan where coverage is verified directly to the Commission or enrolling in an equivalent policy which necessitates your coordination of the verification, if you wait until the last minute to renew your license and then send your insurance enrollment at this same late date you will have a delay in processing your renewal – WE CANNOT RENEW YOUR LICENSE ON ACTIVE STATUS WITHOUT PROOF OF INSURANCE.

2. INCOMPLETE OR INACCURATE RENEWALS:

Renew early and carefully! Every year we make **hundreds** of telephone calls to avoid returning incomplete renewals. We endeavor to facilitate the renewal of your license in any way that we can but these calls are costly in time and charges. Please

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A Guide for Distance Learners

[Editor's note: The Nebraska Real Estate Commission's Rules and Regulations require that education delivered in a distance education format be certified by the Association of Real Estate License Law Officials (ARELLO). This article was written by Dr. Robert Meyer who has been ARELLO's consultant and a Fulbright Scholar in distance education.]

Quite often ARELLO is asked what advice we can offer to distance learner students. In response to those questions we offer these tips you may want to include with your distance education materials.

Ten Rules for Distance Learners

1. Read the course introduction materials thoroughly. Distance education courses are often unique in their delivery formats. The introductory material will explain how the course operates and how to proceed through the course in the most efficient manner. Do not skip this material. Understand the course requirements.

2. Read the learning objectives for each unit. These help outline the material that is presented in each unit and presents the "roadmap" for your study.

3. Taking notes while you go through the course can help you retain important points and serve as review for courses that require a final exam. Summarize the main points you have learned and make

notes on those items you missed or had difficulty mastering. It is often helpful to go back over the unit and formulate questions based on items you have identified as important.

4. Asking yourself questions during distance education studies helps your study to be active learning. Turning the unit objectives into questions before you start the unit often helps stimulate active learning.

5. Set time aside on a planned basis for your study. Distance education in many ways requires more personal discipline than classroom study. Make sure you have certain "times for class" each week. Ensure that your study time is in a quiet environment where you will not be disturbed. It is easy to procrastinate in distance education.

6. Reward yourself with short breaks. In general, after you have studied for an hour it is wise to take a break. Suggestions range from taking a coffee or tea break to some physical activity to keep you alert and stimulated.

7. When you encounter technical difficulties with course operations, make sure you use the specific telephone number for technical assistance.

Contacting your instructor will often result in delays in resolving technical

problems. Remember, in most distance education



courses there is a separate contact for technical help.

8. When you do not understand the material, contact the instructor. When the contact is made via email, you should expect a reply within a reasonable time frame. In rare cases where an instructor does not reply, you should contact the provider and explain you have contacted the instructor and have not received a reply.

9. Know how long you have to complete the course. The time will be stated in the course introduction.

10. Do your own work. ■

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Tax Rules (Cont'd)

- **Form 8288**, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests
- **Form 8288-A**, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests
- **Form W-8BEN**, Certificate of Foreign Status of Beneficial Owner for United States Tax

Withholding

- Instructions for Form W-8BEN
- **Form W-8ECI**, Certificate of Foreign Person's Claim for Exemption From Withholding on Income Effectively Connected With the Conduct of a Trade or Business in the United States
- Instructions for Form W-8ECI
- **Form 1042**, Annual Withholding Tax Return for U.S. Source Income of Foreign

Persons

- **Form 1042-S**, Foreign Person's Source U.S. Income Subject to Withholding
- Instructions for Form 1042-S
- The International section of www.irs.gov

The author of this article, Ms. Buttweiler, is also available for presentations on FIRPTA and may be contacted by telephone at: (651)726-1582 or by email at: patricia.a.buttweiler@irs.gov. ■

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TOP 7 Errors ... (Cont'd)

make sure that the application is **completed fully, your additional explanations, corrections, or credit card numbers are clearly legible, all pages are returned and the form is signed.** Make sure your check or payment information is enclosed, signed, and correct. If active, do not forget about the errors & omissions insurance and continuing education.

