

# COMMISSION COMMENT

## Changes in the Licensing Examinations

The Real Estate Commission recently completed the Request for Proposal for the Real Estate Licensing Examination process and has decided to again contract with Applied Measurement Professionals (AMP) to provide our examinations. You will be familiar with AMP, they have reliably and conscientiously provided our examinations for 16 years.

Beginning July 1, 2007, the new contract calls for the Real Estate **Salesperson** Licensing Examination to be administered in the same multiple-choice format as always but with 50 state-specific questions up from the previous 32. There will continue to be 100 questions on the national portion of the examination. As in the past, students taking the examination will be required to get a passing score of at least a 75% on each of the national and state-specific portions of the examination.

Also beginning July 1, 2007, the new contract calls for the Real Estate

**Broker** Licensing Examination to be administered in a new format combining multiple-choice questions and real estate simulation exercises. Simulation exercises are best described as computerized role playing which allows the student to demonstrate how well he or she gathers pertinent information and how well he or she utilizes that information in making decisions. It is felt that this format will more realistically measure skills required of brokers in the day to day practice of real estate. The familiar part of the examination will consist of 75 multiple-choice questions (50 national and 25 state-specific) students must achieve a 75% score on this section. In addition, there will be 6 scored simulation exercises (plus one being pretested but not scored). From the scored simulations there will be an overall score indicating information-gathering skills and an overall score indicating decision-making skills. Students must achieve the minimum performance level for each of these two skills areas. You may familiarize yourself with simulation exercises by visiting the following page on AMP's website:

<http://www.goamp.com/PRODUCTION/REPSimttests.htm>

An Instructor Development Workshop was held earlier this month to familiarize instructors with the changes to the licensing examinations. Dr. Larry Fabrey from AMP discussed the construction and the

integrity of simulation examinations and gave the participants an opportunity to work through some simulation exercises. Ms. Mary Shern shared her experience as a noted educator in Georgia where simulation examinations were first implemented. She shared teaching techniques to help prepare students for this type of examination format.

The examinations remain computerized and there are no changes to the application process or procedures at the examination sites. There are also no changes to the examination content outlines that reflect the information that will be tested on the salesperson and broker licensing examinations. So the content which schools have been teaching and students have been studying remains absolutely relevant. What is changing, with regard to the **Broker licensing examination only**, is the way in which the student's knowledge will be measured. The Candidate Information Handbook, which includes the content outlines, may be found in every application packet and on AMP's website at:

<http://www.goamp.com/DOCUMENTS/pdf/HANDBOOKS/NEREP-handbook.pdf>

Any questions regarding the licensing examinations may be directed to the Commission Office.

### Commission Meeting Schedule

June 23-29 .....Lincoln  
August 23-24 .....Lincoln

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**COMMISSION COMMENT**

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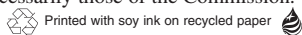
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# DIRECTOR'S DESK



## Rule Amendment

At its December Meeting, the commission held a Rule Hearing to amend Title 299, Chapter 5, Subsection 003.18 of the Commission's Rules and Regulations. This subsection

required any licensee to reduce an offer to writing when a prospective purchaser requested an offer be submitted to a seller.

The rule, as written, was determined to be too broad when read in conjunction with the Agency Relationships statute.

The amendment was proposed and adopted by the Commission to clarify that the only licensees who are required to reduce an offer to writing and submit the offer to the seller or the seller's agent when requested to do so by a prospective purchaser are the limited seller's agent for the property; the prospective purchaser's limited buyer's agent; or the dual agent of the seller and the prospective purchaser.

After adoption by the Commission, the proposed amendment was sent to the Attorney General for review and was approved. It was then sent to the Governor for review and was approved. It was then filed with the Secretary of State and became effective on February 12, 2007.

The amended rule reads: "Failure to reduce an offer to writing where a prospective purchaser requests such offer be submitted when the licensee is: the limited seller's agent; the prospective purchaser's limited buyer's agent; or the dual agent of the seller and the prospective purchaser."

Therefore, if a licensee in any one of the three agency relationships set forth fails to reduce the offer to writing and submit it when requested to do so by a prospective purchaser, that licensee would be in violation of the License Act and Rules and Regulations of the Commission.

If you have any questions, please contact the Commission Office.

