



# REAL ESTATE

SPRING

2010

## NEWS & VIEWS



### REAL ESTATE TEAMS

#### WHAT THE CONSUMER NEEDS TO KNOW ABOUT “TEAMWORK”

By: Constance Hofland

Legal Counsel to the North Dakota Real Estate Commission

#### *What is a real estate “team”?*

The term “team” is not defined in North Dakota real estate license law. Teams are used in North Dakota but largely as a marketing device.

The formation of a team does not change the structure of responsibilities to the consumer. In other words, the broker still retains the responsibility over licensees even if the licensees are a part of a team with a team leader. Also, the licensees must abide by the policies and direction of the designated broker, whether a member of a team or not. In short, as it pertains to license law, a team is a fiction – that is, it is just a made-up entity for marketing purposes not an entity with any real identity or authority.

#### *When real estate agents advertise as a team, do they still have to identify the broker?*

If real estate licensees decide to advertise as a team, the advertisements still must follow the advertising regulations. For example, the name and address and contact information for the designated broker must still be apparent in any advertising, even for a team. Specifically, “advertising must be done in the real estate brokerage agency’s trade name as licensed with the commission and the trade name must be prominently displayed.” Also, advertising “must include

information on how the public can contact the real estate brokerage agency.” NDAC §§ 70-02-03-02(2) & (3).

#### *So who is in charge, the team leader or the broker?*

The team does not take the place of the brokerage, and it remains important to the public to be able to readily identify and contact the broker, because it is the broker who is responsible.

#### *If I work with a team, doesn’t the whole team represent me?*

Related to the advertising issue, is the issue of how the team is represented to the public. For example, if the advertising states the team will help you sell your home or buy a property, the client may be misled to think they have the entire team working for them as their agent. But, if under appointed agency only one member of the team will represent an individual, this needs to be explained to the individual. This explanation should also be in writing and explained at the beginning of the relationship. In the case of appointed agency, disclosure must be clear as to which agent is representing the interests of a given buyer or seller and what appointed agency means.

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## Message from the Chair.....

The spring of 2010 has brought us many great things.....wonderful weather, great education and busy months of real estate! I hope you have had the opportunity to enjoy all of them.

As we enter our "new era" of license renewals, (where everyone needs 9 hours of continuing education on a yearly basis) the Commission decided that an agency class should be mandatory this year. Even though a variety of agency relationships have been practiced for a number of years, there appears to be continued confusion over appointed agency. To clarify our roles in different agency situations, we are fortunate once again to have Casey Chapman's expertise and knowledge and the initial course attendance across the state was phenomenal. An online version of this class will soon be available as well as a repeat of the classroom course at various locations throughout this year.

Congratulations to those of you who renewed your license online! We hope you found the system easy to use and convenient. As we move forward with technology, it is important to remember to update the Commission office if you change your email address. You can send your address changes to PO Box 727, Bismarck, ND 58502 or email the change to [ndrealestatecom@nd.gov](mailto:ndrealestatecom@nd.gov).

Enjoy your summer....may we be blessed with great weather and fantastic months of real estate!



## Applicants for a Real Estate License Must Make Full Disclosure

Brokers should impress upon real estate license applicants the importance of full and honest disclosure of information on their license applications. License applications are carefully reviewed and when it is found that the application contains inaccurate, misleading or incomplete information the Commission can deny that application. It is in the best interest of every license applicant to make full disclosure with respect to criminal charges and convictions, bankruptcy, tax liens, unpaid court judgments or legal proceedings from the beginning. If an applicant conceals adverse information by providing false or incomplete information on the application, the presumption as to their "good reputation" is compromised.

Unfortunately the Commission has seen instances where the applicant has incurred costs prior to applying for a real estate license and the application was denied. Therefore the Commission has posted to its web site the following:

***Applicants for a real estate license must possess a good reputation for competency, honesty, truthfulness, financial integrity and fair dealing. Applicants who believe their background may disqualify them from obtaining a real estate license should consider submitting an application PRIOR TO taking a pre-licensing education course. (Please read the application carefully).***

This disclosure and clearly stating who owes duties to whom is always important, but in a team setting another layer of complexity is introduced into the mix. With that additional layer of complexity comes another opportunity to confuse consumers which we must safeguard against. When you promote a team in marketing materials you lead a consumer to think it is the team who represents the consumer, not just one member of the team. In other words, by promoting the team as a single entity you may be misleading the consumer to think each member of the team is representing them. Because of this, special care must be taken to accurately and clearly represent the actual agency-client relationship.

