



NEBRASKA REAL ESTATE COMMISSION

COMMISSION COMMENT

Fall | 2010

New Commission Website

Commission Plans to Expand the use of Technology

If you have looked online for the NREC lately you may have noticed an entirely new website, if you haven't been online you can go to <http://www.nrec.ne.gov/> and take a look. There is certainly plenty of new content and services, including an extensive FAQ page, our new electronic notification service, and the use of Google maps to make locating Commission meetings and our office easier. However, much of the emphasis in the development of the new Website was to make finding the extensive content that already existed on the old NREC website easier.

To that end the page was orga-

nized based on both the type of user (licensee, consumer) or the subject matter (legal, commission information) with navigation tabs specific to each subcategory on those subcategories respective pages.

The new website and electronic notification service is the first step an ongoing effort to update the Commission's use of technology for the benefit of both our licensee's and internal efficiency. We also added the ability for users to access and change their NREC password online, rather than having to call us.

Look for further improvements to existing online services such as license renewals next year.

Al Avery Appointed to the Commission

Governor Heineman has announced the appointment of Alvin A. Avery to the Nebraska Real Estate Commission. Avery is a broker for Woods Brothers Realty in Grand Island where he manages their branch office, and will represent the Third Congressional District for a six year term. He has been a real estate licensee since 1987. A full article about Avery will be published after he is sworn in at the next Commission meeting.

Commission Meeting Schedule

October 28-29Lincoln
December 2-3Lincoln

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Sign Up for the Commission's New Electronic Notification Service

One of the features of the new Commission website is our electronic notification service. Available as an e-mail update or RSS feed, we will use the service to post timely updates of law changes, regulatory hearings and other items of importance to licensees. We have pre-populated the list with the E-mail addresses we have on file. We encourage all licensee and other interested parties to participate in the service, and especially urge all designated and managing brokers to participate. To subscribe (or unsubscribe) go to our homepage and click on "Electronic Notification Service" in the What's New box in the upper right hand part of the page.

In This Issue:

Top Ten Thirteen Ways to Avoid Getting a Complaint Filed Against You

(see article on page 8)

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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.

Printed with soy ink

DIRECTOR'S DESK

First and foremost I would like to welcome Al Avery as our newest Real Estate Commissioner, a full story will be printed next quarter after he is officially sworn in.

One of the questions I and the other staff of the Commission get on a regular basis is "what can I do to stay out of trouble with the Commission?" We then generally talk about some of the things we see on a frequent basis, allegations of misrepresentation, failure to present the agency disclosure pamphlet, etc. To my knowledge no one has compiled a written list, until now, please turn to page 8 for the top 13 ways to stay out of trouble with the Commission, the list was compiled using a broad category common sense approach rather than a technical/legal sort of method, so that the principles should be easy to remember and follow.



Director Greg Lemon

Fee Adjustments

At the August meeting of the Commission projected revenues and expenditures were reviewed and fee adjustments considered. Recent lower activity levels in the real estate market have also led to lower levels of license renewals and applications, which has affected Commission revenues. Therefore, some minor adjustments to license fees were made. Effective October 1, 2010 transfer fees increased from \$15 to \$25, and we have begun charging a \$25 fee for certification of licensure. In addition the Commission approved charging the \$135 application fee currently charged for new license applicants to applicants for licensure by recognition. The Commission did not want to increase the general application, renewal and license fees in the current economic climate, and it was determined that the minor adjustments made would be sufficient to maintain a safe level of funding in the Commission's operating fund.

Federal Lawsuit

A California real estate broker, who is not licensed in Nebraska, has filed a lawsuit in Federal District Court challenging the constitutionality of the new law that gives us jurisdiction over unlicensed persons conducting activity requiring a license, and the authority to fine such people. The Commission and our attorneys are working very hard on defending the Commission and its

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INTERNET BEST PRACTICES Article at:

<http://www.nrec.ne.gov/legal/internetbestpractices.html>

Wonder how to best practice real estate in the new digital world?
Please visit the URL above for a timely and relevant article on
internet best practices in the real estate profession.

