



REAL ESTATE

SPRING

2009

NEWS & VIEWS

Trade Name Registration

By Constance Hofland

Legal Counsel to the North Dakota Real Estate Commission



Constance Hofland

This year many real estate licensees, who were using trade names, had not registered their trade name with the Secretary of State. The Commission sent letters to inform these licensees of the need to register a trade name, if one is used. This article explains the need for trade name registration, the benefits of trade name registration, and just how easy and cheap it is to do.

If you use a trade name, you are required to register the trade name in North Dakota. This requirement applies to real estate licensees who

are licensed in a name that is not the licensee's actual first and last name. This requirement also applies if you conduct business using a name that is not the official, actual name of your business entity, like a corporation or limited liability company. In this second situation, if you always use the entire name with the "Inc." or "LLC" you have to register the business entity with the Secretary of State, but you are not required to register a separate trade name, because you are not using a trade name, just the actual name. However, if you do use a shortened name of your business entity in trade, then you are required to register that trade name with the Secretary of State.

What was that again?

The trade name statute at N.D.C.C. § 47-25-01 defines the term "trade name" by explaining that a trade name is a name assumed to identify the business or activities of an individual or organization that is not (1) the true name of the organization using the business name (that is, not the exact corporate or limited liability company name) or (2) the first name and surname of each individual using the business name. Also, if a license to conduct business is required by the State of North Dakota, as it is for real estate salespersons and brokers, a name of *an organization or association* not otherwise registered with the Secretary of State requires registration as a trade name.

The trade name statute goes on to state that a "person or organization may not engage in business in this state under a trade name until the trade name is registered with the secretary of state." N.D.C.C. § 47-25-02. So, if you are using a trade name as defined, you are required to register it with the Secretary of State.

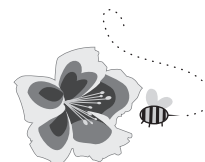
Why is registration required?

The registration protects the public by providing the public access to the name of the owner of the trade name. In this way, if someone from the public has an issue with an entity and only knows the trade name, it can find the owner's name and contact information from the registration on the Secretary of State's website.

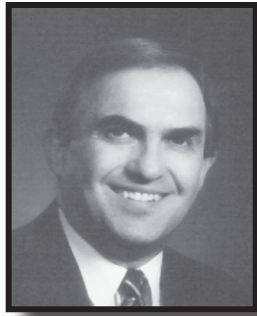
Also, by registering your trade name with the Secretary of State, you establish a public record of your trade name. Once your trade name is registered, no other business can file a name that is the same or deceptively similar to your trade name. In other words, you have an exclusive right to the registration of that name in North Dakota.

Also, you may institute a civil suit prohibiting any other person from using the name you have registered. However, I need to clarify, that just because you are the only one who can *register* the name and *you* have a right to sue to prohibit anybody else from using your trade name, the Secretary of State does not enforce your rights and will not go after someone who uses your trade name. You must enforce your rights.

The Secretary of State is a filing agency only and is not authorized to resolve legal disputes on trade name ownership. So, the Secretary of State will not let another entity register a trade name that is the same or deceptively similar to your registered trade name, but if someone is using your trade name, the Secretary of State will not go after them to make them stop, that is up to you and your attorney.



Continued on page 3



*Commissioner
Roger Cymbaluk, Chair*

From the Chair.....

Renewals

Continuing Education

Late Fees

Renewals:

The Real Estate Commission just completed the license renewal period and speaking with staff it never ceases to amaze me at the lack of responsibility on the part of some agents and brokers.

Each broker is required to certify that the proper continuing education has been taken and that all information required is included. If just one of the agent's is short ce hours or the renewal form is incomplete all of the paperwork is held up. The renewals are to be sent in as a company.

The applications to renew go out in October, the Errors and Omission follows closely and there is no reason why the bulk of the applications show up in late December creating a back log plus numerous calls that create a bigger log jam.

Continuing Education:

It is the agents and brokers responsibility to see that education taken meets the Commission's approval.

The Commission is also encouraging the course providers to complete live continuing education in early November to give licensees the opportunity to get their renewals in to be processed so they can have the new year seal prior to December 31st.

