



REAL ESTATE

FALL

2014

NEWS & VIEWS

Broker Supervision

Gregory Hartline
Broker

Gregory Hartline, a Nevada broker, was disciplined by the Nevada Real Estate Division for failing to have complete transaction files in his office for three properties, failing to review agent files, and failing to supervise his agents. Hartline was required to pay a \$5,000 fine and complete 6 hours of classroom education as well as writing an article for publication in the Nevada Real Estate Division newsletter. Following is a reprint of his article. The Nevada Real Estate Division gives permission to reprint this article with the caveat that the author is a Nevada licensee in good standing. The circumstances of Mr. Hartline's experience, as described in the article, provide a cautionary tale for real estate brokers everywhere and his message holds as true today as it did when originally published in 2004.

Recently, my brokerage was threatened by the actions of an agent who was not acting ethically. Unbeknownst to me, his business decisions were solely the product of personal greed and without any regard to the public that he was charged with serving. Although sworn to uphold the highest ethical standards, he had ignored these obvious fiduciary responsibilities.

As his broker, I should have identified his transgressions early on. I did not. Though I certainly never intentionally meant to harm anyone, because of my lack of discovery, an innocent party was unfortunately damaged. As the supervising broker, I must ultimately share in the blame by implication. Had I been aware of my agent's improprieties at an early stage, I would have been able to intercede and correct the situation before it grew into the significant infraction that it became. I have been asked to write these words so that others may share in my experience. Perhaps, in light of this submission, some other broker will be more vigilant and the public will ultimately be better served.

This altogether unfortunate state of affairs has brought me to reflect upon the nature of supervision, delegation and, ultimately, broker responsibility. I have learned that even the most seasoned

and sophisticated agent can act in ways that are unethical and wholly unprofessional. While those actions are frequently outside of the knowledge of their broker, ultimately the broker will be held accountable.

Vigilance is the keyword, and none of us are omniscient. We can never be completely aware of all of the actions of those who are operating within our companies. Our commitment to vigilance, while imperfect, must be incessant. We are charged with being as knowledgeable as possible with regard to those who hang their licenses under ours. For those of us who are involved in large companies, we are faced with a particularly daunting challenge. As company rosters grow in size, the degree to which a broker can be "hands on" is necessarily diminished.

Most brokers in larger companies will, of necessity, delegate some degree of their supervision and compliance operations to others. With proper training, a compliance officer in a large organization can be an essential extension of the broker's business practice. Still, that broker's supervisory effectiveness will only be as efficient as that compliance officer is on any given day. Given the complexity of many contemporary real estate operations, it is obvious that there is the potential for more and more essentially unsupervised activities by agents.

Responsible delegation begins with broker training and supervision and ends with more broker training and more and more ongoing supervision. The contemporary real estate culture is partially to blame. Profitability modes which are built on ever larger rosters are, in my opinion, not in the best interest of the public. They are a business reality that will not change in the foreseeable future.

Even the most responsible delegation within these business models cannot produce the kind of supervision that could ever be construed as ideal. This ultimately puts more and more responsibility on the individual agent to act as professionally and ethically as possible—

and often without someone overseeing them with any degree of regularity. The agent certainly is charged with a large degree of responsibility in the ramifications of his or her actions. They are the first line of defense. However, all of us are human and we all make mistakes. It is the intentional transgression,



It's time to renew your real estate license (active & inactive) for 2015. Check inside for 2015 license renewal information!

not the innocent oversight or error, which is the subject of this consideration.

It would be easy to suggest that by “raising the bar” in the terms of pre-licensing standards we could elevate the quality of agents so that all would perform more satisfactorily. This is only a partial solution. An ethically bereft agent will always be a cancer in our industry—regardless of his or her professional sophistication. Certainly, more stringent licensing requirements could only help. Increasingly more extensive pre-licensing education coupled with better mentoring and training upon licensure would, of course, be a positive improvement. In my case, however, it was the actions of a very sophisticated agent who was acting intentionally unethically. The solution: short of the impossibility of developing a somehow more innately moral agent, is always better supervision.

We live in a less than perfect world. There will always be those agents who act irresponsibly. This unfortunate reality places the onus of responsibility for ethical service squarely on the shoulders

of the supervising broker. It is also an unfortunate truth that a single errant agent can erode an otherwise wholly conscientious business operation.

While the broker is busy supervising the newest and most neophyte agent on the roster, an unethical veteran professional can be undermining the entire integrity of the operation. Only one bad agent can blemish an otherwise stellar company.