Disciplinary Actions Taken by the Real Estate Commission

(Does Not Include Cases on Appeal)

2009-052 – Commission vs. William Daniel O’Brien, Salesperson. Stipulation and Consent Order. O’Brien’s real estate salesperson’s license is suspended for a period of thirty (30) days with the entire thirty (30) days suspension period stayed and served on probation. The probation period commenced on July 22, 2010, and continued through August 23, 2010; plus complete an additional six (6) hours of continuing education to include three (3) hours in Contracts and three (3) hours in License Law to be completed by November 19, 2010; and pay a civil fine of \$1000.00, on or before August 23, 2010. [O’Brien violated Neb. Rev. Stat. § 76-2417(1) 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: (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; O’Brien failed to have all parties to the contract sign an Addendum outlining the buyers’ requirement to purchase a Wal-Mart gift card for \$517.00, and deliver said gift card to the sellers immediately following closing; and by failing to have all parties to the contract sign an Addendum granting the buyers’ permission to enter the home for the purpose of replacing the inside door on the front of the home as required by the VA inspection. O’Brien also violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson; by failing to have all parties to the contract sign an Addendum outlining the buyers’ requirement to purchase a Wal-Mart gift card for \$517.00, and deliver said gift card to the sellers immediately following closing; and by failing to have all parties to the contract sign an Addendum granting the buyers’ permission to enter the home for the purpose of replacing the inside door on the front of the home as required by the VA inspection.]

July 22, 2010

2010-010 – Commission vs. Shannon Kole Yates, Broker. Stipulation and Consent Order. Yates’ real estate broker’s license is suspended for a period of two (2) years with the first six (6) months served on suspension and the remainder of the two (2) year period stayed and served on probation. The suspension period commenced on July 8, 2010, and will continue through January 7, 2011. The probation period will commence on January 8, 2011, and will continue through July 7, 2012; plus an addi-

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RENEWAL FORMS MAILING DELAYED

The Real Estate Commissions Mailing of license renewal forms will be later than usual this year. We expect to have the forms out and online renewals available by no later than the end of October. Also please note, that while every effort is made to get these forms out to the correct address, failure to receive a renewal packet does not relieve you of your obligation to renew in a timely manner.

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	Monica Rut monica.rut@nebraska.gov
Complaint Procedures	Terry Mayrose terry.mayrose@nebraska.gov
Continuing Education History or Inquiries	Tawny Snider tawny.snider@nebraska.gov
Curriculum Design (Education & Instructor Approval)	Teresa Hoffman teresa.hoffman@nebraska.gov
Errors and Omissions Insurance Inquiries	Teresa Hoffman teresa.hoffman@nebraska.gov
Financial Officer	Rebecca Hallgren rebecca.hallgren@nebraska.gov
License Applications Packet Requests	General Staff realestate.commission@nebraska.gov
License Applications Process	Marilyn Masters marilyn.masters@nebraska.gov
Licensing and Education Requirements	Teresa Hoffman teresa.hoffman@nebraska.gov
New Licenses in Process	Marilyn Masters marilyn.masters@nebraska.gov
Specialized Registrations	Monica Rut monica.rut@nebraska.gov
Transfer of License	General Staff realestate.commission@nebraska.gov
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Disciplinary Actions (Cont'd)

tional six (6) hours of continuing education to include three (3) hours in disclosures, and three (3) hours in ethics to be completed by October 22, 2010; and pay a civil fine of \$1500.00, on or before July 24, 2010. [Yates violated Neb. Rev. Stat. § 81-885.11 Any person desiring to act as a real estate broker or real estate salesperson shall file an application for a license with the Commission. The application shall be in such form and detail as the Commission prescribes setting for the following: (3) Such other information as the Commission requires. Yates repeatedly and knowingly submitted a materially false Application for a real estate broker's license dated October 18, 2003, and materially false Renewal Applications for calendar years 2003, 2004, 2006, 2008, and 2009. Yates violated Neb. Rev. Stat. § 81-885.12 When an applicant has made a false statement of material fact on an application, such false statement may in itself be sufficient ground for refusal of a license. Yates repeatedly submitted to the Commission a materially false Application for a real estate broker's license dated October 18, 2003, and materially false Renewal Applications for calendar years 2003, 2004, 2006, 2008, and 2009. Yates violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker; by repeatedly and knowingly submitting a materially false Application for a real estate broker's license dated October 18, 2003, and materially false Renewal Applications for calendar years 2003, 2004, 2006, 2008, 2009 by engaging in repeated acts of criminal conduct that resulted in multiple criminal convictions, three of which involved alcohol abuse.