Late Fees:

Don't even ask – Some states don't consider a late fee. They simply terminate if not received on time. The agent can appeal to the Commission to reinstate, some allow a late fee that doubles the fee each month for 2-3 months but any transactions they are party to during that period of time are at risk including the loss of compensation. The law says the renewal application shall be completed and postmarked by December 31st. Late fees begin accruing January 1st; \$50 the 1st month the renewal is late, \$100 beginning February 1st and licenses are automatically cancelled March 1st.

Moral of the story: the sooner complete renewals are sent to the Commission office the sooner you will have your seal for the new year.

North Dakota Real Estate Commission

200 E. Main Ave. Suite 204
PO Box 727

Bismarck, ND 58502-0727

Phone: 701-328-9749

Fax: 701-328-9750

Email: ndrealestatecom@nd.gov

Web site: www.realestatend.org

Commissioners

Roger Cymbaluk, Chair
Williston

Kris Sheridan, Vice Chair
Fargo

Jerome Youngberg
Grand Forks

Jerry Schlosser
Bismarck

Diane Louser
Minot

Commission Staff

Pat Jergenson
Executive Director

Linda Hagen
Administrative Assistant

Policy

Neither all nor any portion of the articles published herein shall be reproduced in any other publication unless specific reference is made to their original publication in the ND Real Estate News & Views.

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.

Tidbits of information

- **AWARD PRESENTED:** Commissioner Jerry Youngberg was recently presented a distinguished service award by ARELLO President Syd Machat for his work on the Global Strategies Task Force.
- **APPLICATION FOR A BROKER'S LICENSE:** The Commission has established a policy that an applicant for a broker's license must have successfully completed the 60 hours of broker level education within 5 years of application.
- **SALESPERSON PRE-LICENSING EDUCATION:** The Commission has established a policy that an applicant for a salesperson real estate license must have taken the pre-licensing education within 2 years of the date of application.
- **ERRORS & OMISSIONS INSURANCE:** RISC has informed the Real Estate Commission office that it would not be cost effective to offer online insurance enrollment due to the small number of ND licensees. They will continue to monitor the situation.
- **CE AUDIT:** A continuing education audit was conducted in April, 2009. 15% (or 268) licensees were asked to submit copies of their 2008 ce slips. Thank you to those who were audited for your timely response and cooperation.
- **NOT APPROVED FOR CONTINUING EDUCATION:** For those of you who have taken the National Association of REALTORS® **online** Code of Ethics course – **THIS COURSE IS NOT APPROVED FOR CONTINUING EDUCATION IN NORTH DAKOTA** – REALTORS® are required to take a minimum of 2.5 hours of the Code of Ethics every 4 years to maintain their membership in the REALTOR® organization. This is NOT a continuing education requirement for licensure.

Continued from page 1

Also, the registration of the trade name with the Secretary of State provides protection of the trade name in North Dakota, but if a trade name is registered with the U.S. Patent and Trademark Office, the federal registration may supersede the protection afforded by state law.

One more thing on the enforcement of your trade name rights in a civil lawsuit, the trade name registration statutes provide for registration of trade names in North Dakota but do not provide the underlying substantive law protecting against infringement. That substantive law is based on common law.

How about some examples?

Ms. Iwana Sellhomes (yes, that is her real name), has a real estate salesperson's license in her actual first name and surname – Iwana Sellhomes. She does not have to register a trade name because she does not use a trade name, just her real name.

Now there is Mr. Ernest Money (I know, where did these parents get these names for these kids?), he is a broker for his company, Big Beautiful Homes, Inc. Big Beautiful Homes, Inc. is incorporated in North Dakota and registered with the Secretary of State as a corporation. Ernest always, always, always uses the whole name "Big Beautiful Homes, Inc." of his business. Ernest does not have to register a trade name, because he only uses his actual corporate name, which is already registered as a corporation with the Secretary of State, complete with the "Inc." -- not a trade name.

Ms. Iva Houseforyou is a broker for Nice Houses Real Estate, LLC, and uses the trade name "Nice Houses Real Estate" in her advertising and marketing. Iva needs to register the "Nice Houses Real Estate" trade name with the Secretary of State because she is using a name in trade that it is not the exact name of her LLC.

The good news is registering a trade name is easy at the Secretary of State website at www.nd.gov/sos. The website provides step-by-step instructions on how to fill out the form and provides helpful information on trade names. Also, further good news is it only costs \$25 to register your trade name and the registration is good for 5 years.

