



# COMMISSION COMMENT

## Meet the New Secretary of State, Bob Evnen



*New Commission Chair Bob Evnen*

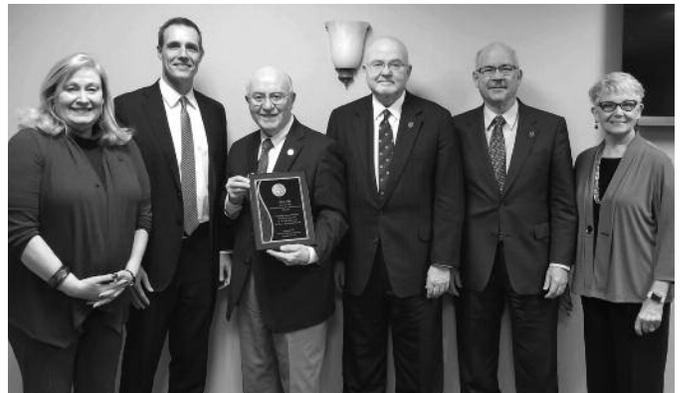
Nebraska Secretary of State John Gale is retiring. In the November general election last year, Bob Evnen was elected as Nebraska's new Secretary of State. As Secretary of State, Evnen will hold the position of Chair of the Nebraska Real Estate Commission.

Evnen grew up in Lincoln. His parents were entrepreneurs who founded a small business that grew into a large, successful food distribution company. He has been a partner of the Lincoln law firm of Woods & Aitken, LLP for more than 30 years. For more than 25 years, Evnen has held the highest rating for legal ability and ethical standards awarded by well-known and respected law publisher Martindale-Hubbell. He was recently selected by his peers for inclusion in *The Best Lawyers in America* in the field of employment law representing management (copyright 2018 by Woodward/White, Inc., of Aiken, SC). In 2018, he was named a Great Plains Super Lawyer, his seventh consecutive listing.

In 2015, Evnen received the Boss of the Year award from the Lincoln Legal Professionals Association. He is a lifetime fellow of the Nebraska State Bar Foundation. Evnen served as a member of the Nebraska State Board of Education from 2005 to 2013, appointed by Governor Heineman in 2005 and then elected in 2008.

*(Continued on page 6)*

## Commission Honors Retiring Secretary of State and Commission Chair John Gale



*Retiring Chair John Gale Presented With Plaque by the Nebraska Real Estate Commission*

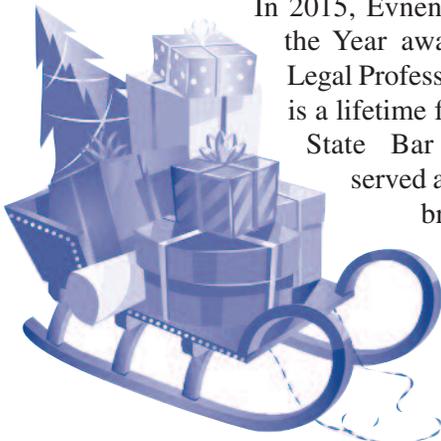
November 15, 2018, marked the last meeting of the Nebraska Real Estate Commission with Chairman John Gale. The Commission honored Secretary Gale with a resolution, a plaque, and a past commissioner pin. Further reflection from Secretary Gale and Director Lemon on Gale's 18 years of service can be found in this newsletter.

### On the Inside

Holiday Message .....	page 2
Director's Desk .....	page 3
Disciplinary Summary .....	page 4
Proper Forms .....	page 6

### Commission Meeting Schedule

January 24-25 .....	Lincoln
February 21-22 .....	Lincoln
March 21-22 .....	Lincoln
April 18-19 .....	Lincoln
May 23-24 .....	Lincoln
June 20-21 .....	Lincoln



## COMMISSION COMMENT

Official Publication of the  
Nebraska Real Estate Commission  
301 Centennial Mall South  
P.O. Box 94667  
Lincoln, Nebraska 68509-4667  
(402) 471-2004  
www.nrec.ne.gov

Facebook: Nebraskarealestatecommission  
Twitter: @Nerealestatecom  
EDITOR: Greg Lemon