June 24, 2010

2010-011 – Commission vs. Laura A. Nunez, Salesperson. Stipulation and Consent Order. Nunez's real estate salesperson's license suspended for a period of two (2) years, with the first six (6) months served on suspension and the remainder of the two (2) year period stayed and served on probation. The suspension period commenced on July 8, 2010, and will continue through January 7, 2011. The probation period will commence on January 8, 2011, and continue through

July 7, 2012; plus an additional six (6) hours of continuing education to include three (3) hours in disclosures and three (3) hours in ethics, to be completed by October 22, 2010; and pay a civil fine of \$1500.00, on or before July 24, 2010. [Nunez violated Neb. Rev. Stat. § 81-885.11 Any person desiring to act as a real estate broker or real estate salesperson shall file an application for a license with the Commission. The application shall be in such form and detail as the Commission prescribes, setting for the following (3) Such other information as the Commission requires. Nunez repeatedly and knowingly submitted materially false Renewal Applications to the Commission for calendar years 2001, 2003, 2004, 2005, 2006, 2007, 2008, and 2009; Nunez violated Neb. Rev. Stat. § 81-885.12 When an applicant has made a false statement of material fact on an application, such false statement may in itself be sufficient ground for refusal of a license. Nunez repeatedly and knowingly submitted materially false Renewal Applications to the Commission for calendar years 2001, 2003, 2004, 2005, 2006, 2007, 2008, and 2009; Nunez violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson; by repeatedly and knowingly submitting materially false Renewal Applications to the Commission for calendar years 2001, 2003, 2004, 2005, 2006, 2007, 2008, 2009, and for engaging in repeated acts of criminal conduct that resulted in multiple criminal convictions, three of which involved alcohol abuse.

June 24, 2010

SC2010-002 – Commission vs. Scott Allen Schaefer. Show Cause Hearing held June 29, 2010. Schaefer failed to show cause as to why he should not be subject to sanctions for failing to abide by the provisions of the Stipulation and Consent Order in Case No. 2009-005. Schaefer failed to abide by the requirement of the Commission's Order which required him to provide documentary proof to the Commission of his weekly attendance at AA meetings by the 5th day of each month during his 2-year probation period. Schaefer's real estate salesperson's license is suspended for one (1) additional year with the entire additional one (1) year period stayed and served on probation, to commence on September

19, 2011 and continue through September 18, 2012. All other requirements of Case No. 2009-005 shall remain in full force and effect throughout the additional one (1) year period; plus pay Court Reporter costs associated with said hearing in the amount of \$200.00 by July 28, 2010.

June 29, 2010



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Director's Desk (Cont'd)

authority to enforce the state licensing provisions. We may very well get a ruling on this case before you see this column because of the time needed for printing and mailing, if we get something significant from the court we will send out a notice via our new electronic notification service.

Renewal Notices

Our notices will go out a little later than usual this year, probably mid to late October. We are in the process of picking the vendor for the new Errors and Omissions Insurance contract, and we can't print the renewal forms until that process is completed at the beginning of October. I apologize if this causes any inconvenience, but you should still have a month or more to get these in before the November 30 deadline.

Greg Lemon, Director
Nebraska Real Estate Commission



2011 LICENSE RENEWAL IMPORTANT!

Because the Commission is engaged in the Request for Bid (RFP) process to issue a new contract for an Errors and Omissions Insurance service provider, RENEWAL MATERIALS WILL NOT BE AVAILABLE IN ANY FORMAT PRIOR TO LATE OCTOBER. After that date renewal materials will be available online for download or online renewal and renewal forms will be mailed as soon as possible. As always your renewal will be mailed to your broker's main office address, unless you have informed us of your preferred contact address. In that case, the renewal will be mailed to the requested contact address. In order for mail to be deliverable, the Post Office must have the names of all persons receiving mail at that address.

DEADLINES WILL NOT CHANGE!

