



COMMISSION COMMENT

Fall | 2009

Nebraska Real Estate Commission Director Les Tyrrell Retires

In Appreciation of Director Les Tyrrell's Service

Director Les Tyrrell retired from his position as Director of the Nebraska Real Estate Commission on March 1, 2009. In reviewing the career and recent retirement of Les Tyrrell from the Real Estate Commission there is a great deal to reflect upon.

Les began his 31 year career with the Commission on July 1, 1978. Les came to the Commission from the education arena where he had served as an instructor, coach, secondary school principal and Malcolm Nebraska's Superintendent of Schools. He joined the Nebraska Real Estate Commission as Deputy Director of Education, was later named Chief Deputy and, in 1991, advanced to the position of Director where he served with distinction

until his retirement, March 1, 2009.

In his three decades with the Commission, Les experienced a great deal of change in the real estate industry and in the regulation of real estate licensing. He endeavored to remain informed and to maintain a deep understanding of real estate licensing laws and the impact of regulation. Les' goal was that the Commission serve not only the public interest but also serve as a reliable resource for the general public and licensees alike. He often said, "Educate when we can, discipline only when we must."

Upon his retirement, Les expressed gratitude for the Commissioners with whom he worked. He felt that the giving of their time, their professionalism and their dedication to the work of the Commission was unprecedented. He was proud to see the work of the Commission respected among its peers both nationally and internationally. During Les' tenure, the Commission received numerous accolades including recognition awards from the Association of Real Estate License Law Officials (ARELLO) for programs of merit in the areas of licensee education, consumer education and fair housing. In 1987, the Real Estate Educators Association (REEA) named the Commission as its "Regulator of the Year".

Les also expressed gratitude for his staff whom he felt was dedicated, hard working and willing to go the

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Greg Lemon Appointed New Nebraska Real Estate Commission Director

Secretary of State and Chairman of the Nebraska Real Estate Commission John Gale announced the appointment of Greg Lemon as Director of the Nebraska Real Estate Commission effective July 1, 2009. Mr. Lemon replaces Les Tyrrell, who served 18 years as Director of the Commission and worked for the Commission for over 31 years before retiring from his position effective February 28, 2009. There are no changes to Commission staff other than Mr. Lemon's appointment.

"Greg Lemon brings a wealth of state government and legal experience that will be extremely beneficial to the position," Gale said. "I'm confident that he will continue the agency's strong tradition of maintaining the high professional and ethical standards of the Nebraska real estate industry, and protecting the public interest."

A graduate of the University of Nebraska Law School in 1986, Mr. Lemon most recently served as President of the Nebraska Tax Research Council. The Tax Research Council monitors and researches state and local taxation and spending issues and works with the Legislature and its members on those matters. Prior to employment at the Tax Research Council Mr. Lemon served as Chief

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Commission Meeting Schedule

- September 10-11Lincoln
October 15-16.Lincoln
November 19-20Lincoln
January 7-8Lincoln

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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 say thank you to all of those who have wished me well in my new job as Director of the Nebraska Real Estate Commission, I appreciate the kind words and support. I am both honored and excited to have been chosen by the Commission as Director from the many highly qualified candidates. I look forward to meeting more of you through attendance at various seminars and association meetings in the upcoming months.



Director Greg Lemon

Renewal Time

License renewal time is once again upon us, and this quarter's issue of Commission Comment has tips and instructions to help licensees through the process. Please take a look at this article, as timely completion and submission of the renewal forms saves time and effort on both sides of the process.

Changes to the Statutes

It has been a while since the last Commission Comment has been published and there are a few things to report on regarding new laws and legislation.

The Legislature has changed the law on the supervision on branch offices, allowing employing brokers to manage multiple branch offices, prior to the change only associate brokers could manage multiple branches, another legislative change which we hope will not directly affect many licensees is the authority granted the NREC to impose fines in disciplinary actions. Both of the changes are effective August 30th.

A more far reaching legislative change will also have an effect on license renewals this year. LB403 requires submission of information regarding citizenship or legal presence in the United States before receiving any "public benefits". Under the act public benefits are defined to include any professional license issued by a Nebraska governmental entity, which of course includes the NREC.