Diane Louser Reappointed to Commission

Governor John Hoeven has reappointed Diane Louser of Minot to another five-year term on the North Dakota Real Estate Commission. She was first appointed to the Commission on July 1, 1994. Commissioner Louser is an attorney and partner in the firm of Louser & Zent, PC located in Minot. She is a native of Garrison, ND and a graduate of the UND School of Law.

During her tenure Diane has served as Chairman of the Commission on 3 occasions.

License Reciprocity (recognition) Update

By Pat Jergenson
Executive Director

Licensing can be confusing to those not dealing with it on a daily basis and reciprocity is no exception. When jurisdictions enter into reciprocal agreements they agree to reciprocate (recognize) and accept the other jurisdiction's pre-license education and examination and issue a license without requiring additional education or examination. The applicant must, however, still fully comply with each jurisdiction's requirements, such as errors and omissions insurance.

There have been numerous changes nationwide in the last year regarding reciprocity. Many jurisdictions are adding education and/or examination requirements – limited reciprocity. Many are eliminating reciprocal agreements period. I believe that this trend is due to a couple of reasons: jurisdictions believe that individuals practicing real estate in their respective state should have reasonable knowledge of that jurisdiction's real estate laws and real estate licensing standards are becoming increasingly different between jurisdictions.

North Dakota currently has license for license reciprocal agreements with the following states: Georgia, Iowa, Minnesota, South Dakota, and Tennessee.

We have limited reciprocity with: Nebraska and Oklahoma.

The following states have cancelled reciprocal agreements:
Colorado (effective January 31, 2009)
Idaho (effective March 23, 2009)
Montana (effective December 12, 2008)
Wyoming (effective May 1, 2009)

If you are interested in licensing in another jurisdiction, you will need to contact that jurisdiction to obtain their licensing requirements. For contact information for all jurisdictions, go to the ARELLO web site located at: <http://www.arello.com/regulator/>.



In Memory

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

Philip W. Morgan, Britton, SD
Dan McFarland, Rapid City, SD

Non-Renewals for 2009

These licensees did not renew their real estate licenses as of March 1, 2009. Any license not renewed by March 1st of each year is cancelled. If your name appears on this list in error please contact the North Dakota Real Estate Commission office immediately.