November 30, 2010, is the deadline for submitting renewal application materials for all active and inactive salespersons and brokers, along with the proper fees and, if needed, proof of continuing education and errors and omissions insurance. The Office is open until 5:00 P.M. (CST). If the renewal is complete and all necessary materials have been submitted, postmarks of November 30, 2010 will be honored. **Postal meter marks will not substitute for postmarks!**

Licenses held on inactive status must be renewed each year, too.

Renewal forms specific to inactive

licenses and renewal instructions will be mailed along with all others and are subject to the same deadlines and fees 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 attempt to use someone else's form, the barcode will not accommodate this.** Please take care not to lose your individualized form. If you do lose the mailed renewal, remember you can download a generic renewal from our website at: www.nrec.ne.gov. **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 renew directly online by going to

this article.

INCOMPLETE APPLICATIONS

NO LICENSES WILL BE RENEWED UNTIL ALL INFORMATION REQUESTED IN THE APPLICATION IS SUPPLIED AND THE FORM IS SIGNED BY THE LICENSEE. There should be no questions left unanswered. If active, make certain you properly address your errors & omissions insurance and continuing education requirements. Make sure your check or credit card information is enclosed, filled out properly, legible, and in the correct amount. **If you are unsure as to how to complete your renewal, we will be happy to answer any questions you may have. INACCURATE OR INCOMPLETE RENEWALS MAY JEOPARDIZE THE TIMELY RENEWAL OF YOUR LICENSE AND COULD RESULT IN THE ASSESSMENT OF LATE FEES.**

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, may file a late renewal application with all required information included. Renewals which are late must pay, in addition to the renewal fee, the sum of twenty-five dollars for each month, or portion of month, beginning on December 1, 2010; provided that such late application is filed by 5:00 P.M. (CDT) June 30, 2011.

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www.nrec.ne.gov.

Please see the paragraph on this topic later in

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2011 Licensing(Cont'd)

BUNDLING OF RENEWAL SUBMISSIONS

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

**RENEW On-line At
www.nrec.ne.gov**

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.**

We hope that you have seen the recent redesign of our website and have acquainted yourself with the tremendous amount of material available on it. We are seeking to make it more user-friendly and 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 on-line is also available to you. **Should you elect to renew on-line please remember that the same deadlines apply to on-line renewals. Please also remember that you CANNOT fill out on-line renewals for anyone but yourself. If multiple licensees use the same computer to renew their license on-line, they must exit the on-line renewal page completely and re-enter using their own individual user name and password. Once you enter this page,**

your identification is automatically supplied on the form(s) any electronic signature besides your own will invalidate the renewal form. It is recommended that you keep a copy of the submission page for your records.

CREDIT CARD PAYMENTS

We can now accept Discover cards along with Visa and Master Card 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: DO NOT COMBINE FEES

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

PAYMENT RETURNED BY A FINANCIAL INSTITUTION WILL BE SUBJECT TO A \$30 PROCESSING FEE. 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. YOUR RENEWAL WILL NOT BE PROCESSED UNTIL YOUR CHECK OR PAYMENT HAS CLEARED. 



Criminal History Question for License Applications and Renewals

One of the reoccurring problems that we see at the Real Estate Commission is ongoing confusion on what needs to be reported on the criminal background question on the Nebraska Real Estate Commission's initial application and renewal forms.

The question on both the application and renewal has been changed, eliminating the language regarding "other than minor traffic violations" to more specifically ask about misdemeanor or felony convictions or any current misdemeanor or felony charges. The simple answer as to what to report is just that, any misdemeanor or felony convictions or pending charges. Despite this change in the wording there still seems to be confusion about what does and doesn't need to be reported.

What Must be Reported

All serious crimes or charges must be reported. Generally the more serious crimes are felonies (burglary, assault, etc.) and there is little confusion about the requirement to report serious crimes (though a small percentage of licensees may still fail to report these, more on that later). The most confusion occurs on misdemeanor offenses related to traffic

charges. Driving under the influence (DUI), driving while your license is suspended or revoked, driving with no driver's license or registration, failure to appear for a court date, even for a minor traffic infraction, are all misdemeanors and must be reported.

What Does Not Need to be Reported

Minor traffic violations such as speeding or parking tickets do not have to be reported. New applicants should record all felonies and misdemeanors in their history unless a pardon has been granted by the Pardons Board. Any pending charges or any convictions since the last report (on either their prior renewal, or their initial application if it is your first renewal filing) need to be reported on renewals.

