

# Utah! **DIVISION of REAL ESTATE** **NEWS** *A publication for Utah's real estate, appraisal, and mortgage professionals.*

Jon M. Huntsman, Jr., Governor • Francine A. Gian, Executive Director • Mark B. Steinagel, Division Director

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## From the Director's Desk



Mark B. Steinagel

I am excited to serve as the Director of the Division of Real Estate! The opportunities and challenges facing the industry are not unlike others experienced by the industry in the past—I hear from the more seasoned members of the real estate industry of the difficult years when mortgage interest rates were around 20%! If the industry can survive 20% rates, it will more than survive the bumps in our current economy.

My background is in government. Before coming to the Division, I worked for the Utah State Legislature. My legislative experience taught me:

- The most effective way to develop sound public policy is to involve those people most affected by the policies; and
- Government has an important role in our society, but government regulation must not be excessive or it can cause harm to individuals and to commerce.

Real estate, mortgage, and appraisal licensing regulation functions well in Utah, but it can always be improved. The industries work diligently with the Division and our Commissions and Board to maintain a healthy relationship, develop the right amount of regulation, and refrain from unduly hindering the industries' ability to perform commerce.

The Division's former Director, Derek Miller—with the help of an excellent staff, our Commissions and Board, and industries regulated by the

Division—achieved many positive changes to fulfill the Division's informal mission statement to "make things easier for the good guys and harder for the bad guys." I commit to continue that goal.

In a recent interview with KSL, Debbie Dujanovic asked me how homeowners could keep themselves from making a poor decision and being defrauded in a real estate transaction. Without hesitating I told her that consumers should be represented by one of our licensees, because our licensees were trained to protect their clients. I believe nearly all our licensees care about protecting their clients and the public.

For those licensees who do not protect consumers, we are coming after you! Take a moment to look through our "Licensing Actions and Disciplinary Sanctions" section. You will see significant fines, revocations, and other actions the Division has taken to protect the good licensees. Also, take a moment to

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## From the Director's Desk Cont.

review the legislative update and the ways the Division wants to better serve the public and our licensees.

It is a challenging season to work in the real estate industry. While the media is focusing attention on the housing market and its challenges, I believe Utah is in a good position to face and overcome the challenges quicker than other states. Our population and economic growth rates are more favorable for economic development. Our housing market never overheated as much as housing markets in other key metropolitan areas. Our population is young, growing, and more likely employed than in other states.

My vision for the Division of Real Estate is to continue making things easier for the good guys and harder for the bad guys. I commit to work with you to find ways to support your industries and punish those who harm the public and your professions.

## Legislative Update

The Utah State Legislature recently enacted significant policy changes that affect you as licensees:

**House Bill 346** –Representative Gage Froerer sponsored the Division's annual "clean-up" bill. Important provisions in the bill include:

- Requiring appraiser Trainees to register before acting as a Trainee;
- Permitting the Residential Mortgage Regulatory Commission to set required pre-licensing education hours for loan officers between 0 and 90 hours;
- Increasing penalties for violations of residential mortgage and appraisal licensing laws to the same level existing for real estate licensees; and
- Eliminates the "grandfathering" that

exempted some principle lending manager applicants from certain licensing requirements based on their experience.

**Senate Bill 134** – Senator Sheldon Killpack sponsored legislation that will prove a deterrent to mortgage fraudsters. It accomplishes three important things:

- Provides funding to the Utah Attorney General's Office to hire one prosecutor to focus entirely on mortgage fraud;
- Defines mortgage fraud broadly enough so anyone, licensed or not, who commits fraud can be severely punished;
- Establishes penalties for violators from class A misdemeanors to second degree felonies depending on the financial benefit derived from the transaction; and
- Automatically revokes the license of any Division of Real Estate licensee who is convicted of mortgage fraud.

**House Bill 128**—Representative Merlyn Newbold sponsored legislation that requires the Division to streamline the licensing process for principle lending managers who are also sole proprietors. The Division will create one licensing process for the entity and licensee.

**Real Estate Fraud Investigator** – The Division of Real Estate received funding for one real estate fraud investigator who will focus on coordinating the Division's mortgage fraud efforts with the Utah Attorney General's Office and other law enforcement bodies. The investigator will also help with administrative investigations.