NAME	LICENSETYPE	HOMECITY	HOMESTATE	NAME	LICENSETYPE	HOMECITY	HOMESTATE
Badgley, John P	Broker	Mobridge	SD	Tompkins, Frederick L	Broker Associate	Minot	ND
Bailey, Sean T	Broker	Rancho Cucamonga	CA	Ahrendt, Tiffany A	Salesperson	Moorhead	MN
Bender, Michael S	Broker	Sioux Falls	SD	Aldinger, Kyle W	Salesperson	Bismarck	ND
Bergeron, Mitchell F	Broker	Fargo	ND	Anderson, Linda L	Salesperson	Moorhead	MN
Dunbar, Robert S	Broker	Marine on St Croix	MN	Baumgartner, Jennie S	Salesperson	Bismarck	ND
Engelsma, Daniel W	Broker	Edina	MN	Bennett, Grace A	Salesperson	Cassleton	ND
Fox, Y. Alexander	Broker	Omaha	NE	Bennett, Roberta D	Salesperson	Mandan	ND
Frieman, Michael R	Broker	Denver	CO	Bergen, Jennifer G	Salesperson	Moorhead	MN
Geatz, William R	Broker	Fargo	ND	Berger, Eugene J	Salesperson	Fargo	ND
Good, April L	Broker	Long Pine	NE	Bergeron, Jeana D	Salesperson	Minot	ND
Gullickson, Brian S	Broker	Fargo	ND	Bjelde, Shirley A	Salesperson	Grand Forks	ND
Hill, Arne A	Broker	Blaine	MN	Bonrud, Ami L	Salesperson	Wendell	MN
Kaiser, Jimmy D	Broker	Lake Park	MN	Brandt, Lisa M	Salesperson	Dickey	ND
Lembke, Claus H	Broker	Bismarck	ND	Bushaw, Jr., Joseph O	Salesperson	Grand Forks	ND
Lockhart-Kohn, Jachai L	Broker	Woodbury	MN	Campbell, David C	Salesperson	West Fargo	ND
Lysne, David M	Broker	Osage	MN	Carnes, Ashlie N	Salesperson	Bismarck	ND
McIntyre, Todd J	Broker	Minneapolis	MN	Carpenter, Alice C	Salesperson	Fargo	ND
Pearce, Rex E	Broker	Nashville	TN	Carroll, Bethany J	Salesperson	Fargo	ND
Penfield, C. "Vern" V	Broker	Lemmon	SD	Clark, Jordan P	Salesperson	Omaha	NE
Rondeau-Bassett, Cheryl M	Broker	Wilmot	SD	Cottingham, Amanda J	Salesperson	Underwood	ND
Schick, Milbert W	Broker	Eureka	SD	Crotty, Edward J	Salesperson	Hillsboro	ND
Schmidt, Ronald J	Broker	Aberdeen	SD	Deplazes, Jodi J	Salesperson	Fargo	ND
Stoll, Linda L	Broker	Perham	MN	DuCharme, Andre' C	Salesperson	Moorhead	MN
Todd, Donald "Sonny" D	Broker	Big Timber	MT	DuCharme, Paulette J	Salesperson	Moorhead	MN
Willard, Dale R	Broker	Harvey	ND	Durheim, Cathryn M	Salesperson	Ellendale	ND
Wingert, Charles D	Broker	Spirit Lake	IA	Erickson, Delmar L	Salesperson	Beulah	ND
Youngberg, Harvey L	Broker	Yankton	SD	Ernst, Arlene P	Salesperson	Bismarck	ND
Zayac, John R	Broker	Greenwood Village	CO	Fiskness, Rhet L	Salesperson	Fargo	ND
Anderson, Robert D	Broker Associate	Blaine	MN	Funk, Rosalyn A	Salesperson	Moorhead	MN
Backstrom, Steven E	Broker Associate	Pelican Rapids	MN	Gerhardson, James L	Salesperson	Fargo	ND
Danielson, LaRae J	Broker Associate	Frazee	MN	Golliet, Chayla M	Salesperson	West Fargo	ND
Gubrud, Janet P	Broker Associate	Williston	ND	Gowan, Jessica A	Salesperson	Fargo	ND
Haarstad, James E	Broker Associate	Detroit Lakes	MN	Graham, Sean P	Salesperson	Fargo	ND
Jensen, Richard D	Broker Associate	Glendive	MT	Gugisberg, Stefanie	Salesperson	St Paul	MN
Kurzenberger, Randy R	Broker Associate	Springview	ND	Gunderson, Thomas E	Salesperson	Bismarck	ND
Loose, Larry A	Broker Associate	Jamestown	ND	Guss, Jason R	Salesperson	Bismarck	ND
Martz, Charles R	Broker Associate	Littleton	CO	Habeck, Roger A	Salesperson	Summit	SD
Nelson, Ronald L	Broker Associate	Sioux Falls	SD	Hambeck, John L	Salesperson	Minot	ND
Olin, Roderick S	Broker Associate	Jamestown	ND	Haverlock, Kurt J	Salesperson	Bismarck	ND
Overseth, Harley R	Broker Associate	Mobridge	SD	Holm, Donna M	Salesperson	Moorhead	MN
Schauff, Scott D	Broker Associate	Fergus Falls	MN	Houn-Irmen, Serra L	Salesperson	Bismarck	ND
Spooner, Robert J	Broker Associate	Fargo	ND	Huber, Shawn A	Salesperson	Bismarck	ND
Tarrell, Ronne D	Broker Associate	Aberdeen	SD	Hunter, Anna L	Salesperson	Minot	ND