More detailed articles on these legislative changes are found elsewhere in this issue.

Commissioner Bohrer Completes Term

Finally I would like to thank Bruce Bohrer for his service as the public representative on the Commission. Commissioner Bohrer used a combination of his understanding of the law coupled with a good common sense approach to provide excellent guidance and insight to the Commission in wading through the myriad of license law matters dealt with each month, he will be missed.

TAKE OUR LICENSEE SURVEY

As the newly appointed Director of the NREC I am particularly interested in getting a feel for the views of Nebraska's real estate licensees on important matters faced by the Commission. Please visit our website at <http://www.nrec.state.ne.us/>, log into our survey about licensing and education matters, and let me know what you think. It is a multiple choice format and should only take a few minutes to complete.

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Greg Lemon Appointed Director (Cont'd)

Deputy Secretary of State for ten years from 1995 to 2005. As Chief Deputy Secretary of State Mr. Lemon served as a pre-hearing conference hearing officer for the Nebraska Real Estate Commission and also regularly briefed and conferred with the Secretary of State (chairman of the NREC) on all matters before the Commission. Mr. Lemon also has worked as a hearing officer for other state agencies including the Accountability and Disclosure Commission and the Department of Motor Vehicles and is a graduate of the National Judicial College's Administrative Law Program. Prior to his tenure in the Secretary of State's Office, he was Legal Counsel to the Legislature's Appropriations Committee and also served as a Budget Analyst in the Legislative Fiscal Office.

Mr. Lemon has extensive experience working with state budgets, the legislature, and state agency management. He has been selected and served as a faculty presenter for Nebraska Bar Association seminars on business law and other issues and has received an "In the Arena" award from the Center for Digital Government for his leadership in putting government services online. Mr. Lemon was the primary author of the revisions to the Nebraska notary laws in 2004.

Mr. Lemon is a lifelong resident and current homeowner in Lincoln, where he resides with his wife Carol and his two children. Prior to receiving his Juris Doctorate, he received his Bachelor of Arts Degree from the University of Nebraska with a major in Philosophy and minors in English, History and Political Science. ■

(Continued from page 1)

Les Tyrrell Retires (Cont'd)

extra mile, projecting a positive image of the Commission. Of course, Les led by example, his work was characterized by a comprehensive approach, attention to detail and careful implementation. These are the same traits that were recognized by his peers who elected him to serve as President of ARELLO in 1988-1989 and, since that time, have twice bestowed upon him the ARELLO President's Award for Service and

Leadership.

The Commission expresses its gratitude to Les for faithfully pursuing the goals and objectives of the Commission and consistently exceeding the Commission's expectations. The Commission and staff wish him a much deserved comfortable retirement, birdies (an eagle or two) on the golf course and some quality time with his wife Athena, son Jeff and family and friends. ■



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 *Melanie Patrick-Heather*
melanie.patrick-heather@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*
- 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 *Tawny Snider*
tawny.snider@nebraska.gov
- Trust Account Matters *Terry Mayrose*
terry.mayrose@nebraska.gov
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Patricia Stehly
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2010 LICENSE RENEWAL

We are approaching the 2009 real estate license renewal period. All real estate Brokers and Salespeople WILL be sent a renewal notice along with a personalized renewal form for use in renewing their license for 2010. 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. If you do not receive your renewal by early October please contact the Real Estate Commission Office. 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, 2009, 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, 2009 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 sup-

plied 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.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 renew directly on-line by going to www.nrec.state.ne.us. **Please see the paragraph on this topic later in this article.**

NEW THIS YEAR: ATTESTATION OF UNITED STATES CITIZENSHIP

Starting this year all persons who receive a professional license from the State of Nebraska will be required to complete a statement concerning their citizenship status in the United States. This statement appears at the end of the renewal form just above the signature line. Response to this statement is required in order for your license to be renewed.

INCOMPLETE APPLICATIONS

NO RENEWALS WILL BE ACCEPTED UNLESS THEY ARE FILLED OUT COMPLETELY AND 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. DO NOT SUBMIT INACCURATE OR INCOMPLETE RENEWALS FOR ANY REASON, THESE 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 and Neb. Rev. Stat. § 49-1203, 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, 2009; provided that such late application is filed by 5:00 P.M. (CDT) June 30, 2010.