**Fee Changes.** The Division advocated changes in fees—some increases and some decreases—that align our fees more closely with the services provided by the Division of Real Estate.

The change in fee revenue collected by the Division will be a net reduction of more than \$600,000!

It was a successful legislative session for the Division of Real Estate and your industries. The tools provided by the policies and funding initiatives passed by the Legislature will help the Division make it easier for the good guys and harder for the bad guys. I look forward to working with you on this goal in the coming months and years.



## FORMER DIRECTOR MILLER'S FINAL NOTE



### Division Announces New Director

Mark B. Steinagel was recently selected as the new Director of The Utah Division of Real Estate. Mark assumes the reins after the highly successful service of Derek B. Miller. Mr. Miller recently accepted the position of Managing Director of Business Recruitment with the Governor's Office of Economic Development.

Director Steinagel comes to the Division after working in The Office of Legislative Research and General Counsel since 2001. He holds a Masters Degree in Public Administration from Brigham Young University. He received his Bachelors degree in Geography, also from BYU. Director Steinagel has extensive legislative experience that was immediately placed into service during the 2008 Legislative Session.

Mark and his wife Kathie are the parents of four children ages 8 to 9 months old. Already Director Steinagel is plowing into the complex issues involving our industries. The Division, Real Estate, Mortgage and Appraisal communities welcome Director Steinagel.



Reading or watching the news is rarely what one would call a positive or uplifting experience. Recent headlines are no exception. In fact, you might think the world is falling apart if you focused on the terms used to describe the real estate industry and housing market – words like crisis, deteriorating and collapse. While it is certainly true that many parts of the country are experiencing serious and in some cases even severe market adjustments, those doom and gloom headlines don't necessarily apply to our state.

So, while you may have read in recent news articles that "foreclosures are skyrocketing" you might be interested to learn the fact that in Utah the number of foreclosures actually decreased. Yes, DECREASED. Maybe it doesn't make for the kind of eye-catching headlines that reporters are looking for, but it is a fact nevertheless.

Here are some more facts you may be interested to learn (and may even surprise you when contrasted to recent headlines). According to economic data recently released for 2007, Utah experienced population growth of 3.2%, which equates to over 85,000 new individuals in our state. A telling sign for our economy is that over half of that 85,000 moved to Utah from out-of-state (anyone know of a good agent that could help find these people a home, or an appraiser, or mortgage

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## Final Note

broker?). The high number of move-ins is no wonder given that our state added almost 50,000 new jobs last year. Even though our economy has slowed somewhat recently, job growth for the end of December was still a healthy 3.6% (which is four times the national average). Pay growth in Utah for 2007 surpassed the national average at 5.5% and we had an extremely low unemployment rate of 2.7%. Given these numbers it is no surprise that Utah continually receives awards and accolades for our strong economy, including recently being named by the Beacon Hill Institute as “the most economically competitive state in the nation.”

Besides the strong overall economic numbers, our state continues to post solid real estate numbers. Foreclosures are down and a recent quarterly report from the Mortgage Bankers Association showed Utah with the lowest foreclosure rate in the country for subprime ARMs. Like all things in the free market, real estate and housing rely on a healthy balance of supply and demand. With some of the lowest rates in recent history and real estate on the market, supply is not a problem. Based on economic estimates that Utah will add another 85,000 people to our state this year, we can expect continued demand.

That said, it would be ridiculous to ignore the fact that real estate markets have tightened somewhat, even here in Utah. However, the economic indicators in Utah remain strong and the best way to overcome some of the ‘psychological’ factors contributing to the slowdown of sales in Utah is to continue to grow our economy, so that people feel assured that this is still a great time to buy a home and invest in real estate.

For many of you, current trends do not come as a surprise. Veteran real estate professionals recognize that all markets have ebbs and flows. Still, the fact that the number of Division licensees has doubled since 2003 tells us that over half of current mortgage, appraiser, and real estate professionals have never seen a tight market. Well, if you fall into that category then welcome to the first test of your grit and mettle. More im-

portantly, remember what a seasoned sales agent once told me, “a hard working professional can survive in any market.” I believe that to be true. I also believe that the real estate, mortgage and appraisal professionals in our state are the hardest working individuals I know.

