Robert Evnen Begins Term as Chairman of the Nebraska Real Estate Commission

Robert “Bob” Evnen (full biography in the Winter 2018 Commission Comment) was sworn in as Nebraska’s new Secretary of State on January 10, 2019, beginning his term of office as Nebraska’s 27th Secretary of State. The Office of State has traditionally had little turnover, Evnen has become only the 5th Secretary of State since 1953. He chaired his first meeting for the Commission on January 24, 2019 and was presented with his Commissioner pin.

Joe Gehrki Appointed to the Commission

Governor Pete Ricketts has appointed Joe Gehrki as the second district broker member of the Commission. Gehrki was appointed in November of this year and was sworn in at the January meeting of the Commission. He currently works as an associate broker for Berkshire Hathaway HomeServices Ambassador Real Estate in Omaha.

Gehrki was first licensed as a salesperson in 1987 and received his broker’s license in 2008. He has served in numerous capacities with the Omaha Area Board of Realtors and the Nebraska Realtor’s Association, including (Continued on page 4)
New Real Estate Exam

The Commission has worked with Applied Measurement Professionals (“AMP”) out of Kansas City on our real estate examination services continually since 1991, through their computerization of the exam in 1998, through today. However, with the merger of AMP and PSI in late 2015, AMP has been focusing more on medical examinations while moving the real estate testing services to PSI. Although the Commission could continue with AMP for a few more years under the terms of our contract, upon consultation with the Commission and the exam company, we felt it made more sense to migrate to the PSI exam services now. The differences and advantages of the new service are outlined below.

- PSI has greater agility in removal of obsolete questions and addition of newly legislated questions into the banks.
- PSI has higher cognitive level questions for exams. Questions stop at the application/analysis levels with AMP. PSI provides 36% of the Broker exam at the evaluation/synthesis level.
- New scenario based items on the PSI broker exam are scored in a more easy to understand method vs. AMP’s broker simulation exam which uses a statistical process called equating.

The new exam for both brokers and salespersons will be implemented May 1, 2019. Detailed changes to the exam and test taking process are found in the most current edition of the candidate handbook, which is available on our website. [http://www.nrec.ne.gov/pdf/psicandidatehandbookjan2019.pdf](http://www.nrec.ne.gov/pdf/psicandidatehandbookjan2019.pdf)

While detail and process may have some slight changes, the subject matter of the test and testing objectives remain the same, real estate laws, regulations and real estate practice. Pre-license education does not need to be altered or updated to accommodate the new test with regards to substantive learning.

Greg Lemon, Director
Nebraska Real Estate Commission
Disciplinary Actions Taken by the Real Estate Commission
(Does Not Include Cases on Appeal)

2017-029 - Commission vs. Dirk Conrad Blume; Salesperson; Omaha, NE. Hearing held November, 15, 2018. License revoked. [Blume violated Neb. Rev. Stat. § 81-885.12(2) When an applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction of this or any other state, district, or territory of the United States or of a foreign country, such untrustworthiness of the applicant and the conviction may in itself be sufficient ground for refusal of a license, when he was convicted of two (2) felonies, manslaughter and the use of a deadly weapon to commit a felony; violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section; in that he was convicted of two (2) felonies, manslaughter and the use of a deadly weapon to commit a felony.]

2017-026 - Commission vs. John Robert Knopp; Salesperson; Lincoln, NE. Hearing held October 18, 2018. License suspended for a period of five (5) years all stayed and served on probation. Probation commences on December 16, 2018 and continues through December 16, 2023; plus submit to a yearly criminal background check, by having his fingerprints captured by anyone qualified to take fingerprint prints and submitting the fingerprint cards to the appropriate law enforcement authority, paying the cost of such background check, and submitting the results of such background check to the Commission no later than February 28th of each year during the five (5) year Suspension/Probation period, the first report is due February 28, 2019; plus during the entire five (5) year Suspension/Probation period attend weekly alcohol/substance abuse treatment or groups and provide documentary evidence of such attendance to the Commission every 3 months. The first report is due March 16, 2019; plus If charged with or convicted of, another criminal offense at any time during the entirety of the five (5) year Suspension/Probation period report such offense to the Commission within five (5) days following the incident. [Knopp violated Neb. Rev. Stat. § 81-885.12(2) When an applicant has (Continued on page 4)
New Rules Regarding Education Procedures Adopted