Furthermore, the larger the brokerage, the more exposure to liability the broker is required to sustain. In these companies, it is all the more important for the broker to “grow eyes” in the back of his or her head. If those additional “eyes” are a part of a delegated team, then that team is still charged with protecting the interest of the public and, by extension, the license of the broker. Harry Truman was known to place a sign on his desk that read “The Buck Stops Here.” The president’s aphorism is a paradigm of responsibility that every broker should embrace. To do so is to serve the best interests of the public.

North Dakota Real Estate Commission

1110 College Dr. Suite 207 | PO Box 727 | Bismarck, ND | 58502-0727

Phone: 701-328-9749 Fax: 701-328-9750 Email: ndrealestatecom@midconetwork.com

www.realestatend.org

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Articles by outside experts express the author’s particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because we feel they will be of interest to our readers.

COMMISSION MEETINGS OPEN TO THE PUBLIC

All Commission meetings are open to the public. Commissioners welcome and encourage attendance and observation by any licensee. Location, dates, and times can be found on the Commission’s web site www.realestatend.org or on the ND Secretary of State website www.nd.gov/sos/

Real Estate License Renewal

Renewal Fees

If submitted by December 31, 2014:

(Submitted means paid online by midnight December 31, 2014 or if submitted by mail, the postmark, not your postage meter mark, on your envelope is on or before December 31, 2014)

- Corporate/firm license fee \$150.00
- Broker license fee \$120.00
- Broker Associate license fee \$120.00
- Salesperson license fee \$100.00
- Duplicate license fee \$ 10.00
- Branch office fee \$ 10.00

If submitted on or after January 1, 2015:

(Submitted means paid online after midnight on December 31, 2014 or if submitted by mail, the postmark, not your postage meter mark, is on or after January 1, 2015) a \$50 late fee will be assessed to the license renewal fee.

- Corporate/firm license fee \$200.00 (\$150 + \$50 late fee)
- Broker license fee \$170.00 (\$120 + \$50 late fee)
- Broker Associate license fee \$170.00 (\$120 + \$50 late fee)
- Salesperson license fee \$150.00 (\$100 + \$50 late fee)

If submitted on or after February 1, 2015:

(Submitted means paid online after midnight on January 31, 2015 or if submitted by mail, the postmark, not your postage meter mark, is on or after February 1, 2015) a \$100 late fee will be assessed.

- Corporate/firm license fee \$250.00 (\$150 + \$100 late fee)
- Broker license fee \$220.00 (\$120 + \$100 late fee)
- Broker Associate license fee \$220.00 (\$120 + \$100 late fee)
- Salesperson license fee \$200.00 (\$150 + \$100 late fee)

Renewal Deadlines for 2015 Licenses

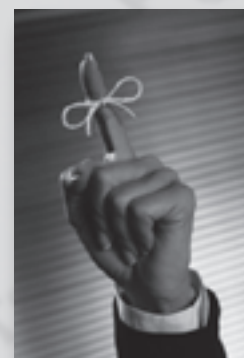
- December 31, 2014 – last day to renew without penalty
- January 1, 2015 – add \$50 late fee
- February 1, 2015 – add \$100 late fee
- March 1, 2015 – if not renewed license is automatically cancelled without notice

Renew By Mail

- You will need to request a renewal form from your broker or go to our website www.realestatend.org and download a form.
- **Make sure ALL questions are answered on your renewal form.**
- Submit your renewal form, signed by your broker, with proof of Errors and Omissions insurance, and the appropriate fee.
- Have your renewal postmarked by December 31, 2014 to avoid any late fees.
- Make sure your check is in the correct amount.
- If you need to notify us of a change of address or name change you must do so on a Change of address or name form and submit that separately – NOT on the renewal form.

REMINDER TO INACTIVE LICENSEES:

Your inactive license **must** be renewed annually or it will be automatically cancelled March 1, 2015. This means you must either renew online or complete a 2015 renewal form and pay the appropriate fee.



There are no continuing education or Errors and Omissions insurance requirements to renew an inactive license.

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Renew ONLINE

Online renewals begin November 1, 2014.

ATTENTION NON-RESIDENT & RECIPROCAL LICENSEES:

Non-resident & reciprocal licensees must submit a current (less than 30 days old) Certificate of Licensure with the renewal.