I have long said that the real estate industry is the engine that drives the economy in our state. For a number of years that meant that a lot of people were able to make a lot of money in real estate, which is a great thing in this free market of ours. Now, the state and our continued economic prosperity depends on your ability to get out and sell your product, whether it be a home, a mortgage, or appraisal service. You are in a great business and it was my honor to work for you as the Division Director for the past two-and-a-half years. I am confident that each of you, working collectively, will continue to keep our economic engine humming.



## Online Real Estate License Management System (RELMS) Update

Since the introduction of the online Real Estate License Management System (RELMS) last fall, the number of active participants using this system continues to grow. Both Real Estate and Mortgage licensees are utilizing this system to perform large numbers of licensing changes. The ease of use and convenience of operation offered by this online system offer distinct advantages over paper licensing “transactions”. Licensees are now able to “instantly” change their physical address, license status, company affiliation, order duplicate licenses, view and order license histories, view completed continuing education courses and renew their licenses.





**Important Notice – Beginning July 1, 2008 on-line license renewals will only accept courses that have been “banked” by continuing education (CE) providers. Individual Licensees will no longer be able to personally “add unbanked” CE courses at the time they are renewing their licenses.**

Since January 1, 2006 all CE course providers have been required by Division Administrative Rules to “bank” CE course credits for their attendees. Because CE course providers have been required to bank CE course credits for over two years (since 1/1/06), and since courses are valid for two years, every approved CE course is/should be banking their attendee's CE course credits (within 10 days) into their personal RELMS CE “bank account”.

The Division has previously allowed licensees to personally “add unbanked” CE courses at the time of their on line license renewal. The time has now been exceeded when all CE courses are under obligation to be “banked.” Beginning July 1, 2008 licensees will no longer be able to add CE course completion certificates in order to renew their license.

Licensees should take note and be prepared for these significant procedural changes as they prepare for license renewals after 6/30/08.

In Summary, beginning 7/1/08 CE completion certificates will no longer be allowed to be added by licensees when renewing their licenses. Licensees would be well advised to regularly access their RELMS CE course credit balance in advance of their license renewal. When attempting to renew your license, don't be “surprised” to learn that CE courses you “thought” had been banked into your personal RELMS CE credit account, have not been banked by the course provider. Frequent access to your individual, RELMS account in order to verify your current CE credit balances will save frustration and expense when trying to renew your license prior to license expiration.

Allow Adequate Time For CE To Be Banked By Providers – Complete all CE by the 15th of your renewal

Month in Order to avoid frustration and license renewal late fees. Since CE course providers are allowed ten days to bank completed CE courses, if licensees take a course during the last ten days of the month, that course will likely not be banked when the licensee attempts to renew their license. **In order to prevent paying a license renewal late fee, licensees will need to complete their continuing education allowing adequate time for providers to bank the completed courses. It is strongly suggested that licensees complete all their continuing education no later than the 15th of the month in which they will be renewing their license.** If licensees take their CE courses after the 15th of the month, they run the risk of not allowing adequate time for CE course providers to bank the licensee's CE credits by the time the licensee renews their license. **Only “banked” CE courses will be allowed for use at the time of license renewal.**

Paper Change Cards and “Walk-in” License Renewals will soon be eliminated. Accessing and use of the online RELMS system to make licensing changes and renewals is currently a convenience that has also been augmented with paper, fax and “walk in” change cards and renewals. These alternative licensing methods will soon be eliminated. Although the actual implementation date has not yet been determined, soon the only method available to perform all licensing functions will be the online RELMS system.

There are significant time and resource savings to both The Division and all licensees associated with the online use of the RELMS system. The ability of the Division to adequately address licensee questions, concerns and overall customer support have been greatly strengthened due to the savings attributed to online RELMS. Currently approximately 75% of all licensees renew their licenses each month with on line RELMS. Voluntarily increasing the online licensing system utilization will minimize costs and allow for the greatest level of customer support possible.

Thank you for your cooperation!