## COMMISSION MEMBERS

## CHAIRPERSON

John Gale  
Secretary of State  
State Capitol  
Lincoln, NE 68509  
(402) 471-2554

## PUBLIC MEMBER

Jim R. Titus  
4645 Normal Blvd., 3272  
Lincoln, NE 68506  
(402) 434-52000

## SALESPERSON MEMBER

Ann Dover  
1000 Norfolk Ave.  
Norfolk, NE 68701  
(402) 371-0200

## BROKER MEMBERS

Andy Alloway  
17117 Burt St.  
Omaha, NE 68118  
(402) 491-0100

Sharon "Sheri" Kay Bourne  
111 Halligan Dr.  
North Platte, NE 69101  
(308) 532-1810

Darlene Starman  
7141 A Street  
Lincoln, NE 68510  
(402) 432-2647

Joe Gehrki  
311 Village Pointe Plaza  
Omaha, NE 68118  
(402) 598-4656

## DIRECTOR

Greg Lemon  
301 Centennial Mall South  
Lincoln, NE 68508  
(402) 471-2004  
greg.lemon@nebraska.gov

The Nebraska Real Estate Commission grants permission to reprint articles which appear in this newsletter on condition that recognition of their original publication in the **Nebraska Commission Comment** also appears with the article.

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.



# Holiday Message From Commission Chair John Gale

On behalf of the Real Estate Commission and the Commission staff, we want to wish all of you a very Merry Christmas, Happy Hanukah, and a Happy New Year!

2018 has been another outstanding year for real estate agents and home builders in Nebraska, continuing a near decade record breaking economic boom in the country. Home sales have been strong as the economy prospered. Congratulations to Nebraska's real estate agents and to the many home buyers!

As you know, I will be retiring on January 9, 2019, after serving eighteen years as Secretary of State and as chair of the Nebraska Real Estate Commission. The Commission consists of seven members, including one public representative, one salesperson representative, and four real estate brokers. Three brokers each represent a congressional district, and one is a broker at large. During my tenure, I have served with twenty-five different Commissioners. It has been an honor to serve with all of them. They have been conscientious, hard-working, well-prepared and dedicated to setting clear standards of professionalism, complaint resolution, and updating rules of practice to match the changing dynamics of the real estate industry.

As Chair of the Commission, I have been committed to long-term goals for the Nebraska Real Estate Commission, including: 1) sound and sensible personal and educational standards for applicants seeking to be licensed; 2) treating licensees subject to complaint with high standards of fairness and justice; 3) promoting and supporting legislation that advances high professional standards; and 4) maintaining high public trust and confidence in the professionalism of the industry.

Over my eighteen years as chair of the Commission, I have presided over 176 meetings as well as presiding over 60 disciplinary hearings. It has been a challenging task. My background as an attorney was very helpful to me in my duties as Chair. I have felt confident that the Commission met the standards for due process of law and thoughtful, deliberative disposition of complaint hearings.

Director Greg Lemon, Deputy for Education Alane Roubal, Deputy for Enforcement Duran Cell, and Deputy for Licensing Monica Rut provide outstanding and professional support for the Commission, and I extend my deepest thanks to them for their hard work and service. The quality of our staff and the level of experience and distinction of our Commissioners contribute to a positive working relationship, sound public service, and steady progress with the goal of best practices within the industry.

On behalf of the Commissioners and the Commission staff, I send best wishes to you and your families for a happy holiday season and a very successful 2019. We have appreciated the cooperation and input of the Nebraska REALTORS through various task forces helping to update policies and procedures of the Commission.

My congratulations to Bob Evnen, our newly elected Secretary of State. He will officially take office on January 10, 2019, after being qualified by the Legislature according to the State Constitution. Bob, a licensed attorney, has had a very successful career in Lincoln. He is very well-qualified for the job of Secretary of State and has great enthusiasm to begin his duties. Bob will find many new and positive ways to improve the services of the Secretary of State and the many duties he will be assuming, and I wish him the best of success!

Thank you for the opportunity to serve as Secretary of State and to help provide leadership to our state as a constitutional officer and as chair of the Nebraska Real Estate Commission.