***Hey, I work with the Team Smith – can't I confide in any of the members?***

No, not if only one of the team members is your appointed agent. For example, if a team of three real estate agents advertise together and a seller contracts with one of the three as an appointed agency, this appointed agency must be disclosed, agreed to and explained to the represented party in writing. In addition to the regular explanation spelling out appointed agency, in a team setting it is particularly important that the represented party, the seller in this case, clearly understands that one member of the team is that seller's appointed agent, not all the members of the team. Or, if the broker determines it is best to appoint all members of the team to that represented party, that relationship must be fully disclosed at the onset.

The handling of confidential information is at the crux of these disclosures. The seller needs to understand who is the seller's agent and who isn't so the seller does not disclose confidential information to other members of the team, thinking the same protection against further disclosure exists as with the appointed agent. Also, if the entire team is not appointed to the seller, that seller must be made aware that another member of the team may represent a buyer of the property in the future, as an appointed agent, if the broker so appoints.



***So what happens if my appointed agent is unavailable and an offer is made, can another member of the team step in and represent me the seller?***

If the seller is represented by just the one agent as an appointed agent, another member of the team cannot simply step in to assist. The designated broker could step in and represent the seller or could appoint another agent, with all the written disclosure and consent as required by the original appointment of an agent. At this point, it will be important to make clear to the seller and the new appointed agent the duties that are owed and that those duties, including protecting confidential information, continue even after the original appointed agent returns.

***Have any states recently enacted legislation on real estate teams?***

Funny you should ask. In fact, Maryland just passed legislation that provides new regulatory standards for real estate teams. The new laws take effect in October 2010 in Maryland. Some of the new requirements are teams must designate a team leader, the leader must be a broker or a salesperson with at least three years of experience, the leader has responsibility for the team but so does the broker, and team leaders must take a course on supervision. Also, among other things, teams are prohibited from using team names that include "real estate," "real estate brokerage" or other terms that may lead the public to think the team is the brokerage, independent of the broker. As in North Dakota, the broker name and contact information must be prominently displayed in advertisements of teams, as is required for any advertisements. The Maryland Real Estate Commission requested this new legislation because consumers were confused about real estate teams.



*In Memory*

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

- Floyd N. Boutrous..... Bismarck, ND
- Susan M. Chaput..... Fargo, ND
- Robert F. Goodwin..... Minot, ND
- Richard W. Grebner ..... Aberdeen, SD
- Frederick L. Tompkins..... Minot, ND
- Douglas M. Voeller ..... Minot, ND

# Auditor's Report on Trust Account Audits presented to the Commission September 2009 by Rhonda Mahlum/Mahlum Goodhart PC.

## Trust Accounts:

- In general, earnest money is being more timely deposited than in the past. Brokers and office managers seem to be aware of the requirements and are making efforts to make the deposits or document in the file any potential delay.
- Several offices have converted to QuickBooks and have asked questions to ensure they will be in compliance with the requirements. Many make the conversion and continue to use the manual system until they are comfortable with the QuickBooks. Overall, recordkeeping has improved in the last couple years. Several offices have printed the new trust account manual from the website and are using the new forms.
- Most offices have cleaned up earnest money held over three years which is a huge improvement since starting the audits.

Spring  
Time

## 2010 License Report

Below are some license renewal statistics and comparisons for 2010 v 2009:

- 1,742 active broker, broker associate and salesperson licenses were renewed for 2010 in comparison to 1,779 in 2009.
- 278 inactive broker, broker associate and salesperson licenses were renewed for 2010 in comparison to 234 in 2009.
- 168 broker, broker associate and salesperson licenses were cancelled 2010 in comparison to 159 in 2009.
- There were 227 corporations, LLC's, & LLP's licensed in ND in 2010 compared to 227 in 2009.
- As you can see the renewal numbers for licensees in ND did not change significantly from 2009 to 2010 (less than 1%). The Commission continues to budget conservatively in regards to new license applications. Fiscal year ending June 30, 2009 shows new salesperson license applications 18% less than budgeted. Broker license applications were 40% less than budgeted.