## Licensing Actions and Disciplinary Sanctions

### APPRAISER



*Please note that there are 30 days after the order date for a licensee or an applicant to file a request for agency review of the order, and that there are 30 days after the issuance of an order on review for a licensee or an applicant to file a petition for judicial review. Some of the orders listed may be within those appeal periods.*

ADAMS, DAVID F., State Certified Residential Appraiser, Salt Lake City, UT. Agreed to pay a \$2,000.00 civil penalty in a January 23, 2008 Order for violating USPAP Standard Rule 1-1(c), and Rule 162 107.1.2. Mr. Adams was asked to appraise the subject property on two different occasions because he failed to use comparables that were on the subject's street. He also used two appraisals with the same effective date, prepared conflicting reports concerning the sales history, and failed to report the sale of the subject property, despite it having sold within the past six months in one of the appraisals. Mr. Adams used photos from the MLS for comparables without explanation and failed to personally inspect one of the comparables. Case # AP35019.

BERRETT, DENNIS, State-Certified Residential Appraiser, Salt Lake City, UT. Agreed to pay a \$1,500.00 civil penalty in an October 24, 2007 Order, and complete a minimum seven hour course in either reproduction cost or the cost approach, for violating USPAP by using comparable sales that were not similar to the subject property, not using readily available sales that were highly comparable to the subject property, using comparables that were of higher quality than the subject property and in a more desirable location than the subject property. Case # AP19195.

BISHOP, RYAN, Appraiser Applicant, St. George, UT. Applicant was denied the opportunity to take the State-Licensed Appraiser Examination, because he failed to disclose prior sale or transfer history of subject properties. Mr. Bishop may reapply with current appraisals.

BYBEE, BRANDON, Appraiser Applicant, Fruit Heights, UT. Applicant was denied the opportunity to take the State-Licensed Appraiser Examination. On December 12, 2007, the Division informed the applicant that his application to become a State-Licensed Appraiser was denied. The applicant petitioned the Board for an experience re-examination in which the Board granted and reviewed the applicant's work. The Board concluded that the applicant's work product failed to include three-year sales/transfer histories of the subject properties and failed to incorporate all of the sales/transfer history information on his reports. Based on the totality of problems it noticed in the applicant's reports, the Board concluded the applicant failed to meet competency requirements. Mr. Bybee may reapply with current appraisals.

CALDWELL, STEVEN, Appraiser Applicant, Murray, UT. Applicant was denied the opportunity to take the Certified Residential Appraiser Examination, because in most cases he used MLS photos rather than actual photos taken himself. Mr. Caldwell may reapply with current appraisals.

DAYTON, BRENDON, Appraiser Applicant, Cedar Hills, UT. Applicant was denied the opportunity to take the State-Licensed Appraiser Examination. On November 2, 2007, the Division informed the applicant that his application to become a State-Licensed Appraiser was denied. The applicant petitioned the Board for an experience re-examination in which the Board granted and reviewed the applicant's work. The Board concluded that the applicant's work product contained numerous errors and mistakes, and a lack of supporting data. The Board was concerned by the fact that the applicant did not catch the errors in the reports. Based on the totality of the problems noticed

in the applicant's reports, the Board concluded that the applicant failed to meet competency requirements. Mr. Dayton may reapply with current appraisals.

DRAXLER, JOEL, Appraiser Applicant, Smithfield, UT. Applicant was denied the opportunity to take the State-Licensed Appraiser Examination, because some of the applicant's reports didn't specify who the intended user was and complete files were not included in his work packet. Mr. Draxler may reapply with current appraisals.

DYER, K. MARC, Appraiser Applicant, Riverton, UT. Applicant was denied the opportunity to take the State-Licensed Appraiser Examination, for violating USPAP standards as it applies to the area of property sales history, and the work product contained inconsistent appraisal analysis. Mr. Dyer may reapply with current appraisals.

EATON, JEFFERY J., State Certified Residential Appraiser, Riverton, UT. Agreed to pay a \$1,000.00 civil penalty in a January 23, 2008 Order for violating USPAP Standard Rule 1-1(b) in which he did not originate the subject property appraisal and did not use any plans or specifications for the analysis of the appraisal. He admits to relying on an appraisal completed by another appraiser for the final description and analysis of the subject appraisal. Case # AP35984.