Sincerely,

John A. Gale  
Chair, NREC



# DIRECTOR'S DESK

## Thank You Secretary of State Gale

November 15, 2018 was the last meeting for Secretary of State and Chairman of the Nebraska Real Estate Commission John Gale. John presided with a very even hand, and always sought to strike an appropriate balance between protecting the public interest and not creating unduly burdensome regulations for the Industry.



Director Greg Lemon

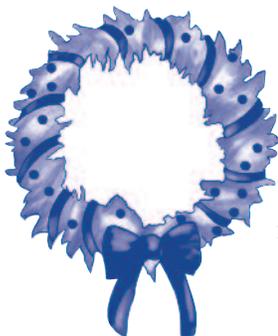
His early work with the Commission included using his legal training to assist with a re-write of the procedures for investigations and disciplinary hearings and he also served on the Finance Subcommittee of the Commission, making recommendations on budget matters and license fees. He served as meeting chair and hearing officer, the presiding judge at all disciplinary hearings, and was meticulous in his preparation for those hearings and the Commission meetings, as well as acting as master of ceremonies at the annual Commissioner retirement dinners.

The Secretary of State has a broad array of duties, from the state's chief election officer, to corporate and business registrations, the commissioning of all notaries in the state and establishing rules for records retention for all state agencies and even the licensing of polygraph examiners. Even with all those other duties, there were many more contributions to the Real Estate Commission than can be listed here, but suffice it to say even if all those contributions were enumerated, his contribution would be greater than the sum of its parts, and I would like to thank him for his service to the industry and the state.

## New Chair Bob Evnen

The Commission and its staff would also like to acknowledge and welcome new Secretary of State and Chairman of the Commission, Bob Evnen. Evnen comes from a long and distinguished career of private enterprise and public service, and we look forward to working with him.

## Happy Holidays



We have had an eventful year at the Commission, with the new chair and members and the development of a new database which should be up next year. The number of applicants we are getting for real estate licenses are continuing at their historic high levels, and on that positive note, Happy Holidays to all reading this newsletter from everyone here at the Commission.

Greg Lemon, Director  
Nebraska Real Estate Commission

## 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 . . .	Alane Roubal alane.roubal@nebraska.gov
Complaint Procedures . . . . .	Duran Cell duran.cell@nebraska.gov
Continuing Education History or Inquiries . . . . .	Tawny Snider tawny.snider@nebraska.gov
Curriculum Design (Education & Instructor Approval) . . . . .	Alane Roubal alane.roubal@nebraska.gov
Errors and Omissions Insurance Inquiries . . . . .	Monica Rut monica.rut@nebraska.gov
Financial Officer . . . . .	vacant
License Applications Packet Requests . . . . .	General Staff realestate.commission@nebraska.gov
License Applications Process . . . . .	Marilyn Masters marilyn.masters@nebraska.gov
Licensing Requirements . . . . .	Monica Rut monica.rut@nebraska.gov
New Licenses in Process . . . . .	Patricia Menousek patricia.menousek@nebraska.gov
Specialized Registrations . . . . .	Monica Rut monica.rut@nebraska.gov
Transfer of License . . . . .	Patricia Menousek patricia.menousek@nebraska.gov
Trust Account Matters . . . . .	John Clark john.clark@nebraska.gov
Webmaster . . . . .	Monica Rut monica.rut@nebraska.gov

WEBSITE: [www.nrec.ne.gov](http://www.nrec.ne.gov)  
TELEPHONE NUMBER  
(402) 471-2004  
FAX NUMBER  
(402) 471-4492  
ADDRESS:  
Nebraska Real Estate Commission  
301 Centennial Mall South  
P.O. Box 94667  
Lincoln, NE 68509-4667

# Disciplinary Actions Taken by the Real Estate Commission

*(Does Not Include Cases on Appeal)*

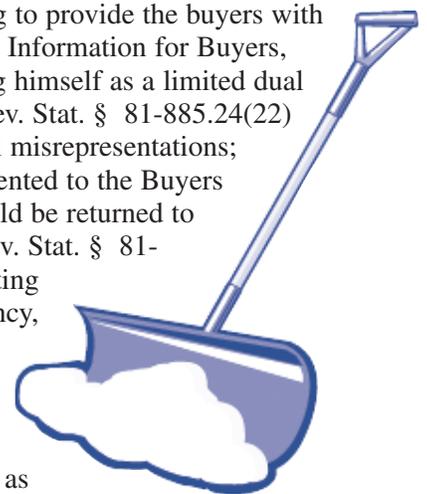
## **2016-023 - Patricia A. Mohr vs. David Lester Swenson;**