"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 needed to renew all licensees in the "bundle" and then they are sent, under one cover, to our Office.

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2010 License Renewal (Cont'd)

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 At
www.nrec.state.ne.us**

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 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

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: 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

ANY 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.■

**2010 COMMISSION-OFFERED ERRORS AND OMISSIONS INSURANCE
WILL BE OFFERED THROUGH WILLIAMS UNDERWRITING GROUP A
DIVISION OF MAVERICK INSURANCE.**

NREC Director to Participate in REALTOR® Caravan

The Nebraska REALTORS® Association has invited newly appointed Nebraska Real Estate Commission Director Greg Lemon to join them on their annual caravan traveling across the state in October. Because Director Lemon is looking forward to meeting real estate licensees from across the state and learning more about the industry he was pleased to accept the invitation.

Each session will include time for the Association's leadership to discuss state and national issues and answer questions that members of the Association may have relative to the Association. Each session will also allow the audience time to get acquainted with Greg Lemon and to ask Greg questions relevant to the responsibilities of the Nebraska Real Estate Commission.

Knowing that the part of the session conducted by the Commission would be of benefit to all licensees, the REALTORS® Association has graciously offered to open each of these sessions to any and all interested real estate licensees rather than limiting participation to their membership alone. The Commission appreciates this opportunity and extends the invitation to all licensees to attend.

Following is the tentative schedule of dates, cities, meals and times. As of the date of printing, the specific locations where sessions will be held were unavailable. So that adequate space and arrangements can be made and to ascertain exact numbers all licensees are asked to contact the local board of REALTORS® to get final details on location and to pre-register.

<i>DATE</i>	<i>CITY</i>	<i>MEAL</i>	<i>TIME</i>
10/5/09	Alliance	Breakfast	9:00 a.m.
10/5/09	Scottsbluff	Lunch	12:00 p.m.
10/5/09	North Platte	Dinner	6:00 p.m.
10/6/09	Lexington	Breakfast	9:00 a.m.
10/6/09	Kearney	Lunch	12:00 p.m.
10/6/09	Hastings	Dinner	6:00 p.m.
10/7/09	Grand Island	Breakfast	9:00 a.m.
10/7/09	York	Lunch	12:00 p.m.
10/7/09	Columbus	Dinner	6:00 p.m.
10/8/09	Norfolk	Breakfast	9:00 a.m.
10/8/09	So. Sioux City	Lunch	12:00 p.m.
10/9/09	Nebraska City	Breakfast	9:00 a.m.
10/9/09	Beatrice	Lunch	12:00 p.m.
11/5/09	Fremont	Lunch	12:00 p.m.
TBA	Lincoln	Lunch	11:30 a.m.

Legislature Enacts Laws Relating to Fining, Branch Office Management, and Attestation of Citizenship

The 2009 Legislative session saw two major changes to the state's licensing laws.

LB29 allows employing broker's to manage one or more branch offices, the prior law only allowed associate brokers to manage branch offices.

LB30 gives the Nebraska Real Estate Commission fining authority in addition to its current disciplinary authority to revoke or suspend licenses. The fines may not exceed \$2,500 per complaint and may be imposed alone or in addition to other licensing sanctions. These fines would not accrue to the Real Estate Commission but would be deposited in the state's education fund to be distributed to the school districts by the State Treasurer's Office. The provisions of both of these changes are effective August 30, 2009.