GIFFORD, DEAN DALTON, State Certified Residential Appraiser, St. George, UT. Agreed to pay a \$5,000.00 civil penalty and the revocation of his State-Certified Residential Appraiser license for a five year period in a February 27, 2008 Order. Mr. Gifford admits to violating USPAP Standards, Appraiser Rules and Statutes and for inflating the values of the properties that he was engaged to appraise, and for the use of superior comparables in superior neighborhoods in obtaining the value on appraisals. If Mr. Gifford should reapply for his license after his five year revocation period, a hearing will be scheduled. Case # AP36158, AP36896, AP37607, AP37606, AP37051.

HALES, STEVEN L, State-Certified Residential Appraiser, South Ogden, UT. Agreed to pay a \$1,000.00 civil penalty in an October 24, 2007 Order, for violating both HUD regulations and USPAP standards, in which he failed to inspect the interior of the subject property while acting in a supervisory capacity. Case # AP26202.

HUDSON, KRIS A., State Certified Residential Appraiser, Riverton, UT. Agreed to pay a \$1,000.00 civil penalty in a January 23, 2008 Order for violating USPAP Standard Rule 1-1(b) in which he did not originate the subject property appraisal and did not use any plans or specifications for the analysis of the appraisal. He admits to relying on an appraisal completed by another appraiser for the final description and analysis of the subject appraisal. Case # AP35983.

JOHNSON, JONATHAN L., Licensed Appraiser, Draper, UT. Agreed to pay a \$7,500.00 civil penalty in a February 27, 2008 Order for violating USPAP and appraiser administrative rules. Mr. Johnson failed to supervise trainees in which superior comparables resulted in the values of the subject properties being inflated. Mr. Johnson failed to review a trainee's appraisal, and failed to find and report a current sale of a subject property that would have affected the value of the appraisal. In addition, Mr. Johnson signed an appraisal report without having given adequate supervision to the registered appraiser or the unclassified assistant. Case # AP33743, AP34953, AP34688.

LARSEN, ALLEN G, Certified Residential Appraiser, Salt Lake City, UT. Agreed to pay a \$1,000.00 civil penalty in a November 28, 2007 Order, for violating both HUD regulations and USPAP standards for signing the standard certification that he personally inspected the subject property in which he did not physically enter the interior of the subject property. Case # AP36657.

LAYTON, TYLER, Appraiser Applicant, Orem, UT. Applicant was denied to take the Certified Residential Appraiser Examination. The applicant's work product contained data that did not comply with USPAP

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standards. Most photos contained in work files were taken directly out of the MLS. The failure to take original photos was a violation of USPAP. Mr. Layton may reapply with current appraisals.

LUCAS, MATTHEW, Appraiser Applicant, Salt Lake City, UT. Applicant was denied the opportunity to take the State-Licensed Appraiser Examination for errors and inconsistencies in one appraisal, the value of the subject property was lower than all comparable properties in another, and he used time adjustments which confused the outcome of the appraisal and did not appear warranted. Mr. Lucas reapplied with current appraisals and was approved by the Board. He passed the state licensed appraiser examination and was licensed on December 12, 2007.

MARTINEZ, ANNABEL, Appraiser Applicant, Salt Lake City, UT. Applicant was denied the opportunity to take the State-Licensed Appraiser Examination, because the applicant made the same type of errors in all her reports and also that certain areas in her reports were left blank. Many sales used in reports were "dated". Based on the totality of problems in the reports the applicant failed to meet competency requirements. Ms. Martinez reapplied with current appraisals and was approved by the Board. She passed the state licensed appraiser examination and then was licensed on December 28, 2007.

MINSON, SPENCER, Appraiser Applicant, Herriman, UT. Applicant was denied the opportunity to take the Certified Residential Appraiser Examination, because the applicant's work product contained photographs that were not original. The applicant did not provide any specific information concerning the scope of his work or provide information in his work that supported the site value. Mr. Minson may reapply with current appraisals.

PEDERSEN, EMILY, Appraiser Applicant, Vernal, UT. Applicant was denied the opportunity

to take the Certified Residential Appraiser Examination, for violating USPAP standards in which most of the photos contained in the applicant's work were out of the MLS, and based on a totality of all the circumstances the applicant did not demonstrate the necessary knowledge to sit for the exam. Ms. Pedersen may reapply with current appraisals.