## Agency Issues:

- Overall, use of the general agency disclosure form has improved.
- Several offices could benefit from training on the purpose of some sections on the purchase agreement.
- Buyer agreements are still a confusing issue. Many offices use inconsistently, some agents will always use them and others in the same office never use them.
- Offices in the small towns are really good to use the Buyer Customer Form when they have the listing and often when they don't have the listing; they simply do not want to represent buyers.
- Larger offices rarely use the Buyer Customer Form and use dual agency instead.
- Appointed agency offices often switch to dual agency instead of using appointed agency, thereby eliminating the protection appointed agency could provide.
- The brokers need to decide the best legal protection and use the forms to provide it.
- Administrative rulings require: signed listing agreement in writing from the seller (70-02-03-04) and signed buyer's broker agreement from a buyer (70-02-03-05.1). Brokers report that buyers resist signing buyer agreements.

Year 2010	Active	Inactive	Cancelled
Corporation	163		12
LLC	57		6
LLP	7		1
Partnership			
Broker	331	38	28
Broker Associate	226	17	12
Salesperson	1185	223	128
<b>Total</b>	<b>1969</b>	<b>278</b>	<b>187</b>



# 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
Abermethy, Sally J	2009-12	Stipulated	03/17/2010	Respondent's conduct may have constituted violations of NDCC 43-23-11.1 (c), (n), (p) & (w) (making a false promise, failure to include a fixed date of expiration on listing agreement & failure to leave a copy of such agreement & failure to leave a copy of such agreement w/principal, conduct that does not meet the generally accepted standards of expertise, care or professional ability expected of real estate licensees), NDCC 43-23-12.1 (duties of loyalty, obedience, disclosure, confidentiality, reasonable care, diligence, & accounting), NDAC 70-02-03-04 (Listings) and 70-02-03-05 (Listing contracts must include commission amount).	Stipulated to a \$200 fine, payment of \$530 investigative/legal fees both to be paid within 30 days of issuance of order and attendance of ce course CE 1011-001 Real Estate Contracts (not to be used as part of her continuing education) to be taken within 90 days of issuance of order.
Bjornstad, Rodney E	2008-13	Formal	12/11/2009	Respondent was found in violation of NDCC 43-23-11.1 (1) (w) (conduct that does not meet the generally accepted standards of expertise, care or professional ability expected of a broker), 43-23-11.1 (1) (c) & (p) (making a false promise), 43-23-11.1 (1) (breaching duties of loyalty, obedience, and reasonable and reasonable care & diligence), and ND Administrative Code 70-02-02-04 (failure to obtain a signed listing agreement including the signatures of all parties concerned), 70-02-03-06 (failing to promptly tender to the seller every written offer to purchase obtained on the property involved) and 70-02-03-12 (failing to return earnest deposit money to the potential buyer at once when the real estate transaction could not be completed).	Permanent letter of reprimand in file, 3 hours of ce on ethics & 3 hours of ce on contracts within 3 months of issuance of order not to be used as part of his continuing education, \$2000 fine to be paid within 3 months of issuance of order, and \$8446.72 investigative/legal fees to be paid within 6 months of issuance or order.
Fleck, Adam	2009-08	Stipulated	12/14/2009	Respondent's conduct may have constituted violations of NDCC 43-23-11.1 (e), (p), (t), and (w) (failure to account for or to remit earnest money, failure to deposit trust money, & conduct that does not meet the generally accepted standards of expertise, care or professional ability expected of a broker) and 43-23-14.1 (handling of funds by brokers) and ND Administrative Code 70-02-01-15 (1) (e), (g) and 70-02-01-15 (2) (c) - commingling of earnest money prohibited, timing of earnest money deposit and taking of broker's entitlement to earnest money prior to the consummation of transaction.	Stipulated to a \$750 fine, payment of \$770 investigative/legal fees both to be paid within 30 days of issuance of order and 3 hours of education on ethics to be taken within 90 days of issuance of order (not to be used as part of his continuing education)

# Court Cases of Interest

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## Administrative Brokerage Charge Violates RESPA

Busby v. JRHBW Realty, Inc. d/b/a/ RealtySouth, 2009 U.S. Dist. LEXIS 41720, 2009 WL 1181902 (2009) United States District Court for the Northern District of Alabama (Southern Division)

**Facts:** Busby, the class action plaintiff, purchased a home in Jefferson, Alabama. Busby employed a RealtySouth agent who earned a sales commission in the transaction. RealtySouth also charged Busby an “administrative brokerage commission” (ABC) fee of \$149. Busby filed a class action lawsuit against RealtySouth alleging that the ABC Fee violated RESPA because it was a fee for which no service was performed. The U.S. District Court in Alabama denied class action certification of Busby’s claim but, in January 2008, the United States Court of Appeals for the Eleventh Circuit reversed the District Court. Busby sought partial summary judgment against RealtySouth on the issue of RealtySouth’s liability under RESPA §8(b). Busby contended that RealtySouth failed to produce any factual evidence on the sole question of whether RealtySouth provided, and thereby earned, payment for any specific services in exchange for charging the ABC Fee to its customers. RealtySouth countered that it was entitled to summary judgment because §8(b) of RESPA allows for an “array of services defense”, arguing that RESPA does not require that a specific service to a consumer be linked to the ABC Fee.