If you are not Sure

If you are not sure whether to report something you can check your records or citation relating to the item or call the prosecuting authority for clarification. If you are still not sure or cannot ascertain if something was a misdemeanor or felony it is best to report it, if it was an isolated, minor

offense (very likely the case if you are not sure if it rises to the level of a misdemeanor), it will not adversely affect your license, but it could be grounds for disciplinary action if it is required to be reported but is not.

It should also be noted that courts often have notations put in their orders that a conviction is expunged or your civil rights or restored after serving your sentence or paying your fine for an offense, the effect of these statements is not as official or complete as they might appear on their face. The only way to officially get a conviction off of your criminal record is to get a pardon from the State Board of Pardons, a separate and distinct process that must be applied for outside of any court proceedings and generally only after a period of time when all sentences, fines and restitution relating to the crime have been served or paid.

The recent broader availability of criminal history and court records to the Real Estate Commission and other regulatory agencies has made it much easier for the NREC to discover instances of false reporting on license applications and renewals. We have seen many instances in recent months of criminal history items that have not been reported that would not necessarily result in any disciplinary action against the licensee if reported, but do result in false reporting disciplinary actions being taken because they were not reported. On more serious offenses not reporting those items may result in both a disciplinary charge of unworthiness to be a licensee and false reporting on an application or form. 🏠



Top Ten Thirteen Ways to Avoid Getting a Complaint Filed Against You

—GREG LEMON, DIRECTOR,
NEBRASKA REAL ESTATE
COMMISSION

This article started out as a top ten list, but as I and others worked on the list it kept getting bigger. This is not a detailed legal article on how to comply with specific license and agency laws, but general guidelines that I hope will be easy to remember and incorporate into your real estate practice. We get about 70 sworn complaints filed a year with the Commission, as well as hundreds of calls a year from consumers and licensees with concerns or potential complaints. If the rules below were followed those numbers would go down dramatically.

1. Don't make misrepresentations.

a. Never withhold or deliberately misconvey information even if that information may make the transaction less likely to be completed, always remember you are looking out for your client's best interests.

b. Get your facts straight, don't say the house is not in a flood plain, for example, unless you have checked and verified this with official sources, don't say the roof doesn't leak based on an assumption or limited knowledge. Don't be afraid to say I don't know, or I will check and get back to you, or you will need to consult an attorney or other professional, or that there may need to be an inspection done to answer that question.

2. Communicate, Communicate, Communicate. Many of our complaint calls start out with "my agent won't call me back". Remember, many of your clients are entering into the biggest monetary transaction of their lives, haven't done a real estate transaction before, or haven't done one for many years. While the

Commission does not have, and has no interest in, establishing rules on how fast you respond to a phone call, text or e-mail, you do have a fiduciary duty to your client and it will be very hard to fulfill if you are not communicating with them.

3. Reduce all offers, contracts, amendments, addendums, etc. to writing, signed by the appropriate parties. The Statute of Frauds provides that all real estate contracts must be in writing. Agency law requires you to present all written offers in a timely manner. There is a reason for these laws, oral agreements are much harder to prove, much easier to dispute and may not be enforceable.

4. Provide the Commission's agency disclosure pamphlet at or as soon as practicable after the first substantial contact. This is kind of like a secondary offense, like driving without a seatbelt or texting while driving, but if a complaint is filed we review the transaction and if we find that this has not been done in a timely manner it can and likely will

be added to any other charges in the complaint, or may even be considered stand alone grounds to go forward with the complaint even if the original grounds for the complaint are dismissed.

5. Always handle the money right. Deposit the escrow funds in the appropriate account in a timely manner, record the disposition of any and all escrow funds appropriately in your trust account logs.

6. Be timely. Don't "sit on" documents, escrow checks, offers, etc. relating to the transaction. Knowing a better offer may be in its way is not a reason to withhold an offer which is on the table.

7. Seek Advice. When faced with an unusual situation or something you don't know the answer to talk to your supervising broker, call the Nebraska Real Estate Commission, when necessary seek the advice of an attorney. When in doubt seek advice before you act.