PLATT, BRAYDON, Appraiser Applicant, Provo, UT. Applicant was denied the opportunity to take the State-Licensed Appraiser Examination. On November 2, 2007, the Division informed the applicant that his application to become a State-Licensed Appraiser was denied. The applicant petitioned the Board for an experience re-examination in which the Board granted and reviewed the applicant's work. The Board concluded that the applicant's original work product did not include the trainee's name or a detailed list of what was provided in each of the reports. Further, Mr. Platt did not include full sales histories in his reports. Based on the applicant's reports, the Board concluded that the applicant failed to meet the competency requirements. Mr. Platt may reapply with current appraisals.

POWELL, RONALD, Appraiser Applicant, Roosevelt, UT. Applicant was denied the opportunity to take the Certified Residential Appraiser Examination, because the applicant's reports were inconsistent and had numerous errors and omissions in them. There were also a number of misrepresentations in his reports. Mr. Powell may reapply with current appraisals.

RAGER, DANNY, Appraiser Applicant, Riverton, UT. Applicant was denied the opportunity to take the State-Licensed Appraiser Examination. The Board concluded that in one of the applicant's sample reports his work product lacked the proper analysis of the sales history and limited his analysis to the MLS history of comparables and didn't include any county record information. The applicant also reported a "dual" sale but did not include the sale information for one of the buyers. Mr. Ragner may reapply with current appraisals.



SCOULER, RICHARD A, State-Certified Residential Appraiser, West Jordan, UT. Agreed to pay a \$8,000.00 civil penalty in an November 28, 2007 Order, take and pass a fifteen hour USPAP class, purchase the book "The Appraisal of Real Estate", and not supervise any unclassified or any other appraiser for a period of three years. Mr. Scouler violated Utah Administrative Rules 105.3.2.1, R162-107.1.2, R162-1.6, and USPAP standards in which he allowed unlicensed appraisers to inspect several subject properties without his supervision, signed appraisal reports stating that he had inspected properties when in fact he had not made the inspection, split appraisal fees with an unclassified person, and failed to properly analyze listing histories rather than rely on current sales contracts. Case # AP19690, AP30904, AP26411, AP26567.

SHEPPICK, TIFFANY, Appraiser Applicant, West Jordan, UT. Applicant was denied the opportunity to take the State-Licensed Appraiser Examination, for making the same type of errors in all her reports, certain areas in her reports were left blank, relying too heavily on cost approach data from Marshal and Swift, and failing to include many valuable features in her appraisals. Ms. Sheppick reapplied with current appraisals and was approved by the Board. She passed the state licensed appraiser examination and then was licensed on December 28, 2007.

SPENCE, CHARLES H., State Licensed Appraiser, Payson, UT. Agreed to pay a \$3,000.00 civil penalty in a January 23, 2008 Order, for violating USPAP Standard Rule 1-1(a), (b), (c), in which Mr. Spence did not accurately describe the upstairs "room" and "lower level area" of the subject property. This appraisal was considered inaccurate and misleading in the context of the subject appraisal. Case # AP35996.

TURPIN, ERIC, Appraiser Applicant, West Jordan, UT. Applicant was denied the opportunity to take the Certified Residential Appraiser Examination, because his work product contained inconsistent appraisal analysis and failed to meet competency requirements found in Utah Code Annotated Section 61-2b-8(9). Mr. Turpin may reapply with current appraisals.

URRY, CLINT, Appraiser Applicant, Salt Lake City, UT. Applicant was denied the opportunity to take the Certified Residential Appraiser Examination, in which his work product contained data that didn't comply with USPAP standards, and the Board was not able to determine the subject properties' current market values based on the submitted reports due to numerous errors and a lack of evidence determining true market conditions. Mr. Urry may reapply with current appraisals.

WILSON, MICHAEL L., State-Certified Residential Appraiser, South Jordan, UT. Agreed to pay a \$4,000.00 civil penalty in an November 28, 2007 Order, surrender his Certification status and be reduced to a Licensed Appraiser for two years, not supervise, train, or sign for any other appraiser or appraisal trainee for two years, and successfully complete a cost approach class in addition to his continuing education requirement on his next renewal. Mr. Wilson violated USPAP standards by using comparable properties that were superior to the subject property in quality and location, reporting incorrect listing prices of three comparable properties, not analyzing the listing history of the subject property, supervising an appraisal that was not based on proper methods and contained information that was inconsistent and misleading, using cost approach figures that were different than those indicted in his file, and using improper methods and techniques. Case # AP24501, AP28655, AP28973.