**Issue:** Whether RealtySouth’s “array of services” defense relieved it from liability under RESPA.

**Held:** Summary Judgment entered in favor of Busby and the certified class. The ABC fee charged to Busby was “unearned” and therefore violated RESPA because, as defined by RealtySouth itself, it really represented a price and/or cost allocation measure as opposed to a RESPA-compensable settlement service. The “array of services” defense is a YSP/overall reasonable mortgage broker fee concept that cannot be applied to a case in which it is claimed that “no services” were performed under RESPA. RealtySouth’s array of services provided little or no benefit to borrowers and did not constitute compensable settlement-related services that are allowed under RESPA.

## Listing Broker That Provided Information to Buyer Entitled to Commission

Burkett & Associates, Inc. Century 21 v. Teymer, 767 N.W.2d 623 (2009) Wisconsin Court of Appeals

**Facts:** Sellers listed property for sale with Century 21. Under the listing agreement, Listing Broker was entitled to a commission if the property was sold to a protected buyer within one year after termination of the listing agreement. (A protected buyer was defined as an individual or entity with whom the broker “negotiated to acquire an interest in the Property,” during the contract term.) Prior to the termination of the listing agreement, Buyer’s agent contacted Listing Broker and asked for information about the listed property. Listing Broker sent survey maps, a condition report, and the listing sheet to Buyer’s agent. After the listing agreement terminated, Buyer purchased the property and Listing Broker sued for his commission.

**Issue:** Did the listing broker “negotiate” with the buyer to acquire an interest in the Property, thereby entitling the listing broker to a commission on the sale of the property following termination of the listing agreement?

**Held:** Yes, the buyer expressed an interest in the property and buyer’s agent asked for sales information. The listing broker provided that information. This two-way communication fulfilled the listing agreement’s requirement for “negotiation

## Oral Listing Unenforceable

Stewart v. Sisson, 766 N.W.2d 800 (2009) Court of Appeals of Iowa

**Facts:** Sisson offered Stewart, a broker, a 10% commission if Stewart could procure a buyer for Sisson’s sports bar. Sisson refused to sign a listing agreement or publicize the sale for fear that talk of a potential sale would hurt current business. Walter, the eventual buyer, had expressed his interest in purchasing the bar from Sisson years earlier. While in the process of divesting from another venture, Walter contacted Stewart to seek out other available businesses. Stewart provided Walter information on Sisson’s bar. Walter did not mention to Stewart his earlier conversations with Sisson. Walter later contacted Sisson and was told that the property was not listed with Stewart. Sisson eventually sold the bar to Walter and Stewart filed suit to collect the unpaid commission. The trial court ruled for Sisson. Stewart appealed.



Issue: Whether the oral listing agreement obligated Sisson to pay Stewart a commission.

Held: Affirmed. The Court of Appeals held that oral listing agreements are unenforceable because the rules of the Iowa Real Estate Commission require a written listing agreement. The Court of Appeals further upheld the District Court's decision to deny an exception because Stewart mistakenly believed that he procured Walter as the buyer when in fact Walter was already in negotiations with Sisson.

### **Loan Fraud and Broker Responsibility**

Palmer v. Real Estate Commission, 14 So.3d 67 (2008)  
Court of Appeals of Mississippi

Facts: Adams was a real estate agent who worked for Palmer, a broker. Adams and Palmer undertook to act as dual agents in the sale of house from Zehr, the seller, to Curley, the buyer. The contract price was \$126,000. The contract required Curley to come up with a 20% down payment. Curley had no cash, so a charitable organization deposited \$25,200 in Curley's account just long enough for the lender to verify that Curley had funds to close. The money was then drafted out of the account. At closing, Curley got a loan for

\$108,000. The HUD statement indicated that Curley paid an additional \$27,400 in cash, but, in fact, Zehr paid the money. After closing, Curley couldn't make the payments and tried to sell the house. The Mississippi Real Estate Commission began proceedings against Adams, Palmer, and a colleague at the real estate firm, and Palmer. The Commission suspended the licenses of all three, finding, among other things, irregularities in the sales contract and in the closing statement. All three agents appealed to district court and lost. They appealed again.

