

COMMISSION COMMENT

Fall | 2017

Darlene Starman Appointed to the Commission

Governor Pete Ricketts has announced the appointment of Darlene Starman as the first district broker member of the Nebraska Real Estate Commission. Commissioner Starman was sworn in by Secretary of State and Commission Chairman John Gale at the September 28 Real Estate Commission meeting.

Ms. Starman is an associate broker for Woods Brothers Realty in Lincoln, NE, and has been licensed as a broker since 1998. In addition Starman has been active with the both the National and the Nebraska Realtor's Associations and also served on the Nebraska Educational Television Commission and the Nebraska Judicial Nominating and Resources Commissions.

Commissioners are appointed to six year terms, Starman replaces Drew Stange of Lincoln.



Chairperson Gale Swears in New Commissioner Darlene Starman

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Commission Meeting Schedule

- November 16-17Lincoln
- January 18-19Lincoln
- February 15-16Lincoln
- March 15-16Lincoln
- April 19-20Lincoln
- May 24-25Lincoln
- June 21-22Lincoln

2018-2019 Online License Renewal is Now Available

go to:

<http://www.nrec.ne.gov/licensing-forms/logininfo.html>

to renew your license.

See renewal article page 4 for more details

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Official Publication of the
Nebraska Real Estate Commission
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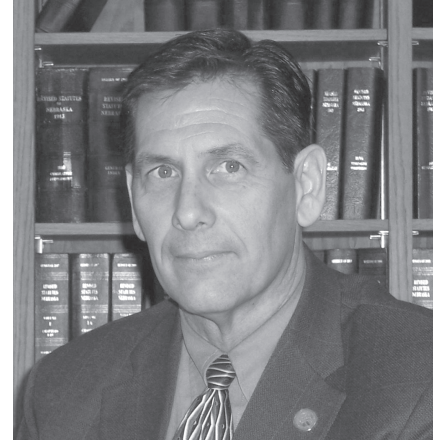
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DIRECTOR'S DESK

Third Party Service Providers

One of the things we get many questions and also a few complaints on is an agent's recommendations or steering with regards to third party service providers used in real estate transactions. Most clients probably have not recently worked with a home inspector, title company, or home warranty service, and may seek names or guidance in selecting those service providers to assist in the transaction. An agent's duty to their client is to provide information and advice so that the client can make an informed decision, not substitute the agent's own judgment or experience for those of the client.



Director Greg Lemon

The Commission has been hearing of many examples of licensees putting in purchase or even listing contracts or advertising, mandatory inclusions "this title company must be used", or inclusions with warning of consequences "failure to use xyz company will delay closing" as well as mandatory exclusions "abc inspection company may not be used".

In a series of recent complaints the Commission has clearly established making unsubstantiated representations about a third party service provider, or excluding or mandating a service provider when such exclusion or mandate is done pursuant to the licensee's wishes rather than the client's, is a disciplinary violation.

It is certainly permissible to provide the names of trusted providers the licensee has done business with in the past. A licensee also may want to not recommend certain providers be used, but tread carefully in this area, and base any negative comments or recommendations on known facts rather than rumor, feelings or speculation.

Third Party Service Providers and RESPA

Speaking of recommendations and arrangements with affiliated service providers, while it is federal law, not license law, we urge licensees to be cognizant of RESPA (Real Estate Settlement Procedures Act) as it relates to kick-backs or referral fees. RESPA prohibits a real estate broker or agent from receiving a "thing of value" for referring business to a settlement service provider, such as a mortgage banker, mortgage broker, title company, or title agent, home warranty or inspection service. There is much more detail on the rule than we have time and space to go into here, but the Commission urges licensees to consult an attorney before entering into any relationship or accepting any "thing of value" that might violate the broadly written and interpreted RESPA provisions.


Greg Lemon, Director
Nebraska Real Estate Commission

Disciplinary Actions Taken by the Real Estate Commission

(Does Not Include Cases on Appeal)

2015-027 - Greg Wayman vs. Carolyn Jane Kesick; Salesperson; Omaha, NE. Hearing held May 25, 2017. License was censured; plus pay hearing fees of \$401.92 due July 1, 2017; plus complete an additional six (6) hours of continuing education, three (3) hours each in the areas of Ethics and License Law by December 1, 2017. [Kesick violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, in that she made representations to a potential buyer of a property that were unsubstantiated and untrue.]

2015-023 - Brian D. and Shannon M. Srb vs. David Lawton Kaseman; Salesperson; Lincoln, NE. Hearing held August 17, 2017. License suspended for two (2) years with the first thirty (30) days served on suspension and the remainder of the period stayed and served on probation. Suspension commenced on September 28, 2017 and continues through October 27, 2017; Probation begins on October 28, 2017 and continues through September 28, 2019; plus pay a civil fine of \$1,000.00 due September 26, 2017; plus pay court report cost of \$240.00 due September 26, 2017; plus complete an additional six (6) hours of continuing education with three (3) hours each in the areas of Disclosure and License Law by February 27, 2018. [Kaseman violated Neb. Rev. Stat. § 76-2417(3)(a) (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 material limitation on the client's ability to perform under the terms of the contract, in that he did not disclose to the Complainants or their agent the February 3, 2015 Seller Property Condition Disclosure Statement (SPCD) or the October 2014 Water Event; 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, in that he did not disclose to the Complainants or their agent the February 3, 2015 SPCD or the October 2014 Water Event at or prior to the time the Complainants signed an offer to purchase the Property; violated Neb. Rev. Stat. § 299 NAC 5-003.23 Failure by the agent of the seller to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser or to the agent of the purchaser on or before the effective date of any contract which binds the purchaser to purchase the residential real property, in that he did not deliver to the Complainants or their agent the February 3, 2015 SPCD prior to the closing of the transaction.]