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**MEET THE REAL ESTATE  
COMMISSION STAFF**

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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 Wade*  
InfoTech@nrec.ne.gov
- Complaint Procedures . . . . . *Terry Mayrose*  
DDEnf@nrec.ne.gov
- Continuing Education History or  
Inquiries . . . . . *Melanie Patrick-Heather*  
EdEnf@nrec.ne.gov
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Instructor Approval) . . . . . *Teresa Hoffman*  
DeputyD@nrec.ne.gov
- Errors and Omissions Insurance  
Inquiries . . . . . *Teresa Hoffman*  
DeputyD@nrec.ne.gov
- Financial Officer. . . . . *TBA*  
Finance@nrec.ne.gov
- License Applications Packet  
Requests . . . . . *General Staff*
- License Applications Process . . . . . *Marilyn Masters*  
Applic@nrec.ne.gov
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# Disciplinary Actions Taken by the Real Estate Commission

*(Does Not Include Cases on Appeal)*

**2006-029** – Tamara S. Leif vs Joshua Paul Cooley, Salesperson. Hearing held November 2, 2006. License suspended for a period of one year with the first month actually served on suspension and the last 11 months served on probation. (Suspension to commence upon activation of his real estate salesperson's license.) 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 ethics all to be completed prior to activating his real estate salesperson's license. [Violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson by accessing the subject property using his lockbox key for an unauthorized purpose.] November 2, 2006

**2006-066** – Commission vs. Georgianna Vint, Salesperson. Stipulation and Consent Order. License censured; plus an additional three (3) hours of continuing education in the area of license law to be completed by March 14, 2007. [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; by failing to conduct an independent measurement of the square footage of the subject home to resolve the discrepancy between two different square footages, specifically 2,264 square feet and 2,688 square feet.] December 14, 2006

**2006-019** – Melvin H. Willems vs. Thomas Eugene Dover, Jr., Broker. Stipulation and Consent Order. License suspended for a period of two (2) years with the entire suspension period served on probation commencing December 14, 2006, and continuing through December 13, 2008, plus an additional twelve (12) hours of continuing education to include three (3) hours in the area of license law, three (3) hours in the area of trust accounts, three (3) hours in the area of

agency, and three (3) hours in the area of contracts, to be completed by April 13, 2007. [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; and (d) To account in a timely manner for all money and property received; and Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, whether of the same or of a different character as otherwise specified in this section, for taking seven (7) months to turn a tenant issue over to the local Credit Bureau for collection; by failing to provide the Complainant with monthly income and expense statements during the period October, 2005, through May, 2006; and by failing to facilitate, as agreed upon, the restoration of electricity to the barn, installation of new fencing, and the restoration of the pasture area.] December 14, 2006

**2006-043** – Dwain Luhr vs Robert L Hupp, Salesperson. Stipulation and Consent Order. License suspended for a period of six (6) months, with the first thirty (30) days actually served on suspension and the remainder of the six (6) month period served on probation. Suspension period to commence within thirty (30) days of the date this Order is approved and accepted by the Commission; plus an additional nine (9) hours of continuing education with three (3) hours in the area of license law, three (3) hours in the area of contracts, and three (3) hours in the area of ethics, to be completed by June 8, 2007. Also the Facts surrounding the improper notarization must be voluntarily submitted to the Nebraska Secretary of State's Office, Notary Division. [Violated Neb. Rev.

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### Disciplinary Action (Cont'd)

Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson, for notarizing the signature of Complainant without the Complainant being in his presence to sign the documents and for allowing another person to sign the Complainant's name to the Listing Agreement and Offer to Purchase without first verifying that the person had the Complainant's written consent to sign such contracts under a duly-executed Power-of-Attorney.]

December 14, 2006

**2006-052** – Mark Resseguie, Innovative Homes and Design Inc vs Nada Resnik-McNenny, Broker. Stipulation and Consent Order. License suspended for a period of thirty (30) days, commencing January 26, 2007, through February 25, 2007; plus nine (9) hours of additional continuing education with three (3) hours in the area of agency, three (3) hours in the area of license law, and three (3) hours in the area of ethics to be completed by May 25, 2007. [Violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence to act as a broker for filing a lien against the subject new-construction home when she had no legal basis for doing so.]

January 25, 2007

**2006-055** – Henry A. and Maxine M. Polak vs Michael Steven Fox, Broker. Stipulation and Consent Order. License censured; plus nine (9) hours of additional continuing education with three (3) hours in the area of license law, three (3) hours in the area of agency, and three (3) hours in the area of ethics to be completed by August 6, 2007. [Violated Neb. Rev. Stat. § 76-2422 (2) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to establish a single agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 76-2417 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker; Title 299 Chapter 5-003.18 Failure to reduce an offer to writing where a prospective purchaser requests such

offer be submitted; and Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence to act as a broker, specifically, Fox failed to obtain a signed Listing Agreement from the seller when listing the property; Fox failed to reduce the Polaks' offer to writing when the Polaks requested their offer be submitted; and Fox failed to contact the Polaks after advising them he would if an Offer was received from any other buyer.