8. Disclose, Disclose, Disclose. Disclose known adverse material

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13 Ways to Avoid Getting A Complaint Filed Against You

1. Don't make misrepresentations.
2. Communicate, Communicate, Communicate.
3. Reduce all offers, contracts, amendments, addendums, etc. to writing, signed by the appropriate parties.
4. Provide the Commission's agency disclosure pamphlet at or as soon as practicable after the first substantial contact.
5. Always handle the money right.
6. Be timely.
7. Seek Advice.
8. Disclose, Disclose, Disclose.
9. Do your listing agreement right.
10. Pay attention to detail.
11. Don't allow unauthorized access to the property.
12. Keep all your paperwork with the Commission current and correct.
13. Remember your Fiduciary duty to your client.

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Ways To Avoid Getting A Complaint (Cont'd)

facts. Disclose that you are a licensee if you are selling property on your own behalf. Disclose dual agency when it occurs. Disclose all lawsuits, pending criminal charges and convictions on your renewal form.

9. Do your listing agreement right. Have all aspects of the agreement clearly spelled out in writing, include the precise expiration date, include the specific terms of compensation. If you are planning on or need to extend the listing get the extension in writing before the listing expires. Have all parties that have an interest in the property sign the listing agreement.

10. Pay attention to detail. Know the terms of any contract you have pending or listing agreements you have, if you don't know go to the appropriate source document and verify, don't assume.

11. Don't allow unauthorized access to the property. Don't allow the buyer or tenant to repair, replace, paint, live in, move in, have a party at, store things etc. on the property prior to the closing of the transaction

or commencement of the lease without express written authority.

12. Keep all your paperwork with the Commission current and correct. Get your renewal in on time, keep your E & O insurance current, meet your continuing education requirements and get them filed with the Commission. Keep any business entities you use in your real estate business (Professional Corporation, Corporation, LLC, etc.) properly registered and in good standing with the Secretary of State. Don't start working for broker B until your transfer from broker A is complete and confirmed with the Commission.

13. Remember your Fiduciary duty to your client. You are representing them, their interests are to be placed above yours in your transactions and dealings with them. Place yourself in their shoes, "if I were buying this house I would certainly want to know _____", whether the blank is information about the property, or the buying or selling process, or anything else relevant to the transaction. If you always remember your fiduciary duty the other items on this list should fall into place pretty easily 🏡

Reporting Lawsuit Information on Applications and Renewals

The Commission has recently reviewed and clarified its policies on reporting civil (non-criminal) lawsuit information on license applications and renewals. All lawsuits you are a party to which are not small claims court or domestic relations (divorce/alimony/child custody, etc.) matters should be reported on initial license applications, and all lawsuits as described above which have not been fully reported on a prior application or renewal should be reported on your renewal application.

The Commission has also established policies on what matters may or may not be cause for further investigation or disciplinary action against your license. Single instances of bad debt, bankruptcy, etc. will generally not be subject to further review, ongoing patterns of money mismanagement, allegations of fraud or embezzlement, and lawsuits relating to real estate management or transactions may be subject to further review and possible action by the Commission. 🏡





Broker Payments to Licensees – New Policy Adopted

At the August meeting of the Nebraska Real Estate Commission an expanded policy regarding broker payments to licensees was adopted. A *Commission Comment* article from the fall of 2006 stated that broker payments for commissions could be paid to licensees, or professional corporations only. The new policy expands and clarifies that policy, stating that broker payments for licensed activity may be made to licensed individuals, professional corporations, and professional limited liability companies.

In order to be able to provide compensation to a professional corporation all officers directors and shareholders of the professional corporation, as well as any employees of the

corporation conducting activity requiring a license, must have an active Nebraska real estate license and the professional corporation must be in good standing with the Secretary of State. In order to be able provide compensation to a Professional LLC all member, managers or employees of the Professional LLC who render professional services must be have an active real estate license and the PLLC must be in good standing with the Secretary of State.

This policy is the Commission's interpretation of Neb. Rev. Stat. 81-885.24(18), which specifically provides that it shall be an unfair trade practice subject to disciplinary action to provide any form of compensation to any unlicensed person performing

the services of a broker, associate broker or salesperson. The new policy specifically recognizes and allows for broker payments to real estate teams through their professional corporation of PLLCc provided the conditions outlined above have been met. 

Change Your Password Online

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