In Addition, LB403 changes requirements for licensing and renewal by requesting a statement regarding citizenship from all licensees, further information on this new requirement is found in the license renewal article of this issue of the Commission Comment. ■



Disciplinary Actions Taken by the Real Estate Commission

(Does Not Include Cases on Appeal)

2007-064 Commission vs John Steven Headlee, Salesperson. Stipulation and Consent Order. License suspended for a period of thirty (30) days immediately followed by eleven (11) months probation. Suspension period commenced on December 5, 2008, and continued through January 4, 2009. The probationary period commenced on January 5, 2009, and continues through November 5, 2009; plus an additional nine (9) hours of continuing education with three (3) hours in the area of disclosures, three (3) hours in the area of license law and three (3) hours in the area of ethics, to be completed by June 3, 2009. [Violated Neb. Rev. Stat. § 81-885.24 (18) Providing 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 unless such person is (a) a nonresident who is licensed in his or her resident regulatory jurisdiction or (b) a citizen and resident of a foreign country which does not license persons conducting the activities of a broker and such person provides reasonable written evidence to the Nebraska broker that he or she is a resident citizen of that foreign country, is not a resident of this country, and conducts the activities of a broker in that foreign country; 81-885.24 (22) Making any substantial misrepresentations; 81-885.24 (16) Violating any provision of §§ 76-2401 and 76-2430; 76-2418 (3) (a) A licensee acting as a buyer's or tenant's agent owes no duty or obligation to a seller, a landlord, or a prospective seller or landlord, except that the licensee shall disclose in writing to any seller, landlord, or prospective seller or landlord all adverse material facts actually known by the licensee. The adverse material facts may include, but are not limited to, adverse material facts concerning the client's financial ability to perform the terms of the transaction. (b) A buyer's or tenant's agent owes no duty to conduct an independent investigation of the client's financial condition for the

benefit of the customer and owes no duty to independently verify the accuracy or completeness of statements made by the client or any independent inspector; and 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson. Headlee provided compensation for past and future referrals to a person who had not first secured his or her license under the Nebraska Real Estate License Act; Headlee made material misrepresentations to the buyer with respect to Headlee's knowledge about termites on the property; and, Headlee failed to disclose to the buyers, in writing, an adverse material fact regarding termites which fact was actually known by Headlee.] December 4, 2008

2007-005 Charles E. and Janet S. Petersen vs Mark Allen Boyer, Broker and Timothy William Young, Broker. Hearing held January 24, 2008. Commission's decision appealed to the District Court on March 21, 2008. Commission's decision affirmed by the District Court on November 10, 2008. Both real estate licenses suspended for a period of six (6) months with the entire suspension period served on probation. The suspension period served on probation commenced on March 23, 2008, and continued through September 19, 2008; plus an additional three (3) hours of continuing education in the area of disclosures to be completed by September 19, 2008. [Boyer and Young violated Neb. Rev. Stat. § 76-2417 (3)(a) A licensee acting as a seller's or landlord's agent owes no duty or obligation to a buyer, a tenant, or a prospective buyer or tenant, except that a licensee shall disclose in writing to the buyer, tenant, or prospective buyer or tenant all adverse material facts actually known by the licensee. The adverse material facts may include, but are not limited to, adverse material facts pertaining to: (i) Any environmental hazards affecting the property which are required by law to be disclosed; (ii) the physical condition of the property; (iii) any material defects in the property; (iv) any material defects in the title to the property; or (v) any mater-

ial limitation on the client's ability to perform under the terms of the contract; and Title 299 Chapter 5-003.20 Failure to disclose, in writing, to a buyer, at or prior to the time the buyer signs an Offer to Purchase, an adverse material fact regarding the condition of a parcel of real estate of which a broker or salesperson has knowledge. Said written disclosure shall be signed and dated by the buyer, and a copy of the signed and dated disclosure shall be maintained in the transaction file on that parcel of real estate in accordance with 299 NAC 3-001. An adverse material fact is one which significantly affects the desirability or value of the property, and which is not reasonably ascertainable or known to the buyer. Boyer and Young failed to disclose a known adverse material fact to the buyers, in writing, regarding the "risk of damage due to differential settlements" of the soil.]