- To submit by mail send to: **NDREC PO Box 727, Bismarck, ND 58502-0727**
- Email: ndrealestatecom@midconetwork.com
- Fax: **701-328-9750**
- Upload with your online renewal

If you have renewed online in the past you will use the same email address and password to access your information. If there has been a change, you will need to call our office to have your email address and password changed before you can continue with the online renewal process.

If you have not previously renewed online you can create your account using these directions.

Follow These Easy Steps to Renew Your License Online:

1. Go to the Commission's web site at www.realestatend.org and click on "Online License Renewals".
2. This will take you to a screen to create your account OR to login with your user name & password from last year.
3. Once you have created your account you will be able to begin the process of renewing your license.
4. Once you have completed your renewal form, click "Continue" – this will take you to the Billing Information page. Verify your payment information then click "Continue to Payment". Enter your credit card information and click "Pay".

5. The Payment page gives you the renewal fee and payment options. You will then select the method of payment: Discover, MasterCard or Visa. Upon completion of payment, there will be a confirmation page to print and keep for your records.
6. Your renewal will then be placed in a pending state until the completion of continuing education hours has been verified by your broker & we have received proof of errors and omissions insurance.
7. Once your broker has certified completion of your continuing education and we have received certification of E&O insurance coverage from you, you will be notified by email that your license has been renewed for 2015.
8. Non-resident and reciprocal licensees will be notified that your license has been renewed for 2015 once all of the above has been completed AND a current certificate of licensure has been received in our office.

Deadline:

Remember: if you renew online, you must do so by **midnight December 31, 2014**, to avoid a late fee. Hint: Do not rely on your computer clock if you are renewing close to midnight.

Renewing Company License Online:

Designated brokers may now renew the company license and their license in one transaction once they have created an account under their own name.

Payment Online:

Credit cards accepted:

Discover, MasterCard & Visa



REMINDER TO DESIGNATED BROKERS
Designated brokers **MUST** register and renew **BEFORE** their broker associates and sales associates can be renewed.

IMPORTANT Errors and Omissions Insurance Information

ALL RENEWING LICENSEES must submit a Certificate of Coverage for their errors and omissions insurance coverage with their license renewal.

For those with E&O Insurance through RISC:

The errors and omissions insurance premium for 2015 will be \$187.00.

If your insurance expires on or before January 1, 2015, and you wish to remain on active status you must renew your error and omissions insurance and provide proof of insurance for 2015 when you renew your license. The insurance information packet will NOT be sent from the Commission but WILL BE mailed to all licensees' mailing address directly from Rice Insurance Services (RISC), the Commission's offered plan provider.

As always, you are welcome to use the Commission offered plan or obtain your own equivalent coverage. Just remember that you MUST have errors and omissions insurance coverage to maintain an active real estate license.



In Memory

The ND Real Estate Commission extends its sincerest sympathy to the families and friends of the following licensees who have passed away:

Denise L. Messmer	Minot
Debra K. Pierce	Bismarck
Don P. Pierce	Bismarck
Bradley G. Torkelson	Minot
Gary W. Weydahl	Minot
Terry K. Murphy	Fargo



Disciplinary Actions Taken

The following disciplinary actions have become effective since the last report in the newsletter. A Stipulated Agreement is a settlement agreement between licensees and the Real Estate Commission and constitutes neither an admission nor a denial of any violation.