YAMAMOTO, SHARMAN H., State-Certified Residential Appraiser, Layton, UT. Agreed to pay a \$2,000.00 civil penalty in a November 28, 2007 Order, for violating USPAP standards by using comparables that were not a realistic comparison to subject property in turn misleading the client. Case # AP33207.



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## MORTGAGE



*Please note that there are 30 days after the order date for a licensee or an applicant to file a request for agency review of the order, and that there are 30 days after the issuance of an order on review for a licensee or an applicant to file a petition for judicial review. Some of the orders listed may be within those appeal periods.*

### MORTGAGE RETRACTION

AUBUCHON, JANICE, Mortgage Officer, Washington, UT. The Division of Real Estate regrettably printed an inaccurate Disciplinary Sanction summary in our November 2007 Utah Division of Real Estate News regarding Ms. Aubuchon. The notice that was printed was a mistake by the Division. No sanction of any kind should have appeared in our newsletter.

ANDRUS, ROSE, Mortgage Officer Applicant, Salt Lake City, UT. Application for mortgage officer license approved on probationary status for the term of license in an October 29, 2007 Order, because of factors including her failure to disclose a past criminal conviction.

ANKERS, R. EARLE, Mortgage Lending Officer Applicant, Draper, UT. Application for mortgage lending officer approved on a probationary status for the first term of his license in a January 24, 2008 Order, due to past criminal convictions. Mr. Ankers must provide a copy of this Order to any PLM with whom he affiliates.

BROWN, JOSHUA, Mortgage Lending Officer, Lehi, UT. Agreed to the surrender of his mortgage license in the State of Utah for a period of two years in a November 7, 2007 Order, for fraudulent activity involving a refinance of Mr. Brown's residence. If Mr. Brown reapplies for his mortgage license after the two year period, a hearing will be held to determine whether his license should be granted or denied. Case # 36738.

CHAMPION MORTGAGE COMPANY, Draper, UT. Agreed to the revocation of its mortgage license in the State of Utah and not to sell the company to any other individual or entity in a November 7, 2007 Order. Champion Mortgage Company admits to violating Utah Code Annotated Section 61-2c-301(1)(d)(l) in which the company submitted a fraudulent CPA letter, added different individuals temporarily to bank accounts to show they had sufficient funds to meet underwriting conditions, submitting false employment and income information, submitting loans to lenders stating that properties were "owner occupied" when they were investment properties and had never been occupied, and misrepresenting income on a personal loan. Case # 36257.

CLARK, MAX, Mortgage Officer, Salt Lake City, UT. Agreed to the surrender of his mortgage license in the State of Utah for a two year period and a \$5,000.00 civil penalty in a February 6, 2008 Order. Mr. Clark received compensation as a loan officer on several loans for his wife, in which he inflated income on a stated income loan and added his wife on two bank accounts the day of the loan verification. Nowhere in the file submitted to the lender, was the fact included that the applicant was the loan officer's spouse. If Mr. Clark reapplies for a new license after his two year period, a hearing may be held. Case # 33088.

DE SANTI, PAULA A., Unlicensed Mortgage Lending Officer, Sandy, UT. Order to Cease and Desist issued on February 14, 2008, from engaging in the business of residential mortgage loans in this State, until such time that Ms. De Santi obtains a residential mortgage license. Case # MG20609.

DEBOER, MICHAEL, Mortgage Officer Applicant, Roy, UT. License for mortgage officer applicant was denied in a November 19, 2007 Order, due to the length and recency of the applicant's criminal record. The applicant cannot apply for a mortgage officer license for a period of twelve months.

GRESHAM, CURTIS, Mortgage Lending Officer Applicant, Tooele, UT. Applicant's request to reverse his li-

cense revocation is denied in a February 15, 2008 Order. Mr. Gresham failed to disclose five other criminal convictions in his March 16, 2006 application to the Division.