Recent regulatory changes which went into effect on March 6, 2019, eliminate certain reporting requirements related to continuing education and broker approved training. The amendments eliminate the annual reports currently required from continuing education providers, those reports were redundant, as all continuing education is required to be reported by providers within ten days after completion. The Amendments also eliminate the broker approval requirement for what used to be called broker approved training and will now be called Commission approved training. Broker approved training was originally envisioned to be training activity primarily offered by a designated broker only to the licensees they supervise, in practice it is often offered by trade associations and schools and open to licensees from all brokers. This often lead to classes being taken without designated broker approval through oversight. The regulation as amended would eliminate the broker approval step and allow all licensees who take training activities approved by the Commission to get credit for those classes.

Please note that the change does not completely do away with the TRG2 Form, that form will still need to be completed to show when courses are being offered—but will only need to be filled out by the provider, and will not have to be signed by individual brokers whose affiliated licensees attend the training.

Gehrki will serve a six year term on the Commission, and replaces Herb Freeman, who we would like to thank for his service to the Commission and the industry.

(Continued from page 1)

(Continued from page 3)

2017-028 - Commission vs. Matthew Richard Lindauer; Salesperson; Omaha, NE.

Hearing held November, 15, 2018. License suspended for a period of three (3) years with the first ninety (90) days served on suspension, and the remainder to be stayed and served on probation. Suspension begins January 6, 2019, and continues through April 6, 2019. Probation commences on April 7, 2019 and continues through January 6, 2022; plus pay a civil fine of $1,000.00 due January 6, 2019; plus If charged and/or convicted of another criminal offense at any time during the entirety of the three (3) Suspension/Probation period shall report such offense to the Commission within five (5) days following the incident. [Lindauer violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section; in that he engaged in and was convicted of two (2) Class IV Felony violations for possession of a controlled substance; violated Neb. Rev. Stat. § 81-885.12(4) 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, by making a false statement of material fact on an application, violated Neb. Rev. Stat. § violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, in that he engaged in and was convicted of a misdemeanor for "disorderly conduct", failed to notify the Commission of said conviction as required by the conditions of the June 18, 2015 Informal Special Appearance, and provided a false statement on his 2017 renewal application.]
Let’s Talk Trust Accounts

Receipting for earnest money deposits.

The question has come up as to whether a licensee needs to receipt for an earnest money deposit that is payable to a third party closer. The simple answer is that any client funds coming into the licensee’s possession should be receipted for.

Here are a few of the possibilities: The normal transaction in which the buyer’s agent receives an earnest money check payable to the brokerage with the offer to purchase. The licensee would receipt for the deposit in the purchase contract prior to presenting the offer to the seller’s agent. If the deposit is not received with the offer, the purchase contract should clearly spell out how and when it is to be paid and a written receipt should be completed upon receipt. You should not go back to the purchase agreement and alter anything above the final signatures. The receipt can be in any format, but should include the check information, the amount, and the transaction as well as being signed by the agent.

If the check is payable to a third party closer per the terms of the contract, the same procedures would apply. The difference is that you will receipt for a deposit “payable to the third party”. You would also need to get a receipt from the third party closer for the deposit. Any and all receipts should be maintained in the transaction file.

Only when the earnest money check does not come into the licensee’s possession, would a written receipt not be required from them.

As always, if there are any questions or concerns, feel free to contact Greg Lemon, Duran Cell or John Clark.
Nebraska Real Estate Commission
PO Box 94667
Lincoln, NE 68509-4667

Return Service Requested

Nebraska Real Estate Commission: Seated (l to r): Sheri Bourne, Robert Evnen (Chair), Darlene Starman, Standing: Joe Gehrki, Andy Alloway, Ann Dover, Jim Titus