January 24, 2008

2008-030 Commission vs Richard Lynn Gibb, Salesperson, Sherri Lynn Hinkel, Salesperson, Susan Marie Noland, Salesperson and Vincent W. Leisey, Broker. Stipulation and Consent Order. Licenses censured. [Gibb, Hinkel and Noland: Violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson. Gibb, Hinkel and Noland conducted the unlicensed practice of real estate in the state of Iowa when their respective real estate license was inactive, lapsed or expired, and had an action taken against their respective Iowa real estate license by the Iowa Real Estate Commission. Leisey: Violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson. Leisey failed to supervise his affiliated Iowa licensees and had an action taken against his Iowa real estate broker's license by the Iowa Real Estate Commission.] January 22, 2009

2008-040 Commission vs Dorothy Mae Haws, Salesperson. Stipulation and

(Continued on page 8)

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Disciplinary Action (Cont'd)

Consent Order. License suspended for a period of thirty (30) days, with the entire suspension period stayed and served on probation, which commenced on January 28, 2009, and continuing through February 26, 2009; plus an additional nine (9) hours of continuing education to include three (3) hours in the area of license law, three (3) hours in the area of disclosures and three (3) hours in the area of ethics must be completed by July 21, 2009. [Violated Title 299 Chapter 2 Section 003 Advertising shall include all forms of identification, representation, promotion, and solicitation disseminated in any manner and by any means of communication to the public for any purpose related to licensed real estate activity. All advertising shall be under the direct supervision of the broker, and in the name the broker is conducting business as recorded with the Commission. Advertising which is contrary to Sections 003 to 006 of these regulations shall constitute misleading or inaccurate advertising under Section 81-885.24(2) of the Nebraska Real Estate License Act; Neb. Rev. Stat. § 81-885.24 (2) Intentionally using advertising which is misleading or inaccurate in any material particular or in any way misrepresents any property, terms, values, policies, or services of the business conducted; and Title 299 Chapter 5-003.20 Failure to disclose, in writing, to a buyer, at or prior to the time the buyer signs an Offer to Purchase, an adverse material fact regarding the condition of a parcel of real estate of which a broker or salesperson has knowledge. Said written disclosure shall be signed and dated by the buyer, and a copy of the signed and dated disclosure shall be maintained in the transaction file on that parcel of real estate in accordance with 299 NAC 3-001. An adverse material fact is one which significantly affects the desirability or value of the property, and which is not reasonably ascertainable or known to the buyer. Haws prepared and distributed a flier on the subject property that included only a phone number and not the name of her designated broker's real estate company; failed to disclose, in writing, to a buyer, at or prior to the time the buyer signs an Offer to Purchase, an adverse material fact regarding the condi-

tion of a parcel of real estate of which a broker or salesperson has knowledge; and failed to disclose the code violations, in writing, to the buyer, at or prior to signing an Offer to Purchase.] January 22, 2009

2008-041 Commission vs Farrell F. Ross, Broker. 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 hours in the area of agency, to be completed by July 21, 2009. [Violated Neb. Rev. Stat. § 76-2421(1) At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall: (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing and 81-885.24 (11) Placing a sign on any property offering it for sale or rent without the written consent of the owner or his or her authorized agent. Ross failed to have the buyers sign and date the Agency Disclosure on August 13, 2007, and placed a For-Sale sign on the property without written consent to place such sign.]

January 22, 2009

2009-007 Commission vs Daniel Patrick Kelley, Broker. Stipulation and Consent Order. License censured. [Violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson. Kelly conducted the unlicensed practice of real estate in the State of Iowa when his real estate broker's license was inactive, lapsed or expired, and had an action taken against his Iowa real estate broker's license by the Iowa Real Estate Commission.] February 19, 2009

2009-008 Commission vs Diane K.

Plum, Salesperson. Stipulation and Consent Order. License censured. [Violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson. Plum had an action taken against her Iowa real estate salesperson's license by the Iowa Real Estate Commission.]

February 19, 2009

2008-018 Scott Annon Boyer vs David Joseph Paladino, Broker. Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education with three (3) hours in the area of agency and three (3) hours in the area license law, to be completed by October 14, 2009. [Violated Neb. Rev. Stat. § 76-2422 (6) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker who intends to establish an agency relationship with any party or parties to a transaction in which the designated broker's duties and responsibilities exceed those contained in sections 76-2417 and 76-2418 shall enter into a written agency agreement with a party or parties to the transaction to perform services on their behalf. The agreement shall specify the agent's duties and responsibilities, including any duty of confidentiality, and the terms of compensation. Any agreement under this subsection shall be subject to the common law requirements of agency applicable to real estate licensees; and violated 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker. Paladino failed to have a written common law management agreement with Complainant, and, charged Complainant expenses which should have been charged to the new property owner.]

