

COMMISSION COMMENT

Winter

2002

Janice Wiebusch Elected to the Board of Directors and Teresa Hoffman Installed As President of the Association of Real Estate License Law Officials

On October 6, 2002, Commissioner Janice Wiebusch was installed as a member of the Board of Directors representing the Central District and Teresa Hoffman, Deputy Director for Education & Licensing of the Nebraska Real Estate Commission, was installed as President of the Association of Real Estate License Law Officials (ARELLO). Their election and installation took place during ARELLO's annual conference in Kansas City, Missouri.

ARELLO's mission is to support member jurisdictions in the administration and enforcement of real estate

license laws enacted for the purpose of protecting the public interest. ARELLO is comprised of 72 real estate regulatory jurisdictions which include 52 U.S. states and territories, 8 Canadian provinces and territories, 2 Caribbean nations, 2 Central American nations, 1 South American nation, 3 Asian nations, 2 African nations and 3 Australian states. ARELLO's most recent growth has been in Latin America.

The Real Estate Commission has always strongly supported participation in ARELLO because it believes that the opportunities for collective approaches, the consultation with noted experts and the international perspective deliver dividends to Nebraska licensees through a more knowledgeable Commission and Staff.

This election recognizes Janice's and Teresa's efforts and achievements in ARELLO and their work with the Nebraska Real Estate Commission. Janice has been active in the Association since being appointed to the Commission five years ago. She has been a faithful attendee at committee and education sessions and has shared the information gained with her fellow Commission Members. Janice appreciates the variety of regulatory approaches discussed with ARELLO members and utilizes this knowledge to assist Nebraska in evaluating and determining its own best implementation.

Teresa joined the Commission and has been active in the Association since 1988. She has pursued a tradition of study and service that has earned the respect and support of Colleagues in the United States and throughout the world. Teresa attributes her vision and leadership skills to the environment nurtured by Nebraska's Commission Members who have supported four ARELLO Presidents from Nebraska before this. She also gives credit as a mentor to Les Tyrrell, the Director of the Commission, who has served as one of these Past ARELLO Presidents.

Both Janice and Teresa want Nebraskans to know that they can be proud of Nebraska's regulatory approach to real estate licensing. From their perspective, the Commission is true to its mission of protecting the public interest, effective in its approach, fair in its administration and resolutions, and poised for the future. ARELLO must agree—congratulations!

Commission Meeting Schedule

December 11-12Lincoln
January 29-30Lincoln
March 5-6Lincoln
April 16-17Lincoln
May 28-29Lincoln

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COMMISSION COMMENT

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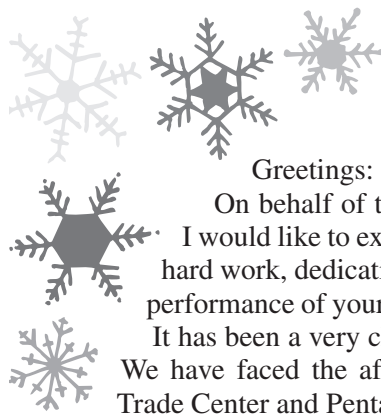
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HOLIDAY MESSAGE FROM THE COMMISSION

Greetings:

On behalf of the members of the Real Estate Commission, I would like to extend to all of you our heartfelt thanks for your hard work, dedication, integrity, and professional attitudes in the performance of your work as real estate salespersons and brokers! It has been a very challenging year, and a time of much concern. We have faced the aftershock of the September 11, 2001, World Trade Center and Pentagon attacks; our national economy and stock market have experienced loss of growth and value, and loss of consumer confidence; our national budget surplus has become a deficit again. Our President is engaged in a serious global conflict with terrorism. A shocking number of major corporate leaders have proven to be corrupt and dishonest, resulting in the loss of many pensions and retirement plans. It has been a hard year nationally. Yet in Nebraska we have shown a strength and resiliency which would make Nebraska homestead pioneers proud of us. Our banking industry is solid. Our tourism industry has had a good year. Our construction industry is busy. And, our real estate industry has had a record year of success!! It has contributed greatly to the confidence of our communities and the hope of our citizens for the future as they buy and build new homes.