Issue: Whether the Commission's findings were supported by substantial evidence.

Held: Affirmed. The court surveyed the evidence and found that Adams had worked closely with the loan officer who handled Curley's loan. The evidence also showed that he was the only officer of the charitable organization that deposited money into Curley's account and later drew it out again. Adams, her colleague, and ultimately Palmer knew the transaction was structured to get Curley a 100% loan she was not eligible to receive, and that neither the contract nor the closing statement reflected the true nature of the transaction.

## **EDUCATION CORNER**

- ▶ The continuing education cycle for North Dakota licensees was changed to 9 hours annually beginning January 2010. Licensees must complete 9 hours of ce (3 of which are in a mandatory course) prior to renewing their licenses for 2011. Accepted ce must be taken between January 1, 2010 and December 31, 2010.
- ▶ The mandatory course for 2010 is an agency course with emphasis on appointed agency. The Commission selected this course content based on a recommendation from the Appointed Agency Task Force. To date one classroom course has been approved "Agency in the 21<sup>st</sup> Century", course number MAN1011-017. An online course is currently being developed and it is expected to be available early this summer.
- ▶ For a list of approved online and classroom courses go to our web site [www.realestatend.org](http://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 they 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.**

- ▶ 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.

## *Non-renewals for 2010*

These licensees did not renew their real estate licenses as of March 1, 2010. Any license not renewed by March 1<sup>st</sup> 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	License Type	Home City	Home State	Name	License Type	Home City	Home State
Anda, Betty J	Broker	Fargo	ND	Anderson, Kendall M	Salesperson	Minot	ND
Bell, Christine A	Broker	Frazee	MN	Andrew, Tina S	Salesperson	Aberdeen	SD
Conrad, Sylvia M	Broker	Rapid City	SD	Balogh, Lois J	Salesperson	Bismarck	ND
Dreiling, David A	Broker	Franklin	TN	Beaton, Marilyn A	Salesperson	Fargo	ND
Fortner, Susan R	Broker	Frenchtown	MT	Benefeld, Judith D	Salesperson	Devils Lake	ND
Hauge, Barbara D	Broker	Hermosa	SD	Berg, Richard W	Salesperson	Grand Forks	ND
Haverin, Barbara M	Broker	Grand Forks	ND	Birky, Stanley L	Salesperson	Detroit Lakes	MN
Helfrich, Diane A	Broker	Bismarck	ND	Birrenkott, Daniel J	Salesperson	West Fargo	ND
Helm, Robert W	Broker	Jackson	WY	Bondy, Steven W	Salesperson	Grand Forks	ND
Herbst, Robert E	Broker	Baker	MT	Boyer, Kelly J	Salesperson	Argusville	ND