NAME	LICENSETYPE	HEMOCITY	HOMESTATE	NAME	LICENSETYPE	HEMOCITY	HOMESTATE
Intveld, Tanner W	Salesperson	Fargo	ND	Sand, Steven M	Salesperson	West Fargo	ND
Jenson, Terry L	Salesperson	Eden Prairie	MN	Sanda-Overbo, Shelly L	Salesperson	Grand Forks	ND
Kanten, Mace T	Salesperson	Reville	SD	Sanderhill, Cheryl L	Salesperson	Williston	ND
Kerr, Dawn M	Salesperson	Fargo	ND	Schoening, Amanda K	Salesperson	Bismarck	ND
Kirchoffner, Todd N	Salesperson	West Fargo	ND	Shawver-Morman, Amy L	Salesperson	Glen Ullin	ND
Kjellberg, Jodi A	Salesperson	Jamestown	ND	Smith, Stephen A	Salesperson	Bismarck	ND
Kjellberg, Tonia H	Salesperson	Ypsilanti	ND	Sobolik, Mary S	Salesperson	Fargo	ND
Klebe, Byron K	Salesperson	Fargo	ND	Solbakken, Terry L	Salesperson	Fargo	ND
Koiner, Sandra D	Salesperson	Fargo	ND	Soliman, Heidi J	Salesperson	Moorhead	MN
Kosmowski, Richele V	Salesperson	Grand Forks	ND	Sonneman, Victor N	Salesperson	Bismarck	ND
Kostad, Jan A	Salesperson	Kenmare	ND	Spiess, Jason A	Salesperson	Fargo	ND
Kostelecky, Audrey	Salesperson	Bismarck	ND	Splonskowski, Mary J	Salesperson	Hawley	MN
Kraft, Lisa M	Salesperson	Bismarck	ND	Stenseth, Edna B	Salesperson	Moorhead	MN
LaRocque, Justin C	Salesperson	Fargo	ND	Tallackson, Harvey D	Salesperson	Grafton	ND
Larson, Richard H	Salesperson	Fargo	ND	Tehle, David C	Salesperson	Fargo	ND
Lavik, Timothy H	Salesperson	Minot	ND	Thompson, Juanita D	Salesperson	Moorhead	MN
Lawrence, Bryce W	Salesperson	Fargo	ND	Thomte, Alexandra L	Salesperson	Casselton	ND
Lembke, Marsha M	Salesperson	Bismarck	ND	Thomte, Garrett W	Salesperson	Casselton	ND
Lesmeister, Steve G	Salesperson	St Paul	MN	Trotter, Kayla D	Salesperson	Bismarck	ND
Liberda, Richard J	Salesperson	Lincoln	ND	Unterseher, Lori A	Salesperson	Mandan	ND
Lowe, R. "Darrell" D	Salesperson	Audubon	MN	Urlacher, Drew M	Salesperson	Billings	MT
Lysen, Stephen R	Salesperson	Minnetonka	MN	Vandermay, Jayme L	Salesperson	Fargo	ND
Marthaller, Robert V	Salesperson	Bismarck	ND	Vannelli, Stephen A	Salesperson	Shakopee	MN
McKee, Jason W	Salesperson	Fordville	ND	Vetter, Julie L	Salesperson	Minot	ND
Meyer, Scott A	Salesperson	Grand Forks	ND	Wagner, Daniel R	Salesperson	Kathryn	ND
Miller, Jeffrey C	Salesperson	Rugby	ND	Weeks Toni, Maureen A	Salesperson	West Fargo	ND
Mohr-Rawlings, Kari J	Salesperson	Wadena	MN	Weigel, Jonica C	Salesperson	Phoenix	AZ
Morris, Linda L	Salesperson	Mandan	ND	Wendel, Dean R	Salesperson	Fargo	ND
Needham, Kellie A	Salesperson	Moorhead	MN	Wingert, Marilyn M	Salesperson	Spirit Lake	IA
Nelson, Scott G	Salesperson	East Grand Forks	MN	Wohl, Terry L	Salesperson	Fargo	ND
Nitschke, Terry Q	Salesperson	Bismarck	ND	Zingraf, Christy R	Salesperson	Hawley	MN
Nordsven, Elmer J	Salesperson	Watford City	ND	Zink, John P	Salesperson	Bismarck	ND
Olson, Casey J	Salesperson	Minot	ND	Dardis, John T	Broker	Jamestown	ND
Olson, Pauline M	Salesperson	Hettinger	ND	Morgan, Philip W	Broker	Britton	SD
Palda, Mary Ann	Salesperson	Minot	ND	Strandemo, Ann B	Salesperson	Bismarck	ND
Pearson, Alexander K	Salesperson	Grand Forks	ND	Otis, Stephen R	Broker Associate	Highland Park	IL
Pinson, Linsey J	Salesperson	Savannah	GA	Bushnell, Brian M	Salesperson	Minot	ND
Pond, Jennifer J	Salesperson	Bowman	ND	Currier, Joseph L	Salesperson	Minneapolis	MN
Rameden, Joseph S	Salesperson	Rugby	ND	Hagen, Kim L	Salesperson	Arlington	WA
Reid, William D	Salesperson	Grand Forks	ND	Huffman, Jeryl R	Salesperson	Bismarck	ND
Reitmeier, Cheri L	Salesperson	Grand Forks	ND	Lange, Andrea M	Salesperson	Fargo	ND
Renvall, June E	Salesperson	Fargo	ND	Piatz, Joel M	Salesperson	Portland	ND
Reynolds, Kenneth H	Salesperson	New Town	ND	Thompson, Ronald E	Salesperson	Estero	FL
Rohrich, Shirley A	Salesperson	Mandan	ND				
Rosenfeldt, Diane M	Salesperson	Glyndon	MN				
Rubish, Dale J	Salesperson	Wahpeton	ND				