April 17, 2009

2008-025 Meredith J Jantzen vs Kelly Jane Shandera, Salesperson. Stipulation and Consent Order. License censured; plus an additional six (6) hours of additional education with three (3) hours in the area of license law and three (3) hours in the area of ethics, to be completed by November 22, 2009. [Violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthi-

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Disciplinary Action (Cont'd)

ness to act as a broker, associate broker, or salesperson. Shandera entered the seller's property without having first obtained the affirmative consent or authorization of the seller, the Seller's Agent, or the Seller's Agent's Managing Broker.]

May 21, 2009

2009-020 Commission vs Candice Jo Troia, Salesperson. Stipulation and Consent Order. License censured; plus an additional three (3) hours of additional continuing education in the area of agency, to be completed by November 22, 2009. [Violated Neb. Rev. Stat. § 76-2421 (1) At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall: (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing; for failing to complete an Agency Acknowledgment of Disclosure on first substantial contact with the buyers; and violated 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. Troia failed at the time the transaction became property specific, to have the seller and buyers re-sign the Consent To Dual Agency Agreement thereby reconfirming Troia's status as a limited Dual Agent in the transaction.]

May 21, 2009

2009-025 Commission vs Patricia Ann Lunz, Broker. Stipulation and Consent Order. License suspended for a period of two (2) years, with the entire suspension period stayed and served on probation commencing on May 26, 2009, and continuing through May 26, 2011; plus an additional twelve (12) hours of continuing education with three (3) hours in agency, three (3) hours in contracts, three (3) hours in license law, and three (3) hours in trust accounts, to be completed by November 22, 2009. [Violated Title 299 Chapter 3 Section 002 Every broker shall maintain a bookkeeping system which will accurately and clearly disclose full compliance with the law relating to the maintaining of trust accounts. Lunz failed to maintain a bookkeeping system during the trust account examination periods ending January 25, 2007, and January 6, 2009. Violated Title 299 Chapter 3 Section 004 Funds deposited in the trust account will necessarily include monies which will ultimately belong to the broker but such monies shall be separately identified in his or her trust account records and shall be paid to the broker by check drawn on the trust account after the same are due the broker. The fact that a trust account contains money belonging to the broker does not constitute "commingling the money or other property of his or her principals with his or her own," as prohibited by Subsection (4) Section 81-885.24 of the Nebraska Real Estate

License Act. Lunz failed to properly account for personal funds maintained in the trust account. 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, the terms of compensation, a fixed date of expiration of the agreement, and whether an offer of subagency may be made to any other designated broker. Lunz failed to have a written agency agreement in place with a seller when representing the seller in the real estate transaction. And violated 81-885.24 (29) Demonstrating negligence, incompetence, or unworthiness to act as a broker, associate broker, or salesperson. Lunz failed to maintain a bookkeeping system for the trust account examination periods ending January 25, 2007, and January 6, 2009; failed to properly account for her personal funds maintained within the trust account; and failed to have written agency agreement in place with a seller when representing the seller in the real estate transaction.]

May 21, 2009

2008-012 Commission vs Charles Wing Concannon, Broker; Stacy Jo Wilson, Salesperson; and Peggy Barbara Marett, Broker. Hearing held May 21, 2009. Concannon and Wilson: License censured. Marett: Dismissed. [Concannon violated Title 299 Chapter 5 Section 003 (22) Failure by a designated or employing broker to supervise his or her associate brokers and salespersons. Concannon failed to ensure that Respondent Wilson and Respondent Marett obtained the signature of both sellers on the Listing Agreement.] [Wilson violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, and 81-885.24 (12) Offering real estate for sale or lease without the knowledge and consent of the owner or his or her authorized agent or on terms other than those authorized by the owner

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Disciplinary Action (Cont'd)

or his or her authorized agent. Wilson failed to obtain the signature of both sellers on the Listing Agreement.]