February 7, 2007

**SC 2007-001** – Commission vs Lisa Lee Hansel, Salesperson. Show Cause Hearing. [Violated Neb. Rev. Stat. § 81-885.17 (7). Ordered to complete the required three (3) hour course specified in Neb. Rev. Stat. § 81-885.17 (7) by April 28, 2007, with proof of completion submitted to the Commission office. If this course is not completed by April 28, 2007, her salesperson's license is revoked on that date; Plus an additional three (3) hours of continuing education in the area of ethics to be completed by June 27, 2007, with proof of completion submitted to the Commission office. If this course is not completed by June 27, 2007, her salesperson's license is revoked on that date. March 29, 2007

**SC 2007-002** – Commission vs Gunnar E. Brown, Salesperson. Stipulation and Consent Order. License suspended for a period thirty (30) days to commence on April 2, 2007, and continue through May 1, 2007, followed by a probation period of six (6) months commencing on May 2, 2007, and continuing through November 1, 2007; plus an additional nine (9) hours of continuing education with three (3) hours in the area of license law, three (3) hours in the area of contracts, and three (3) hours in the area of ethics. Courses must be taken in an in-class format and be completed by September 29, 2007. [Violated terms of a previous Stipulation and Consent Order dated November 2, 2006, pertaining to Complaint 2006-028.]

March 29, 2007

**2006-065** – Neal R. Straight vs Jeanene Elsie Roth, Salesperson. Stipulation and Consent Order. License censured; plus six (6) hours of additional continuing education with three (3) hours in the area of license law and three (3) hours in the area of agency to be completed by November 20, 2007. [Violated

lated 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: (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; Neb. Rev. Stat. § 81-885.24 (22) making any substantial misrepresentations; and Neb. Rev. Stat. § 81-885.24 (29) demonstrating negligence, incompetency, or unworthiness to act as a salesperson. Roth advised the seller that seller would have sufficient time after closing to remove seller's personal possessions from the home and garage, when in fact, seller should not have had access to the home after closing without the buyer's authorization. Further, Roth did not convey the correct countered price from seller to the buyers.]

May 24, 2007

**2006-050** – Emilio Zuniga vs Margaret Theresa Maloney, Broker and Tracy Gayle Curtis, Salesperson. Stipulation and Consent Order. Maloney: License censured; plus three (3) hour of additional continuing education in the area of license law to be completed by November 20, 2007. [Violated Neb. Rev. Stat. § 81-885.24 (29) demonstrating negligence to act as a broker. Maloney prepared advertising and disseminated the advertising to the public, i.e., a flyer and a Multiple Listing Service Detail Report, that incorrectly identified the number of acres.] Curtis: License censured; plus six (6) hours of additional continuing education with three (3) hours in the area of agency and three (3) hours in the area of contracts to be completed by November 20, 2007. [Violated Neb. Rev. Stat. § 76-2419 (2) A dual agent shall be a limited agent for both the seller and buyer or the landlord and tenant and shall have the duties and obligations required by sections 76-2417 and 76-2418 unless otherwise provided for in this section; 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 and (c) To promote the interests of

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# New, Online Options Available this Year

## Digest of Real Estate License Laws and Current Issues

The *Digest of License Laws and Current Issues* charts licensing requirements, license recognition/reciprocity, applicable fees, agency practice, examination data, required education data, recent case law, activities requiring licensure, fee-sharing restrictions and other important policies. In addition, the *Digest* contains extensive grids on the statistics that most accurately depict the industry. It's the only resource of its kind in the world.

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## Latest Real Estate Court Decisions

Like the *Digest*, the latest *Court Decisions* are now available in either an online format or in the traditional print edition. This resource contains summaries of the most relevant case law from the later part of 2005 and the first part of 2006 that affect real estate practice and regulation.

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## Directory of Real Estate Regulators

The *Directory of Real Estate Regulators & Organizations* provides a complete list of national and international groups in a compact publication - including names, addresses and phone numbers for regulators all over the world, as well as for the individuals who play an important role as regulatory appointees or staff. Also included are the major real estate associations located around the globe. ISBN 0-9776471-2-9

## [Boundaries] Newsletter

Changes in real estate laws, rules and regulations occur all throughout the year. Stay on top of both specific developments and general trends with this timely newsletter full of updates on news that affects industry practice. Available only in print. Six issues each year.

## ARELLO Affiliate Membership

Stay in closer contact with regulatory developments, discussions and events by connecting with ARELLO through a new membership category for non-regulators. Each affiliate member representative will receive one free copy of our *International Directory of Real Estate Regulators & Organizations* each January (a US\$23 value), a free subscription to our *[Boundaries]* newsletter (a US\$75 value) every other month during membership and discounts on registrations for ARELLO's "MidYear Meeting," "Annual Conference" and most district conferences (up to a US\$50 value each). Affiliate membership runs through June 30 of each year. Remember not to sign up for to receive the *Directory* or *[Boundaries]* when you select affiliate membership, as they are included in dues.



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### **Disciplinary Action (Cont'd)**

the client with the utmost good faith, loyalty, and fidelity, and Neb. Rev. Stat. § 81-885.24 (29) demonstrating negligence to act as a salesperson. Curtis failed to exercise reasonable skill and care for the buyer and failed to promote the interests of the buyer with the utmost good faith, loyalty, and fidelity by failing to write the buyer's Offer to include two (2) tractors and the required implements needed to mow the lawn, and by signing transaction documents "Margaret T. Maloney by Tracy Curtis", instead of signing the transaction documents as Tracy Curtis.]

May 24, 2007