Salesperson; Hooper, NE. Stipulation and Consent Order entered August 16, 2018. Nebraska Salesperson License was revoked effective August 16, 2018. [Swenson violated Neb. Rev. Stat. § 76-2417(1)(b) 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; when Mr. Swenson failed to represent the seller's best interests by not having a verbal agreement related to the transaction memorialized in writing, and not making the seller aware she could keep the Subject Property on the market for backup offers; violated Neb. Rev. Stat. § 76-2417(1)(c) 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: (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including: (i) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease; (ii) Presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease; (iii) Disclosing in writing to the client all adverse material facts actually known by the licensee; and (iv) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee; when Mr. Swenson failed to represent the seller's best interests by not having a verbal agreement related to the transaction memorialized in writing, and not making the seller aware she could keep the Subject Property on the market for backup offers.]

## **2017-017 - Commission vs. Matthew John Beers;**

Salesperson; Omaha, NE. Stipulation and Consent Order entered August 16, 2018. License suspended for a period of fifteen (15) months with the entire period to be stayed and served on probation. Probation commences on September 15, 2018 and continues through December 15, 2019; plus pay a civil fine of \$2,500.00 due September 15, 2018; and complete twelve (12) hours of additional continuing education with three (3) hours each in the areas of Agency, Contracts, Ethics and License law on or before

February 16, 2019. [Beers violated Neb. Rev. Stat. § 81-885.24(16) Violating any provision of sections 76-2401 to 76-2430; when Mr. Beers failed to provide the buyers an "Agency Disclosure Information for Buyers, and Sellers" identifying himself as a limited dual agent, and when he failed to execute a "Consent to Dual Agency Agreement" with the sellers and the buyers that included his duties and responsibilities to both buyer and seller; violated Neb. Rev. Stat. § 76-2422(4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a dual agent shall obtain the written consent of the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The consent shall include a licensee's duties and responsibilities specified in section 76-2419. The requirements of this subsection are met as to a seller or landlord if the written agreement entered into with the seller or landlord complies with this subsection. The requirements of this subsection are met as to a buyer or tenant if a consent or buyer's or tenant's agency agreement is signed by a potential buyer or tenant which complies with this subsection. The consent of the buyer or tenant does not need to refer to a specific property and may refer generally to all properties for which the buyer's or tenant's agent may also be acting as a seller's or landlord's agent and would be a dual agent. If a licensee is acting as a dual agent with regard to a specific property, the seller and buyer or landlord and tenant shall confirm in writing the dual-agency status and the party or parties responsible for paying any compensation prior to or at the time a contract to purchase a property or a lease or letter of intent to lease is entered into for the specific property, Mr. Beers failed to have the Sellers and Buyers sign a "Consent to Dual Agency" and for failing to provide the buyers with an "Agency Disclosure Information for Buyers, and Sellers" identifying himself as a limited dual agent; violated Neb. Rev. Stat. § 81-885.24(22) Making any substantial misrepresentations; when Mr. Beers represented to the Buyers the earnest money would be returned to them; 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



*(Continued from page 4)*

otherwise specified in this section; when (a) Mr. Beers failed to enter into and/or obtain written consent permitting him to serve as a dual agent as described by Neb. Rev. Stat. §§ 76-2422(4) and 76-2419; and (b) represented to the buyers that the earnest money would be returned to them.]