Johnson, Douglas P	Broker	Chicago	IL	Braaten, David J	Salesperson	Fargo	ND
Jordan, Patricia J	Broker	Minneapolis	MN	Buchanan, Anne E	Salesperson	Fargo	ND
Larkin, Charles A	Broker	Minot	ND	Budd, Eric T	Salesperson	Bismarck	ND
Lindely, Steven A	Broker	Fountain Hills	AZ	Burgess, Barbara "BJ" J	Salesperson	Crookston	MN
Lorenz, Lloyd G	Broker	Devils Lake	ND	Buzick, Erin E	Salesperson	Harwood	ND
Luhman, Donald F	Broker	Fergus Falls	MN	Cariveau, Michael D	Salesperson	Fargo	ND
Nelson, Bryce D	Broker	Rapid City	SD	Carlascio, Kari L	Salesperson	Hudson	WI
Nelson, Charlene R	Broker	Elbow Lake	MN	Chapin, Dewey M	Salesperson	Marvin	SD
Nelson, John F	Broker	Bloomington	MN	Childress, Rebekah N	Salesperson	Mandan	ND
Norgaard, Paul D	Broker	Finley	ND	Collette, Myra M	Salesperson	Grand Forks	ND
Peden, Ronald K	Broker	Wichita	KS	Comstock, Carson J	Salesperson	Grand Forks	ND
Rosendahl, Jr, Kermit	Broker	Fairmount	ND	Cooper, Sheri L	Salesperson	Dickinson	ND
Torkelson, Robert D	Broker	Fergus Falls	MN	Craik, Shari L	Salesperson	West Fargo	ND
Tysdal, Richard A	Broker	Spearfish	SD	Danielson, Robert J	Salesperson	Fargo	ND
Vetsch, LeeRoy C	Broker	Fargo	ND	Dauphinais, Amy M	Salesperson	Minot	ND
Vinje, Surges (S) L	Broker	Portland	ND	Delzer, Rick W	Salesperson	Bismarck	ND
Walker, Charles M	Broker	Cando	ND	Dietrich, Thomas C	Salesperson	Moorhead	MN
Watson, John B	Broker	Westcliffe	CO	Doschadis, Mary A	Salesperson	Fargo	ND
Benz, Sandra R	Broker Associate	Rapid City	SD	Eman, Pearl G	Salesperson	Minot	ND
Butenas, Adele M	Broker Associate	Pelican Rapids	MN	Erickson, Mark S	Salesperson	Grand Forks	ND
Christensen, Joanne S	Broker Associate	Williston	ND	Erickson, Susan M	Salesperson	Huron	SD
Deardurff, Dalton L	Broker Associate	Maple Grove	MN	Eskelson, Earl R	Salesperson	Minot	ND
Doele, Patricia J	Broker Associate	Detroit Lakes	MN	Fankhanel, Jonathan J	Salesperson	Pelican Rapids	MN
Field, Terri L	Broker Associate	Dalton	MN	Fleming, Jennifer A	Salesperson	West Fargo	ND
Glaser, Ronald M	Broker Associate	Boerne	TX	Forward, Peter J	Salesperson	Fargo	ND
Glinz, Arvel H	Broker Associate	Jamestown	ND	Gaffrey, Robert J	Salesperson	Cando	ND
Heller, Roger A	Broker Associate	Olivia	MN	Galle, Donna M	Salesperson	Grafton	ND
Huber, Yvonne C	Broker Associate	Bismarck	ND	Gauthier, Heidi S	Salesperson	Aurora	CO
Shipp, James B	Broker Associate	Pelican Rapids	MN	Gaynor, Chad A	Salesperson	Minot	ND
Warsaw, Steven B	Broker Associate	Skokie	IL	Gietzen, Gregg K	Salesperson	Wahpeton	ND
Adams, Heather A	Salesperson	Moorhead	MN	Gilmour, Gerald W	Salesperson	Moorhead	MN
Anderson, Chase W	Salesperson	Fargo	ND	Greenberg, Christopher J	Salesperson	Minot	ND