May 21, 2009

2008-004 Commission vs Michael Dean Slatten, Broker. Hearing held May 22, 2009. License suspended for two (2) years, with the first thirty (30) days actually served on suspension, and the remainder of the two (2) year suspension period stayed and served on probation, to commence on July 13, 2009, and continuing through August 11, 2009, followed by the probation period which will continue through July 13, 2011, plus an additional six (6) hours of continuing education to include three (3) hours in the area of trust accounts and three (3) hours in the area of license law to be completed by July 13, 2010. Slatten's real estate broker's license is restricted in that he is absolutely barred indefinitely into the future from acting as a designated broker, employing broker or managing broker. Upon completion of the two (2) year suspension/probation period, Slatten may apply to the Commission for removal of the above-described restrictions, provided that he personally appear before the Commission for consideration of this request and the Commission passes a motion approving the removal of such restrictions on his real estate broker's license. [Slatten violated Title 299 Chapter 3 Section 001 It shall be the duty of every broker to preserve for five years, following its consummation, records relating to any real estate transaction. Slatten failed to locate real estate transaction files pertaining to two (2) transactions during the 3 ½ months which elapsed between the initial examination and the follow-up examination. Violated Title 299 Chapter 3 Section 002 Every broker shall maintain a bookkeeping system which will accurately and clearly disclose full compliance with the law relating to the maintaining of trust accounts. Slatten failed to identify a running cash balance after each bookkeeping entry in the General Ledger and failed to prepare sub-ledgers on 49 of 56 real estate sales transactions. Violated Title 299 Chapter 5 Section 003 (11) Failure of the licensee to identify in writing to the prospective purchaser-client, or to a purchaser-customer if

offered pursuant to Neb. Rev. Stat. § 76-2421 (3) (b), at the time an offer is written by the purchaser or a counter offer is accepted by the purchaser, those categories of costs the purchaser will be expected to pay at closing. At the same time, the licensee shall prepare a written estimate of the costs the purchaser will be expected to pay at closing, to the extent the necessary cost information is reasonably available. Said written information shall be signed and dated by the purchaser. A copy of the signed and dated document shall be given to the purchaser and, when a transaction results, one copy shall be maintained in the transaction file in accordance with 299 NAC 3-001. Slatten failed to maintain an estimated buyer closing cost statement for three (3) transactions and failed to have the buyer date and sign the estimated closing cost statement on one (1) transaction. Violated Title 299 Chapter 5 Section 003 (14) Failure to deposit any funds received as an earnest money deposit within 72 hours or before the end of the next banking day, after an offer is accepted, in writing, unless otherwise provided in the purchase agreement. Slatten failed to deposit earnest money within 72 hours or before the end of the next banking day after an offer was accepted in three (3) transactions. Violated Title 299 Chapter 5 Section 003 (19) Failure by any licensee to supervise persons hired to assist the licensee in his or her licensed real estate activities. Slatten failed to supervise the person hired to assist Respondents in their licensed real estate activities. Violated Neb. Rev. Stat. § 76-2421 (1) At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall: (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which

party the licensee is representing. Slatten failed to maintain a signed and dated Agency Disclosure from the respective buyers in three (3) transactions and failed to maintain a signed and dated Agency Disclosure from the respective seller in two (2) transactions. And violated 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, by his actions as detailed above.]

May 22, 2009

2009-019 Commission vs Sandra Kay Kester, Salesperson. Stipulation and Consent Order. License suspended for a period of six (6) months, with the first thirty (30) days served on suspension and the remainder of the suspension period stayed and served on probation. The suspension commenced on July 28, 2009, and will continue through August 27, 2009. The probationary period will commence on August 28, 2009, and continue through January 26, 2010; 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 agency, to be completed by December 27, 2009. [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: (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. Kester allowed this transaction to close, and failed to obtain the required Deed of Reconveyance from U.S. Bank as required by the Title Insurance Commitment date April 10, 2008. Violated 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, the terms of compensation, a fixed date of expiration of the agreement, and whether an offer of subagency may be made to any other des-