2017-009 - Commission vs. Michael Joseph Korth; Broker; Humphrey, NE. Stipulation and Consent Order entered October 4, 2017. Korth needs to pay a civil fine of \$1,500.00 due November 3, 2017. [Korth violated Neb. Rev. Stat. § 81-885.12(4) When an applicant has made a false statement of material fact on an application, such false statement may in itself be sufficient ground for refusal of a license. Korth's statements and omissions in his applications whereby he failed to disclose his conviction of "obtaining permit under false pretenses", a Class 3 Misdemeanor, constitutes a "false statement of material fact".] 

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 *Jenny Schabert*
jenny.schabert@nebraska.gov

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*
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Renewal Instructions 2018-19 License Year

The Commission's online renewal instructions are outlined below, please review this article and complete the needed steps (continuing education, errors and omissions insurance, etc.) before starting your online renewal filing. The online renewal form is pre-populated with your information from our database. Our online information is updated daily at 10:30 a.m. You have the opportunity to check the information for accuracy and accept it as is or edit as needed, as well as verifying or updating other critical information in our database. All licensees are able to login to their licensee portal at any time but only those whose renewal is due this year will have access to the renewal pages. To check if you need to renew your license this year, login to our website, as explained below, if your expiration date shows 12/31/2017, you need to renew.

Licensee Portal

1. Login and Password information

To get to the portal go to our homepage at www.nrec.ne.gov and click on the "Licensee Login" button in the upper right hand corner. In order to login you will need to know your real estate license number and your password. If you do not know your password you can reset it by clicking on the "change password" link to have a temporary password e-mailed to you. Please follow the directions in the email to reset your password.

2. Review your Continuing Education and Errors & Omissions Insurance Information

If you need to renew your license this year, your continuing education needs to be complete and you need to have E&O insurance on file with our office extending into 2018, unless you are renewing on inactive status. You will need to commit to providing the necessary information to our office before your license will be renewed. Proof of completion of continuing education requirements will be submitted by the education providers as required by law. Please Note: Providers have, by law, 10 days to submit education verification to the Commission. However, if you have taken out of state courses or appraisal courses, those certificates will need to be sent to the Commission Office.

3. Designated Brokers Portal Information

Designated brokers will also want to review and renew their branch offices every year. Please remember that both the designated broker and the managing broker must be renewed on active status before the branch office can be renewed. The Commission will send an email to designated brokers in December indicating which of their affiliated licensees have not renewed. Designated brokers can check the renewal status of any of their affiliated licensees by checking the expiration date supplied on the list found on their portal.

No Renewal Packets!

We will be sending out renewal reminder postcards to those whose license is expiring this year. **If you renewed for two years last year you will not need to renew this year and will not receive a postcard UNLESS you are a broker with branch offices, branch offices must be renewed annually. The postcard will be your only renewal notice. Failure to receive your renewal reminder postcard or a requested packet because it was lost in the mail or not personally delivered to you does not relieve you of your obligation to renew your license on time.** We will provide paper renewal packets when absolutely necessary, but we strongly encourage all licensees to renew online.

The Renewal Process

Before starting your renewal, please read the online instructions.

NEW FOR THE 2018-19 Renewal Cycle

Fee Reduction—Renewal fees for salespersons have been reduced from \$230 to \$160, broker renewal fees have been reduced from \$290 to \$200.

Team Education—Effective 7/1/17, a member, leader or broker supervising of a team must take 3 hours of a continuing education in a Team Course numbered 1000R within 180 days and once during each four year period thereafter. This requirement must be met for those affected before renewing for 2018-19.

Property Management Education—The license renewal form asks if you are engaged in property management activities. Those licensees who are engaged in property management activities or brokers who supervise such activities will need to take a 3 hour property management class before their next renewal period.

For more on available classes and requirements go to: <https://tinyurl.com/yccpj9ld>

The renewal application takes you through the step-by-step process for renewal and includes numerous stopping points so you can save your work and continue later. If there is an affirmative answer regarding errors and omissions insurance claims, lawsuits, etc. have the details, as requested, ready to submit via narrative or attachment. All attachments must be in PDF format.

Final Review and Payment

When you complete entering the renewal information you will be taken to a review page that will allow you to look over what you have entered. Once you have completed your review and made any corrections, you will be taken to the payment portal where you can pay for your renewal via ACH payment or credit card (Visa, MasterCard or Discover). **Print the confirmation page for your records.** You will receive an email indicating that your renewal has been **submitted**, the email does not confirm renewal that will be confirmed later.