3. CONTINUING EDUCATION REQUIREMENT NOT COMPLETE OR NOT SUBMITTED:

If your renewal form indicates **NEEDS CONTINUING EDUCATION** – then you had not fulfilled your CE obligation as of the date the renewal was printed. We will not renew your license on active status without it. Be sure to include any CE certificates not already submitted to the Commission office with your renewal form.

Sometimes the mailing of the renewal form and your submission of continuing education certificates cross in the mail. You can verify our receipt of your certificates by looking up your information under the “Nebraska Licensee and Applicant Information Search” section of our website at: www.nrec.state.ne.us. If you need further assistance, we will be happy to discuss this with you **PRIOR** to you sending in your renewal.

4. POSTAL METER MARKS WILL NOT BE HONORED:

State law allows us to recognize U.S. Postmarks as a means to complying with deadlines which involve fees. Postal meters are not sufficient to meet this requirement.

5. LOST RENEWAL MATERIALS:

Your renewal materials will be mailed to your broker’s main office address, unless you have informed us of your preferred contact address. Then the renewal will be mailed to the requested contact address. Please take care not to misplace these materials. We send them as early as possible so that you can renew early and not worry about it. Unfortunately, it appears that this lead time gives lots of people time to lose their materials—replacing these materials is expensive. If you do lose the mailed renewal—Remember you can download a renewal, complete it, and send it in or you can file directly on-line by going to www.nrec.state.ne.us.

Should you elect to renew online please remember that all deadlines apply to online renewals just as they would any other. Please also remember that you CANNOT fill out online renewals for anyone but yourself. Once you enter this page, your identification is automatically supplied on the form(s), therefore, any electronic signature besides your own will invalidate the renewal form.

Different from a mailed form and an online form, please be aware that a downloaded form is NOT individualized, therefore, it is very important that you fill-in the contact information at the top of the form in order to be properly identified.

6. ILLEGIBLE AND/OR INCOMPLETE CREDIT CARD INFORMATION.

Please be careful and accurate when writing your credit card information. Remember too, to supply the expiration date of the credit card used **AND** supply your signature authorizing the charge in addition to signing the renewal form, itself.

7. COMBINING RENEWAL WITH TRANSFER PROCESSES:

The renewal of your license is a completely separate process from a voluntary transfer of your license. Requests to have your license transferred to another broker or activated to yourself should be sent under separate cover and the \$15.00 transfer fee should be separate from the license renewal fee as well. ■



Return Service Requested

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(Continued from page 2)

From the Director (Cont'd)

and be handled as specified by the Commission's Rules and Regulations, specifically, Title 299 Chapter 3-007.

For more specific information and the exact procedure for depositing unclaimed funds, contact the Nebraska State Treasurer, Unclaimed Property Division, P.O. Box 94788, Lincoln, NE 68509-4666.

Retention of Canceled Checks and Deposit Slips

The Commission, after receiving questions from designated brokers and reviewing changes in banking practices, has modified its position regarding retention of checks and deposit slips.

Following is an excerpt from the upcoming Trust Account Manual Update regarding this issue:

- Under Title 299, Chapter 3, Section 001, brokers... "must preserve for five years following its consummation records relating to any real estate transaction."
- Historically, the preservation of records includes not only the bank statements, but the canceled checks and deposit slips. With the advent of "paperless" transactions, many financial institutions are now providing their clients with micro-images of the canceled check or deposit slip in lieu of returning original documents.
- Since these micro-images are small and sometimes hard to read, it is suggested that designated brokers include sufficient information pertaining to the transaction on the original deposit slip and check so that the micro-image of the canceled check or deposit slip can be properly traced to the real estate transaction. That information may include but not be limited to: the date of the document; the correct dollar amount; the name of the buyer/tenant or seller/landlord; and the property address.
- Designated brokers are required to receive, along with the trust account bank statement, either the canceled checks and deposit slips, or micro-images of the canceled checks and deposit slips. If your trust account is maintained by a financial institution that provides neither, it is recommended that you discuss the matter with your banking officer and contact the Nebraska Real Estate Commission. ■