Wyoming Reciprocity Agreements Terminated

The Wyoming Real Estate Commission voted in February to terminate all existing reciprocal licensing agreements. May 1, 2009 will be the termination date of Wyoming's reciprocal agreements with



Alabama, Georgia, Iowa, Mississippi, Nebraska, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Utah and Alberta, Canada. Reciprocal arrangements with Colorado, Idaho, Kansas, Montana and Oklahoma are already terminated, following the decision of those jurisdictions to end their agreements with Wyoming.

Reciprocal Wyoming licenses that were issued under these agreements will automatically convert to nonresident Wyoming licenses and will no longer be governed by the terms of the previous agreements. Those non-resident licenses will be maintained and renewed in accordance with the provisions of the Wyoming Real Estate License Law and Regulations. Licensees renewing on active status will be required to meet Wyoming's continuing education requirements at the end of their current renewal period to include the Commission's twenty-four hours of required courses and twenty-one elective hours.

New applicants for a non-resident Wyoming license will be required to:

- Pass the Wyoming state portion of the broker/salesman examination;
- Complete pre-licensing requirements;
- Complete an application to apply for the equivalent license in Wyoming;
- Complete the criminal history background check process;
- Provide a certificate of license history certifying the applicant has current licensure and is in good standing; and
- Provide proof of errors and omissions insurance

Executive Director Trenton Hogg said that the Wyoming Real Estate Commission believes that individuals should be required to prove that they possess reasonable knowledge of Wyoming real estate laws to obtain a license and should be updated as to law and practice changes throughout their licensure. 18 percent of Wyoming's licensees fall into a reciprocity classification that would otherwise relieve them from ever having to pass the state examination or meet continuing education requirements.

Licensing Examination Statistics

Period beginning 7/1/07
Period ending 6/30/08

of applicants scheduled for license/registration examinations (first & retake):

Broker - 23
Salesperson - 199

of applicants actually given the exam:

Broker - 23
Salesperson - 197

Percentage of applicants passed the entire examination:

Broker - 69.6% (16/23)
Salesperson - 44.7% (88/197)

Percentage of applicants examined who passed the general portion:

Broker - 57.1% (4/7)
Salesperson - 43.9% (29/66)

Percentage of applicants examined who passed the jurisdiction specific portion:

Broker - 100% (2/2)
Salesperson - 100% (17/17)

Take CE Now for

2010 License Renewal

- Total CE needed: 16 hours
- Deadline: December 31, 2009
- Courses to take: 6 hours in Contract Law and/or Agency Law
10 hours in approved elective courses



Year 2008	Active	Inactive	Cancelled
Corporation	168		26
LLC	42		7
LLP	7		2
Partnership	0		1
Broker	395	40	29
Broker Associate	233	11	15
Salesperson	1146	193	118
Total	1991	244	198
Year 2009	Active	Inactive	Cancelled
Corporation	168		15
LLC	51		5
LLP	8		
Partnership			
Broker	371	40	28
Broker Associate	233	10	16
Salesperson	1175	184	115
Total	2006	234	179