Because there are many items on the renewal form that will still require review by Commission staff, such as lawsuit information or criminal charges, the renewal status indicated on your licensee portal will indicate “pending Commission’s approval” **Your renewal will not be complete until Commission staff have reviewed the form and given final approval, this process may take several days.** Your credit card will not be charged pending final review, but you will probably see a notice of pending charge or charge authorization on your online statement after the renewal has been submitted.

Verification That License Has Been Renewed

After the renewal has been reviewed you will receive an email that will confirm the renewal has been approved OR that the renewal has been rejected and why it has been rejected. Finally, after you have succeeded in renewing and have received the email indicating approval of renewal you will receive another email that contains your receipt card. **PRINT YOUR RECEIPT CARD AND PUT IT IN YOUR WALLET!**

DEADLINES!

November 30, 2017, is the statutory 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. If the renewal is complete and all necessary materials have been submitted, postmarks of November 30, 2017, will be honored. **Postal meter marks will not substitute for postmarks!**


Licenses held on inactive status must be renewed too. Inactive licenses are subject to the same deadlines and fees as described in this article.

Licenses issued in 2017 must also be renewed. Your license was issued with an expiration date of 12/31/17. New licensees are also subject to the same deadlines and fees as described in this article.

Incomplete Applications

NO LICENSES WILL BE RENEWED UNTIL THE CORRECT FORM IS RECEIVED AND ALL INFORMATION REQUESTED IN THE APPLICATION IS SUPPLIED. There should be no questions left unanswered. **If you are unsure as to how to complete your online or paper renewal, we will be happy to answer any questions you may have.** **INACCURATE OR INCOMPLETE RENEWALS 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 a complete application for renewal of a license and pay the renewal fee by the deadline 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, 2017. The final deadline for renewals is July 2, 2018 subject to late fees as described) but if you do not renew on or before December 31, 2017, you may not engage in real estate practice until such time as your renewal is processed. 

RENEW Online At
www.nrec.ne.gov

CYBER SECURITY



Both the Nebraska Real Estate Commission and the Real Estate Industry share the common goal of protecting the public as well as the reputation of the industry with regards to working with real estate agents and real estate transactions. The Commission and the industry must do their best to ensure that such transactions are a safe and secure process for the public.

Efforts on behalf of scammers are ongoing and pandemic in real estate and other industries, and any expectation of efforts to stop the scams being entirely successful are probably somewhere in realm of very optimistic to totally unrealistic. However, we can make every effort to ensure that these attempts to defraud are not successful.

The most common scams involve an email, a text or phone call soliciting account information or personal information from members of the public involved in pending real estate transactions.

The Commission works with the industry, the industry works with the public, the Commission urges licensees to raise awareness to avoid people being damaged by these schemes

EDUCATION EFFORTS

We are aware that many if not most brokerages are now including paperwork on security and real estate scams when working with customers and clients. But please remember, people have a lot of paper or, in this day and age, PDFs, thrown their way when they enter into any real estate transaction, take a moment to point out your company's notice and throw in some words of explanation so it isn't lost in the shuffle.


SECURITY

Scams, Ransomware, Fee Fraud and hacks are usually achieved via email. They may be fake email addresses with a letter or two changed in a name, or an actual hack into an agent or firm's email system. We can only educate on the former (it is good advice to check the actual email address closely, not just the display name), but having all business conducted through secure email systems and servers can help reduce the potential pirating of accounts and information. The Commission recommends consulting with qualified professionals on establishing such a system and does not provide advice or guidelines on what passes muster, but a g-mail account or the like with the password "password" certainly does not count as a secure email system.



Please remember the general cyber safety rules as well, and do not open suspicious attachments or links. Also, make sure your data is backed up and that the backup tested and fully functional.

TALK TO SOMEONE YOU KNOW IN THE KNOW

Advise clients and customers to never give out account information, routing numbers, or other personal information such as social security numbers based upon unsolicited electronic communication, if in doubt advise them to pick up the phone and call the number provided by their agent, loan officer, title company, etc. in prior correspondence, don't call the number provided in the email. Urge them to always talk to someone they have met through the process and confirm authenticity before following up on any such requests. 

Commission Policy and Interpretation Updated for Coming Soon Listings

The Nebraska Real Estate Commission has amended its policy and interpretation on Coming Soon listings to include guidance on how to proceed when an offer is received on a property which is listed as coming soon. The new language provides that “if an offer is received when a property is on coming soon status the seller should be informed that there is a pending offer or offers, and asked if they want to remove the property from coming soon status and make it an active listing at which time the agent should inform the offeror to resubmit their offer when the property is no longer coming soon and is in fact on the market.”



The interpretation allows licensees to conform to the agency law by presenting all offers while still complying with coming soon listings policy.

The complete policy can be found here: <http://www.nrec.ne.gov/legal/policyinterpretation.html#PI40>. 



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Nebraska Real Estate Commission Members



Seated (l to r): Darlene Starman, Chairperson John Gale, Standing: Herb Freeman, Ann Dover, Andy Alloway, Jim Titus, (not pictured Sheri Bourne)