There have been several changes on the Commission since I was appointed as Secretary of State, and Chairperson of the Real Estate Commission two years ago. Since December, 2000, Bob Bell, Paul Landow, Fred Fletcher Jr., and Joan Nigro have left the Commission, and new Commissioners Jim Strand, Larry Shepard, and Mike Poskochil have joined us. I am impressed with the quality of the members of the Commission I have worked with, and am delighted with the dedication and drive of our current Commission. We are committed to doing our best to help the real estate industry be the best it can be, and to assure the public that this industry deserves their trust and confidence.

A number of major rule changes were made this year, as well as changes to procedures and documents required to implement the approved rule amendments. They were serious undertakings and were seriously reviewed and advanced. The new Seller Property Condition Disclosure Statement and the revisions to the Agency brochures were two substantive changes made final this year. Several legislative proposals will be made again in this coming Legislative Session to further our efforts to fine-tune the laws with which we work.

We are proud of the national recognition our Nebraska Real Estate Commission receives. It is held in high esteem, and we will work to maintain that recognition. Our Director Les Tyrrell and his staff deserve high praise for their hard work. Having our Deputy Director Teresa Hoffman as the new President of ARELLO is a sign of that respect. We wish her the very best year possible!

We send our very warmest wishes to you and your families for the happiest of Holiday Seasons and for an outstanding New Year in 2003!


John Gale, Chairperson

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 . . . Heidi Burklund
InfoTech@nrec.state.ne.us

Complaint Procedures Terry Mayrose
DDEnf@nrec.state.ne.us

Continuing Education History or
Inquiries Julie Schuur
EdEnf@nrec.state.ne.us

Curriculum Design (Education &
Instructor Approval) Teresa Hoffman
DeputyD@nrec.state.ne.us

Errors and Omissions Insurance
Inquiries Teresa Hoffman
DeputyD@nrec.state.ne.us

License Applications Packet
Requests General Staff

License Applications Process Patti Holscher
Applic@nrec.state.ne.us

Licensing and Education
Requirements Teresa Hoffman
DeputyD@nrec.state.ne.us

New Licenses in Process Patti Holscher
Applic@nrec.state.ne.us

Specialized Registrations Monica Wade
Finance@nrec.state.ne.us

Transfer of License Melanie Patrick-Heather
LicTsf@nrec.state.ne.us

Trust Account Matters Terry Mayrose
DDEnf@nrec.state.ne.us
John Clark
Patricia Stehly
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CAUTION

SHOULD BE USED

Recent inquiries to the Commission Office have indicated that some licensees may be refraining from showing a buyer/client a particular property or properties due to the amount of compensation or "split" the licensee would receive on the sale.

We would caution licensee's that such reasoning may not be in the best interest of your client. Remember the Agency Relationships statute sets out the duties and obligations a licensee has and one of those is: "To promote the interests of the client with the utmost good faith, loyalty and fidelity..."

Not showing a property or properties solely because of a personal reason e.g. compensation split, personal dislike of listing licensee, etc, may not be promoting the interests of your client. Licensees may wish to consult legal counsel as to their actions or inactions on behalf of their clients.

Disciplinary Actions Taken by the Real Estate Commission

(Does Not Include Cases on Appeal)

2002-012 - Phillip T. & Sandra L. Jennings vs. Victor J. Pelster, salesperson. Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education, including three (3) hours in the area of agency and three (3) hours in the area of disclosures, to be completed by March 24, 2003. [Violated Title 299, Ch. 5-003.04 by failing to make known, in writing, to any purchaser or seller any interest the licensee has in the property he is buying or selling. In a situation where a licensee is purchasing prop-

erty for themselves or for an entity in which they have an interest, said written disclosure by the licensee shall take place prior to the Seller becoming obligated to sell such property; Ch. 5-003.08 by failing to disclose Respondent was acting in the dual capacity of agent and principal in a transaction as set forth in Neb. Rev. Stat. § 81-885.24(9) in writing prior to, but no later than the time the other principal enters into an agreement to purchase property from or sell the property to the licensee.

(Continued on page 4)



We've Got Mail!!

E-mail, that is. The Commission is focusing on technology. Our goal is to enhance our accessibility and service to the Public and to our Licensee Population. With that in mind, let us call your attention to the addition of e-mail addresses in the "Communications Guide" located on page 3. If you have any questions, please feel free to contact us by phone, mail, or e-mail, so that we may be of assistance.