Name	License Type	Home City	Home State	Name	License Type	Home City	Home State
Greer, James K	Salesperson	Tea	SD	Neuberger, Wayne H	Salesperson	Bismarck	ND
Haberman, Donald S	Salesperson	Minot	ND	Norton, Gina M	Salesperson	Mandan	ND
Harpole, Jenna R	Salesperson	Bismarck	ND	Olson, Dennis M	Salesperson	Bismarck	ND
Hase, Nikki L	Salesperson	Harvey	ND	Olson, Judith D	Salesperson	Milnor	ND
Hastings, James O	Salesperson	Jamestown	ND	Olson, Susan F	Salesperson	Flaxton	ND
Heinzen, Robert F	Salesperson	Meridian	ID	Parrow, Cleo A	Salesperson	Moorhead	MN
Henke, Justin P	Salesperson	St Paul	MN	Paul, Donald A	Salesperson	Fargo	ND
Herbst, Susan E	Salesperson	Fargo	ND	Peffly, Christopher P	Salesperson	Knightdale	NC
Hofstad, Lisa L	Salesperson	Grand Forks	ND	Pegors, Kristin L	Salesperson	Bismarck	ND
Honea, Mary E	Salesperson	Grand Forks	ND	Pender, Ashley A	Salesperson	Williston	ND
Horvath Jr., Robert B	Salesperson	Frazee	MN	Rautenberg, Elizabeth K	Salesperson	Fargo	ND
Hruby, Robert G	Salesperson	Mandan	ND	Rodin, Gayle	Salesperson	Marion	ND
Huang, Jonny	Salesperson	Fargo	ND	Roers, Shane C	Salesperson	Fargo	ND
Hurth, Perry A	Salesperson	West Fargo	ND	Rudy, Gordon J	Salesperson	Fort Worth	TX
Jahraus, Claudia J	Salesperson	Mandan	ND	Salsman, Kimm S	Salesperson	Fargo	ND
Janssen, Elizabeth D	Salesperson	Moorhead	MN	Sand, Holly N	Salesperson	Bismarck	ND
Johanson, Jana L	Salesperson	Breckenridge	MN	Schweitzer, Trenton J	Salesperson	Bismarck	ND
Johnson, Blake P	Salesperson	Fargo	ND	Shaver, Jennifer C	Salesperson	Fargo	ND
Jose, Dalton D	Salesperson	Fergus Falls	MN	Shiu, Henry W	Salesperson	Bismarck	ND
Kannenberg, John A	Salesperson	Wahpeton	ND	Simmons, Mark A	Salesperson	West Fargo	ND
Kapel, Michael A	Salesperson	Fargo	ND	Singh, Gurinder P	Salesperson	Grand Forks	ND
Kemper, Angela J	Salesperson	Owasso	OK	Snider, Christina D	Salesperson	Fargo	ND
Kiphuth, Edward L	Salesperson	Fergus Falls	MN	Snyder, David G	Salesperson	Detroit Lakes	MN
Kluenberg, Ann S	Salesperson	Sebeka	MN	Spaulding, Katherine L	Salesperson	Fargo	ND
Kolling, Krystal K	Salesperson	Dickinson	ND	Stair, Jamie J	Salesperson	Bismarck	ND
Kounovsky, Kirsten J	Salesperson	Fargo	ND	Stein, Patricia J	Salesperson	Mandan	ND
Kraav, Pauline M	Salesperson	West Fargo	ND	Strehlow, William C	Salesperson	Fargo	ND
Kraft, Josh J	Salesperson	Britton	SD	Suckstorff, Paul M	Salesperson	West Fargo	ND
Kramer, Rose V	Salesperson	Fargo	ND	Theusch, David J	Salesperson	Minot	ND
Kuschel, Beth A	Salesperson	Minneapolis	MN	Thorsness, Mark A	Salesperson	Fargo	ND
Lawrence, Roxanne R	Salesperson	West Fargo	ND	Townsend, Shelley J	Salesperson	Detroit Lakes	MN
Lentsch, Lucas J	Salesperson	Britton	SD	Trottier, LeRoy R	Salesperson	Bismarck	ND
Lindquist, Patricia A	Salesperson	West Fargo	ND	Voeller, Destiny L	Salesperson	Minot	ND
Lizakowski, Diane P	Salesperson	Grand Forks	ND	Welder, John A	Salesperson	Bismarck	ND
Loberg, Alicia R	Salesperson	Grand Forks	ND	Welter, Kenneth D	Salesperson	Grand Forks	ND
Loveland, Judith M	Salesperson	Jamestown	ND	Werpy, Aaron M	Salesperson	Fargo	ND
Magilke, Leah M	Salesperson	Bismarck	ND	White, Dennis H	Salesperson	Fargo	ND
Martinson, Hattie L	Salesperson	Bismarck	ND	White, Laura M	Salesperson	Bismarck	ND
Mattson, Maurel G	Salesperson	West Fargo	ND	Wiemann, Nancy D	Salesperson	Verona	ND
Meinerz, Marie E	Salesperson	Aurora	CO	Wieseler, Marci J	Salesperson	Rapid City	SD
Miranowski, Naomi M	Salesperson	Wahpeton	ND	Williams, Jenelle A	Salesperson	Baytown	TX
Mitchell, Niki R	Salesperson	Richardton	ND	Williams, Vincent L	Salesperson	Fargo	ND
Morvig, Sherry K	Salesperson	Mentor	MN	Wiseman, Brianna M	Salesperson	Minot	ND
Murray, Daniel S	Salesperson	Spearfish	SD	Wixo, Darrin L	Salesperson	Moorhead	MN
Natz, Steve R	Salesperson	Sioux Falls	SD				
Nelson, Andrew C	Salesperson	Hawley	MN				