**2018-002 - Commission vs. Michelle A. Brezinski;** Salesperson; Omaha, NE. Stipulation and Consent Order entered August 16, 2018. License suspended for a period of twelve (12) months with the entire period to be stayed and served on probation. Probation commences on September 15, 2018 and continues through September 15, 2019; plus pay a civil fine of \$1,200.00 due September 15, 2018; and complete three (3) hours of additional continuing education in the area of License law on or before February 16, 2019. [Brezinski 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; when Ms. Brezinski (1) failed to obtain a new listing agreement or addendum to the listing agreement signed and finalized when the terms of the original listing agreement changed, (2) reused old contract pages that do not represent the intention and actions of the Parties, and (3) failed to provide the Nebraska Real Estate Commission with all documents in her possession as they related to the Property; violated Neb. Rev. Stat. § 299-5-003.17 Failure to produce any document, book, or record in the licensee's possession, or under his or her control, concerning any real estate transaction under investigation by the Commission; by failing to provide the Nebraska Real Estate Commission with the Second Listing Agreement when asked for all transaction documents pertaining to the Property pursuant to the investigation of Complaint in Case No. 2016-022; violated Neb. Rev. Stat. § 81-885.24(26) Violating any rule or regulation adopted and promulgated by the commission in the interest of the public and consistent with the Nebraska Real Estate License Act; when Ms. Brezinski failed to provide the Nebraska Real Estate Commission with all documents related to the transaction under investigation in her possession]

**2017-027 - Commission vs. Ronald Lynn Nitzel;** Broker; Grand Island, NE. Stipulation and Consent Order entered October 23, 2018. License suspended for a period of three (3) years with the first (1) year served on suspension, and the remainder to be stayed and served on probation. Suspension begins December 22, 2018, and continues through December 22, 2019. Probation commences on December 23, 2019 and continues through December 22, 2021; plus pay a

civil fine of \$500.00 due December 22, 2018; plus submit to a yearly criminal background check, by having his fingerprints captured by anyone qualified to take finger 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 three (3) year Suspension/Probation period. The first report is due February 28, 2019; plus If charged with or convicted of, another criminal offense at any time during the entirety of the three (3) Suspension/Probation period report such offense to the Commission within five (5) days following the incident. [Nitzel 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 being convicted of issuing fake insurance policy, certificate, or card.]

**2017-016 - Mark C. & Mary B. Gallagher vs. Rebecca L. Marble;** Broker; Hastings, NE. Stipulation and Consent Order entered November 13, 2018. License suspended for a period of three (3) years with the first six (6) months served on suspension, and the remainder to be stayed and served on probation. Suspension begins December 13, 2018, and continues through June 13, 2019. Probation commences on June 14, 2019 and continues through December 13, 2021; plus pay a civil fine of \$2,000.00 due December 13, 2018; and complete six (6) hours of additional continuing education with three (3) hours each in the areas of Ethics and License Law on or before May 13, 2019. [Marble violated Neb. Rev. Stat. § 299 NAC 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; 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; when she failed to disclose the existence of the Carey Report which indicated the Property had termites; and when she failed to disclose MDM Pest & Termite Control had previously provided an estimate for treatment.] 

Nebraska Real Estate Commission  
PO Box 94667  
Lincoln, NE 68509-4667  
**Return Service Requested**

PRSRT STD  
U.S. POSTAGE  
PAID  
STATE OF  
NEBRASKA

---

## Not So New Forms

The Commission’s trust account examiners are reporting that they are still seeing many older versions of the Agency Disclosure form and the Seller Property Disclosure form. The Agency Disclosure form was updated in July of 2017, and now includes a “chain of command” section on the back of the form, listing contact information for the brokerage. Apparently some licensees think the chain of command is only needed if there is a team involved presenting the form, the new form with the chain of command should be used in all instances. Links to the current forms and instructions can be found here: <https://tinyurl.com/nrecagency>

The Seller Property Disclosure Statement was last amended in January of 2017. The current forms will have the “1/2017” date in the upper right hand corner of all pages.

All licensees should ensure that stock forms on file are up to date and used in current and future transactions. 

*(Continued from page 1)*

“It is a great honor to have been elected by the people of Nebraska to serve as their Secretary of State, and I will do my best to continue to earn the trust and confidence of Nebraskans,” Evnen said.

Evnen continued, “I am especially looking forward to my service as Chair of the Nebraska Real Estate Commission. The Commission regulates a profession of fundamental importance to our state. I ask for everyone’s help and support as I take on this highly significant responsibility.”

Evnen and his wife Debra have been married for 37 years. They have three children and two grandchildren. He will take office on January 10, 2019 and assume his duties as chair immediately. 