Disciplinary Actions (Cont'd)

Said written disclosure shall be signed by the other principal to the transaction and a copy of the signed disclosure shall be maintained in the transaction file; Ch. 5-003.09 in that said licensee acted for more than one party in a transaction without the informed written consent of all parties involved in the transaction. Informed written consent means the licensee must obtain the written agreement of all said parties as well as the licensee's employing broker prior to acting in such a manner.]

September 25, 2002

2001-032 - Joseph Valenti vs. Michael Louis Riedmann, Broker, & Thomas David Myers, Broker. Stipulation & Consent Order. Riedmann: License censured. Myers: Dismissed. [Violated Neb. Rev. Stat. § 81-885.24(2) by using materials which were inaccurate in a material particular and misrepresented the services of the business conducted.]

October 23, 2002

Website Update

Licensee and Applicant Information Search

When you are visiting the Real Estate Commission's website at: www.nrec.state.ne.us you might want to take a look at the "Licensee and Applicant Information Search" menu option. This is a database of Nebraska real estate licensees and applicants for license that can be searched by one or multiple fields. Here are just a few of the searches you can conduct:

- If you know the name of a licensee whose licensing information you are interested in, simply type in the first and last name and click on the "Search" button.
- If you would like a list of all Applicants for licensure, move to the "License Status" field and choose "Pending Licensure" from the drop-down menu options and do not fill-in any other options.

- If you would like a list of all active licensees, choose "Active" from the options in the "License Status" field. You can also search all "Inactive" and "non-renewed" licensees in the same manner.
- You can even get a list of all licensees in a particular town by only filling out that field.

If you would like to narrow your search, enter data in multiple fields. For example: if you want to know all of the Active Salespersons in Lancaster County; you simply enter "Lancaster" in the "County" field, select "Active" from the "License Status" drop down menu, and select "Salesperson" from the "Profession" drop down menu. You can use as few or as many fields as you want to define your search.

The 50-40-10 Rule

(Editor's Note: The following article is reprinted with permission. While it references input given by the Commissioner of the Georgia Real Estate Commission we believe that his assessment would hold true in Nebraska as well.)

Issues of ethics and etiquette are commonly confused, particularly when describing the behavior of professionals. Ethics has to do with following the morality of a society or group. Etiquette deals with behaving in accordance with prescribed social standards. So there's no question that issues of ethics and etiquette can be very similar.

However, do ethical individuals always follow the best etiquette? No. We can all think of examples of brusque, abrasive, ill-mannered people who have nevertheless acted morally. Do people who behave in accordance with prescribed social standards always act ethically? No again. Very polite people can act immorally. The Nazis, as an example,

were very mannered individuals who emphasized protocol and social standards. Yet their actions were immoral.

As professionals, we strive to follow standards of both ethics and etiquette. Early in our careers, we are introduced to concepts and models of professional conduct and practice. However, it is assumed that we don't need any courses in professional etiquette, since these matters are largely common sense and were taught and modeled for us in the home and at school.

It's this assumption that professionals are familiar with common-sense etiquette that is apparently getting licensees into more trouble with their licensing boards than we

might expect. A recent study of complaints filed against real estate licensees provides some surprising insights.

The Georgia Real Estate Commission staff conducts from 1,500 to 2,000 investigations annually. Year after year, Commissioner Charles Clark reports, approximately 50% of its investigations of complaints result in a finding of no violation of the license law. Approximately 40% of investigations of complaints result in the discovery of minor technical violations of the law that result in no harm to the public and require only warning letters. Only about 10% of its investigations of complaints result in a need for the Commission to take

(Continued from page 5)

50-40-10 Rule (Cont'd)

some form of formal disciplinary action.

Mr. Clark's analysis of these complaints is incisive. He suggests that "the 50-40-10 numbers tell us that the vast majority of complaints reveal no substantive violations of the license law. Why? The vast majority of all licensees want to be in business tomorrow.... Even if only minimally competent, they are all smart enough to know that violating the law or deliberately harming a consumer means that business is likely to dry up tomorrow. Thus, very, very few of them deliberately set out to violate the law or to harm someone."

Moreover, he adds, "...Almost all of the people we regulate want to do right. The morally and ethically corrupt are the rare exception, not the rule. Therefore, almost all of them will do right, if they know what right is.... Most violations are the result of simple, unintentional error."