**UNCLAIMED PROPERTY**  
**Questions & Answers**  
Provided by the ND State Land Department  
701-328-2800

Real Estate Professionals:

You may already be aware of the requirement for businesses in North Dakota to file a report with the Unclaimed Property Division of the North Dakota State Land Department on an annual basis. For those of you who are regular filers – “thank you”. For those of you who still aren’t quite sure about the what’s, why’s and how’s of unclaimed property, we would like to take this opportunity to answer some common questions related to unclaimed property and the State’s filing requirements.

**How does unclaimed property apply to me and my business?**

The Unclaimed Property Act was adopted by the ND legislature in 1975 to provide the citizens of the State of North Dakota an avenue to become reunited with financial assets that are owed to them, but remain unclaimed. Unclaimed property in the real estate arena most often consists of unclaimed trust distributions or “earnest money” in situations where the rightful owner cannot be found or ownership cannot or has not been determined.

Please keep in mind that unclaimed property can also develop throughout your regular course of business. Things like uncashed payroll and vendor checks can be considered unclaimed property as well.

**How long do I have before the potential unclaimed property becomes reportable to the state?**

The ND Unclaimed Property Act has assigned dormancy periods to certain types of unclaimed property to help ensure that the property is truly abandoned or unclaimed and to give businesses some standard rules for reporting. All of our dormancy periods are listed at [www.land.state.nd.us](http://www.land.state.nd.us). The most common property types for Real Estate Professionals are uncashed checks (dormant at 2 years) and trust accounts (dormant at 3 years).

**What is the reporting date?**

The reporting date is November 1<sup>st</sup> each year. Our report year runs from July 1 to June 30 so we ask that you review your records each year around June 30 to identify any potential unclaimed property, to perform your due diligence (last effort to return the property to the rightful owner), and if no response, to file your report by November 1<sup>st</sup>.

**How do I report? Is there a form?**

The unclaimed property reporting packet can be found at our website at [www.land.state.nd.us](http://www.land.state.nd.us). The report is a pdf file that you print, fill out, and send to our office with one check for the total amount of the report made payable to the North Dakota State Land

Please remember that the goal of our office is to get this property returned to the rightful owner. In order to do that, we need as much information about the owner of the property as possible. Full name, middle initial, last known address, and social security number are all very important to help us identify and refund the rightful owner. Any other details you have about the circumstances surrounding the property can be helpful as well.

*Please note: If the rightful owner has not yet been determined due to a dispute and the property has exceeded the dormancy period, please report the property to our office with all identifying information available for both parties. In cases involving dispute it is not uncommon for us to require both parties to participate in the claim process, unless one or the other parties can provide court documentation determining ownership.*

**What if I have no unclaimed property to report?**

If you have determined that you have no unclaimed property to report for the year, please file a negative report with our office. This is a simple on-line submission that can be done on our website at [www.state.land.nd.us](http://www.state.land.nd.us). This will create a reporting history for your business and it lets our office know that you are aware of the law and you simply have nothing to report at this time.

**WARNING!**

**The North Dakota Real Estate Commission does not have a Facebook account. If you receive an email inviting you to join the North Dakota Real Estate Commission’s Facebook page, do not respond or agree to “friend” them. The email is misleading because it looks like it is signed by “director Real Estate Commission” but it is not. Please continue to access information on the North Dakota Real Estate Commission through our website at [www.realestatend.org](http://www.realestatend.org) or call us at 701-328-9749.**

## License Reciprocity (recognition)

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 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 primarily due to the constantly changing and complex nature of real estate.

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

We have limited reciprocity with: Nebraska and Oklahoma.

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/> .

## What will you find at [www.realestatend.org](http://www.realestatend.org)?

[www.realestatend.org](http://www.realestatend.org) is the North Dakota Real Estate Commission web site. If you haven't had a chance to check it out here are some of the things you will find there:

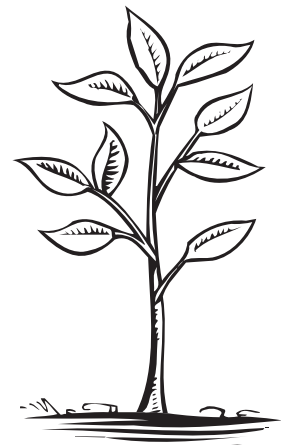
\*forms                    \*information on obtaining a real estate license  
\*reciprocity information  
\*approved continuing education \*education providers  
\*updated trust account guideline  
\*complaint forms            \*newsletters            \*rules                    and statutes  
\*online directory

### Looking for someone?

If you want to know if someone is licensed click on the "Online Directory" tab. You will be able to search for an individual who has an active real estate license by first or last name or by company. You can also search nationwide by clicking on the link provided. So next time you want to know if someone is licensed, give our website a try!

### Updated Trust Account Guidelines

Updated Trust Account Guidelines are now available. If you would like a hard copy go to the Commission's website [www.realestatend.org](http://www.realestatend.org), click on the Licensees tab and find "Trust Account Information". It is available in a PDF document.





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NEWS & VIEWS

2010 SPRING

REAL ESTATE

DAKOTA REAL ESTATE COMMISSION



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