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#	Hearing Type	Order Date	Violation	Penalty
Huber, Shawn A	2008-06	None	03/25/2009	NDCC 43-23-11.1(1)(a) Making a material false statement in the licensee's application for a license or in any information furnished to the Commission.	Respondent stipulated to not applying for a real estate license for 3 years. (Respondent cancelled his license 3/1/09).
Nedberg, Todd B	2007-12	None	03/25/2009	NDCC 43-23-11.1(1)(a) Making a material false statement in the licensee's application for a license or in any information furnished to the Commission. NDCC 43-23-13.1, NDCC 43-23-19, 43-23-22 and Administrative Code sections 70-02-05-02 & 70-02-05-13 all relating to the requirement for a licensee to have errors and omission insurance.	Commission issued an order in default. Assessed monetary fine in the amount of \$1000 and investigative/legal costs in the amount of \$1287.
Trautmann, Clyde W	2008-02	Stipulated	11/12/2008	NDCC 43-23-11.1(e), 43-23-11.1(1)(p), 43-23-14.1 & Administrative Rule 70-02-01-15; respondent did not keep adequate records & accounting of trust account.	Stipulated to \$1250 fine, payment of \$1200 investigative/legal fees, and submit to a trust account audit in 6 months. Mr. Trautmann will pay an additional monetary fine in the amount of \$1250 if there are violations found in the trust account audit.
Ward, Richard A	2008-05	Formal	03/25/2009	NDCC 43-23-11.1(1)(e) & (p), 43-23-14.1 & Administrative Rule 70-02-01-15; respondent did not keep adequate records & accounting of trust account.	Commission issued an order in default. Assessed monetary fine in the amount of \$2500 and investigative/legal costs in the amount of \$845
Welter, Kenneth D	2008-10	None	03/25/2009	This complaint was combined with Complaint # 2008-09.	
Welter, Kenneth D	2008-09	Formal	03/25/2009	NDCC 43-23-05: collected compensation without complying with statute. NDCC 43-23-11.1(1)(d): acting for more than one party in a transaction without the knowledge & consent of all parties to the transaction. NDCC 43-23-11.1(1)(e): failed to account for or to remit moneys coming into the licensee's possession belonging to others; commingling funds of others with licensee's own. NDCC 43-23-11.1(1)(g): taking a secret or undisclosed amount of compensation. NDCC 43-23-11.1(1)(j): offering real property for sale without the knowledge/consent of the owner or on terms other than those authorized by the owner. NDCC 43-23-11.1(1)(r): specified in this chapter from any person except his broker. NDCC 43-23-11.1(1)(v) and NDCC 43-23-11.1(w): violated these statutes by conduct which constitutes dishonesty or fraudulent conduct & conduct which in the determination of the commission does not meet generally accepted standards of expertise, care or professional ability expected of real estate salespersons.	Six months suspension of his real estate license. A monetary fine of \$2500, \$5,549.21 in actual legal/investigative costs, 6 hours of education (3 hrs on agency & 3 hrs on contract law) not to be used as part of his 16 hours of continuing education.

Spring Time

North Dakota Real Estate Commission
P.O. Box 727
200 E. Main Ave. Suite 204
Bismarck, ND 58502-0727

Presort Standard
U.S. POSTAGE
PAID
Bismarck, ND
Permit No. 419

North Dakota Real Estate
News & Views is an
Official Publication of the
North Dakota Real Estate Commission
Editor.....Pat Jergenson

Continuing Education Hours Required at the End of the Calendar Year

Spring
Time

Licensees are reminded that they are required to complete a total of sixteen (16) hours of continuing education by no later than December 31, 2009 unless specifically exempted by statute. Last year all licensees were required to have completed a minimum of six (6) hours of continuing education with the remaining ten (10) to be completed by no later than December 31, 2009. If you are one of those licensees who completed a total of sixteen (16) hours of continuing education in 2008 including both elective and required courses, then no additional hours are required when renewing your license for calendar year 2010. Credit is given for any courses taken January 1, 2008 through December 31, 2009.



Please remember that licensees are required to take a total of 6 hours of required education for the 2008/09 continuing education cycle devoted to one or more of the following topics: “*Contract Law*” and/or “*Agency Law*”. A licensee can choose any topic or combination of topics to fulfill the 6 hour education requirement as long as the course or courses have been approved by the North Dakota Real Estate Commission for that purpose.