Considering the fact that only 50% of all complaints were investigated, Mr. Clark's staff decided to determine what actions really caused consumers to lodge a complaint. Here is what they found:

Most of the complaints were filled with such statements as:

1. "He

wouldn't return my telephone calls."

2. "She didn't address us as Mr. and Mrs."

3. "She stopped by our house unannounced."

4. "I don't know why she waited two days to present our offer."

5. "He showed up in a running suit."

6. "She talked down to me."

7. "He was late for every appointment."

8. "She turned me over to someone else for everything."

9. "He didn't explain what that meant."

10. "She was rude about everything."

11. "He wasted our time showing houses that we had no interest in."

12. "We never could reach her."

13. "He never seemed to care about the problem."

In other words, these complaints were initiated because of a problem with etiquette—not with a breach of ethics or of law. While instructors spend countless classroom hours reviewing licensing law and lecturing on practices and principles of the profession, Clark concludes, "What may be more help in reducing the

number of complaints is an instructional module on manners, dress, and communication." (Ironically, few regulatory agencies would provide continuing education credit for such a course.)

In a telephone call to a number of other licensing boards in my own state of North Carolina, regulators not only agreed that their experiences with complaints fits the Georgia Real Estate Commission's 50-40-10 profile, many concurred that most of the complaints are initiated or

deal with matters of rudeness, poor manners and poor communication rather than with violations of the law.

Assuming this profile is widespread among regulatory agencies' complaints, imagine the tremendous waste of taxpayer dollars and licensing board time spent on dealing with matters of etiquette rather than more "serious" issues of misrepresentation and consumer fraud. Real estate commissions in the U.S. alone report over 25,000 complaints a year.

What is the solution? Managers, employers, and educators should integrate discussions of professional or business etiquette into their staff meetings and classrooms. punctuality, appropriate dress and language, sensitivity to cultural differences in business customs, and listening skills would be a good place to start. And it would probably be a good idea to remind everyone not to chew with their mouths open and to keep their elbows off the table, too!

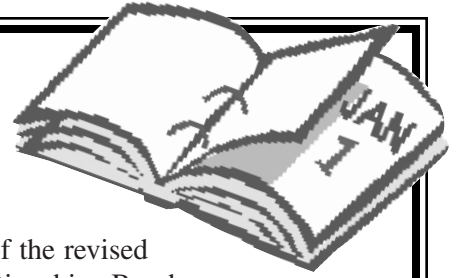
Emily Post, the foremost authority on etiquette and manners, once wrote:

... Best Society is not a fellowship of the wealthy, nor does it seek to exclude those who are not of exalted birth; but it is an association of gentlefolk, of which good form in speech, charm of manner, knowledge of the social amenities, and instinctive consideration for the feelings of others, are the credentials by which society the world over recognizes its chosen members. Etiquette must, if it is to be of more than trifling use, include ethics as well as manners.

This article was written by Dr. Deborah Long, DREI, GRI, CRS, Ed.D. Dr. Long is a real estate broker and instructor frequently asked by professional and regulatory organizations to speak on ethics. Long and her findings on real estate ethics were the subject of an article appearing in *The Wall Street Journal*; in addition, she has authored several real estate career books.



January 1, 2003 Deadline Draws Near



Licensees should be mindful of the fact that as of January 1, 2003, use of the revised Seller Property Condition Disclosure Forms AND the revised Agency Relationships Brochures becomes mandatory. The “phasing-in” period will have ceased.

Agency Relationships Brochures

The revised Agency brochures were provided to employing Brokers many months ago in order for them to be customized, produced, and implemented by this deadline. Please take a moment to look at the brochures you will be using (or may already be using). When looking at the cover of the brochure you should see that there is one brochure for “Buyers and Sellers” and one for “Tenants and Landlords”. Both of these brochures should indicate a use required date of January 1, 2003.

Seller Property Condition Disclosure Forms

The revised Seller Property Condition Disclosure Form was also provided to employing Brokers previously in order for them to be produced and implemented by the January 1, 2003 deadline. Please take a moment to look at the Property Disclosure Form you will be using, at the bottom of Page 2 of 2 in the lower-hand corner, the date should read Effective January 1, 2003. As of that date this form (without modification) must be completed by all sellers of residential real property consisting of 1-4 dwelling units and given to the purchaser of such property prior to the purchaser entering into any contract which would bind the purchaser to purchase.

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