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Disciplinary Action (Cont'd)

igned broker, except that if a licensee is a limited seller's agent for a builder, the terms of compensation may be established for a specific new construction property on or before the builder's acceptance of a contract to sell. Kester failed to have a written listing agreement with the seller. Violated 76-2421 (1) At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall: (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing. Kester failed to complete an Agency Disclosure with the buyers on September 21, 2007. And violated 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson. Kester failed to obtain a Deed of Reconveyance from U. S. Bank as required by the Title Insurance Commitment issued on April 10, 2008, failed to have a written Listing Agreement with the seller and failed to complete an Agency Disclosure with the buyers.]
June 30, 2009

2008-023 Travis and Dawn Kovarik vs Ronald Earl Bunger, Salesperson and 2009-022 Commission vs Ronald Earl Bunger, Salesperson. Stipulation and Consent Order. License censured; 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 agency, and three (3) hours in the area of contracts, to be completed by January 5, 2010. [Violated Neb. Rev. Stat. § 81-885.24 (22) Making any substantial misrepresentations. Bunger represented to the buyers that the damage would be taken care of by the sellers when initially the sellers refused to pay for the damage. And violated 76-2417 (1) A licensee rep-

resenting 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. Bunger failed to prepare an Addendum in which the buyers and sellers would agree that sellers would complete the necessary repairs and that funds would be escrowed at closing from seller's proceeds to pay for the repairs.]
July 9, 2009

2009-021 Commission vs Timothy Scott Brewster, Salesperson. Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education with three (3) hours in the area of agency and three (3) hours in the area of contracts, to be completed by January 5, 2010. [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. Brewster failed to prepare an Addendum in which the buyers and sellers would agree that sellers would complete the required repairs and that funds would be escrowed at closing from seller's proceeds to pay for the repairs.]
July 9, 2009

2009-026 Commission vs Jennifer Lynn Hellman, Salesperson and Brady Kieth Bock, Salesperson. Stipulation and Consent Order. Both licenses censured and each shall complete an additional six (6) hours of continuing education with three (3) hours in the area of agency and three (3) hours in the area of contracts, to be completed by January 5, 2010. [Hellman: 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: (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. Hellman failed to reduce the terms of the proposed settlement between developer and purchaser to

writing for signature by the parties. Violated 81-885.24 (19) Failing to include a fixed date of expiration in any written listing agreement and failing to leave a copy of the agreement with the principal. Hellman failed to include a fixed date of expiration in the listing agreement. And violated 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson. Hellman failed to reduce the terms of the proposed settlement between developer and purchaser to writing for signature by the parties, and, failed to include a fixed date of expiration in the listing agreement.] [Bock: 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; and 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson. Bock failed to reduce the terms of the proposed settlement between developer and purchaser to writing for signature by the parties.]
July 9, 2009 ■



Nebraska Real Estate Commission
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2008-2009 Licensee Statistics

<i>RENEWALS 2009</i>	<i>APPLICATIONS MAILED</i>	<i>RENEWED RENEWED</i>	<i>NOT RENEWED</i>	<i>% RENEWED</i>
BRANCH OFFICE	112	104	8	92.9%
BROKER	2,419	2,327	92	96.2%
RECIPROCAL BROKER	373	314	59	84.2%
SALESPERSON	4,823	4,349	474	90.2%
RECIPROCAL SALESPERSON	330	261	69	79.1%
TOTAL APPLICATIONS	8,057	7,355	702	91.3%

<i>RENEWALS 2008</i>	<i>APPLICATIONS MAILED</i>	<i>RENEWED RENEWED</i>	<i>NOT RENEWED</i>	<i>% RENEWED</i>
BRANCH OFFICE	128	115	13	89.8%
BROKER	2,421	2,323	98	96.0%
RECIPROCAL BROKER	422	392	30	92.9%
SALESPERSON	4,896	4,428	468	90.4%
RECIPROCAL SALESPERSON	469	401	68	85.5%
TOTAL APPLICATIONS	8,336	7,659	677	91.9%

	<i>NEW LICENSEES</i>			<i>TOTAL LICENSEES</i>		
	<i>2008</i>	<i>2009</i>	<i>%AGE CHANGE</i>	<i>2008</i>	<i>2009</i>	<i>%AGE CHANGE</i>
Broker	115	95	-17.4%	2,830	2,736	-3.3%
Salesperson	421	358	-15.0%	5,250	4,968	-5.4%