Name	Complaint#	HearingType	Order Date	Violation	Penalty
Carlson, Kristi M	2014-03	Stipulated	04/25/2014	Respondent's conduct may have constituted violations of NDCC 43-23-11.1(1)(p) & (w), 43-23-12.1 and ND Administrative Code section 70-02-03-15.1 and 70-02-01-15. Respondent may have violated the rules and regulations based on findings of failure to consistently complete buyer customer or representation forms and failure to consistently maintain an up to date trust account ledger and journal on a daily basis.	Stipulated to a \$300 fine and payment of \$280 investigative/legal fees both to be paid within 30 days of issuance of order.
Halvorson, Theresa M	2013-14	Stipulated	06/09/2014	Respondent's conduct may have constituted violations of NDCC 43-23-11.1(1)(p) & (w) and ND Administrative Code sections 70-02-03-02.1 (2), (3), & (4). Respondent may have violated the rules and regulations based on evidence of failure to follow the advertising rules in printed advertising and on the website.	Stipulated to a \$250 fine, payment of \$170 investigative/legal fees (both to be paid within 30 days of issuance of order) and a letter of reprimand to remain permanently in her file.
Huskey, James D	2013-18	Stipulated	06/09/2014	Respondent's conduct may have constituted violations of NDCC 43-23-11.1(1) (b), (o), (v), & (w) and NDCC 43-23-12.1(1). The Complaint alleges that the respondent did not adequately represent the complainants as sellers in this transaction.	Stipulated to a \$500 fine and payment of \$800 investigative/legal fees both to be paid within 30 days of issuance of order. Respondent shall take 3 hours of education on agency to be taken within 90 days of issuance of the order (not to be used as part of his continuing education).
Lende Clouse, Jenny L	2013-21	Stipulated	04/16/2014	Respondent's conduct may have constituted violations of NDCC 43-23-11.1(1)(p) & (w) and ND Administrative Code subsections 70-02-03-02.1, (2), (3), & (4) and 70-02-01-11. Respondent may have violated the rules and regulations based on evidence of failure to follow the advertising rules in advertising on a window of an office and on a Facebook listing, specifically that licensee Jenny L. Lende advertised using the name "Real Estate on Broadway" with no mention of the broker company and without prominently displaying the trade name of her broker. Lende also advertised under the name Jenny Lende Clouse while she was licensed as Jenny L. Lende.	Stipulated to a \$250 fine and payment of \$170 investigative/legal fees both to be paid within 30 days of issuance of order.

EDUCATION CORNER

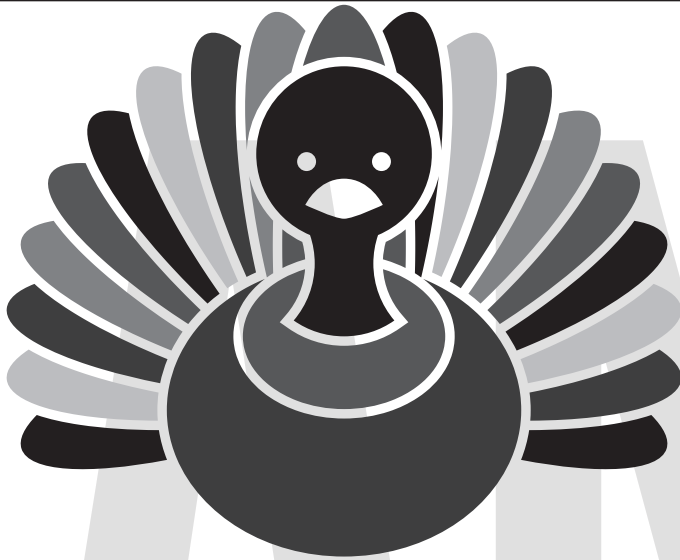
DID YOU KNOW?

- The continuing education cycle for North Dakota licensees is 9 hours annually. Licensees must complete 9 hours of ce (3 of which are in a mandatory course) prior to renewing their licenses for 2015. Accepted ce must be taken between January 1, 2014 and December 31, 2014.
- The **mandatory course topics for 2014** are 3 hours in either fair housing or agency. For a list of approved online and classroom courses go to our web site www.realestatend.org click on “Licensees”, then “Education”, and finally “Approved Courses”. It’s easy!
- *Does it Count?* is a question often asked by licensees who have taken courses that are not approved by the ND Real Estate Commission, typically these are courses taken in another state. If the course taken in another state has been approved by that state’s real estate licensing board for real estate continuing education it will be accepted in North Dakota. **This only applies to elective courses. Please note: ND is not allowed by law to accept a ce course for less than 2 hours. Courses must be whole classroom hours. A course taken in another jurisdiction for 3.75 hours will be accepted in ND for 3 hours. No rounding up.**
- ***There is one exception to the above information:*** The mandatory ce must be approved by the ND Real Estate Commission as meeting the mandatory topic requirement. Look for ce courses with course numbers that begin with MAN. They are red on our website so you can find them easily.
- **CE Instructors:** If you wish to receive ce credit for courses you teach, please notify our office in writing as to which course you taught (include course number), the date taught, and that you wish to receive ce credit for the course. Be sure to sign the notice. We will send you a ce slip with the appropriate credit to you for your records. NDAC § 70-02-04-16.
- **ONLINE CE:** For those who take their ce online – please carefully read the directions on receiving your ce slip. Printing out your completion notice does not constitute a ce slip and cannot be submitted as proof of continuing education.

North Dakota Real Estate Commission
P.O. Box 727
1110 College Dr. Suite 207
Bismarck, ND 58502-0727

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*Happy
Thanksgiving
Day*

