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John Osweiler

Technology:

Gregg Schoh

MAR: All directors listed above serve at our state association as well as our President, President-elect, Treasurer and Tom Marino is currently serving as our District's Vice President at MAR.

Staff information at nmar.com

# Northwest Montana Association of REALTORS

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## **WHICH IS BIGGER, THE COMMISSION THAT WAS PAID OR THE LEGAL FEES IN THE LAWSUIT THAT FOLLOWS?**

Last week we presented a program on "Short Sales" at the July General Membership Meeting. The room was full, which shows that our members are either involved or plan to get involved with lenders either before a foreclosure comes up, during or after. When you agree to represent bank-owned properties they will want to use their in-house generated listing form. Read it! Read it! Read it! Have your attorney read it too. You are not the client that it was generated to protect; the lender is. The commission may be less than what you typically earn but the lawsuit will not be for any less.

When a broker is sued, legal fees are usually if not always greater than the real estate commission was. Most of the time you are working with a MAR listing form generated by our forms system. You are familiar with the verbiage and the meaning of the clauses.

However, when you are working with a lender or a relocation company they have in-house attorneys who are writing agreements that reduce their client's risk. These can be long and arduous to say the least. Reading them can be like reading an unfamiliar language and interpreting them can be even more difficult. Remember that their goal is to shift responsibility and liability to you and your company including the duty to disclose property defects and pertinent facts.

Lenders have recently gotten a black eye over questionable qualifying and lending procedures. They are deep into risk reduction and are looking everywhere else to push the risk. You are the prime target and appraisers are also a target.

Keep in mind that the underwriters and lenders are not usually Montana companies even though you are doing business with their Montana representatives or business partners. The listing agreements and contracts they ask you to sign are made to work all over the nation where there is much more "hurt" than there is here. They also often have clauses that show the listing agents as property managers who are regularly inspecting and identifying property problems and fixing them. Some even include lawn watering and grooming. Does your E & O policy even cover property management duties? If you leave the hose on and the basement floods are you covered? Have you read it thoroughly?

Whenever new opportunities present themselves the new risks come tagging along. Take the challenge and do the business but don't be naive and take more risk than you can support.

**NEXT FORMS CLASS IS 10/17/08! Check Education Calendar!**

## **OFFICIAL NOTICE TO NMAR MEMBERS: (7/24/08)**

The annual election is in progress! Candidates listed below will be on the ballot. The results will be shared at the August General Membership Meeting. Additional candidates for the positions to be filled may be placed in nomination by a petition signed by at least 10% of the REALTOR® Members eligible to vote (95). Petitions must be received at NMAR no later than 5:00 PM on 8/8/08. Ballots will be mailed 8/11/08 and must be received at NMAR no later than 11:00 AM on 8/28/08. The General Membership Meeting will begin at noon 8/28/08.

### **President- elect:**

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Fred Ricketts

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Peggy Sue Amelon

### **Treasurer:**

Brian Nicodemus

### **Director Positions:**

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Tom Marino

Joni McKiernan

Barb Riley

Dan Ritter

Ted Schlegel

Mona Wagner