GUNDERSON, TIGH, Mortgage Lending Officer, Cedar Hills, UT. Agreed to the revocation of his license for a period of five years in a September 6, 2007 Order, for submitting false employment verifications on two loan applications. Case # 31532.

HARROP, ROBIN, Mortgage Lending Officer Applicant, Ogden, UT. Application for mortgage lending officer license approved on a probationary status for the initial licensing period in a February 26, 2008 Order, due to a recent criminal conviction.

JACK, JASON, Mortgage Lending Officer, South Jordan, UT. Agreed to pay a \$2,500.00 civil penalty and revocation of his license for a two year period in a January 2, 2008 Order, in which he violated Utah Code Annotated 61-2c-301(1), (1)(n)(i), (ii) and (iii). Mr. Jack opened a credit union business account using the business license of his client, deposited several commission checks into the fraudulent account, and originated loans made payable to his client with an "inactive" mortgage license. If Mr. Jack reapplies for his license after his two year revocation period is over, a hearing will be held to determine if his license should be granted or denied. Case # 36935.

KANELL II, LEO, Mortgage Lending Officer for Champion Mortgage Company, Sandy, UT. Agreed to pay a \$20,000.00 civil penalty, revocation of his license for a five year period, and a prohibition of ownership or management interest in any other mortgage company during his revocation period in a November 7, 2007 Order. Mr. Kanell II admits to violating Utah Code Annotated Section 61-2c-301(1)(d), (1)(l) in which he misrepresented his income on a personal loan, submitted false employment and income information, added different individuals temporarily to bank accounts in order to show they had sufficient funds to meet underwriting conditions, and submitted a fraudulent CPA letter as part of a loan application. Case # 29389.

KNIGHT, TIFFANY, Residential Mortgage Officer, Holladay, UT. Agreed to pay a \$2,500.00 civil penalty in a November 7, 2007 Order, for violating Utah Code Annotated Section 61-2c-301(1)(d)(i), (West Supp. 2006), in which she made a false representation and induced a lender to extend credit as part of a residential mortgage loan transaction. Case #MG29751.

LARSEN, ERIC C., Mortgage Lending Officer for Champion Mortgage Corporation, Lehi, UT. Agreed to pay a \$30,000.00 civil penalty and the revocation of his license for a period of five years in a November 7, 2007 Order. Mr. Larson violated Utah Code Annotated Sections 61-2c-301(1)(1)(d) in which he submitted fraudulent employment and income information on several loans, charged excessive fees, and creating numerous fraudulent letters. If Mr. Larsen reapplies for his license after his five year revocation, a hearing will be held to determine if his license will be granted or denied. Case # 33050.

LIRA, CARLOS, Mortgage Lending Officer, Riverton, UT. Agreed to pay a \$2,500.00 civil penalty and the revocation of his license for a two year period in a November 7, 2007 Order, in which Mr. Lira worked as a mortgage loan officer for Champion Mortgage Group. Mr. Lira violated Utah Code Annotated Sections 61-2c-301(1), 61-2c-301(1)(1), and 61-2c-301(1)(d) in which he used inflated income information on several loans he originated. In addition he included a fraudulent employment letter in a loan package. If Mr. Lira reapplies for his mortgage license after the two year period, a hearing will be held to determine whether the license should be granted or denied. Case #35385.

LOSCH, SCOTT, Principal Lending Manager Applicant, Global Mortgage Incorporated, Renewal of Mortgage Entity License, Clearwater, FL. Applications for both principal lending manager and mortgage entity license were denied in a November 19, 2007 Order, for past disciplinary actions in Vermont, Georgia, and Florida. The applicant's company, Global Mortgage Inc., failed to file and update quarterly reports, properly disclose mortgage broker fees, failed to refund third party fees collected in excess of the actual amount, accepting third

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party fees and maintaining a record of account activity, and agreed to refund a client \$9,579.89 who overpaid Global Mortgage in a high cost loan transaction.

MARTINEZ, MAGDALENA, Mortgage Lending Officer Applicant, Magna, UT. Application for mortgage lending officer was granted but the license was placed on probation for the initial licensing period in a February 26, 2008 Order, because of several vehicle operational convictions.

MARTINSON, ADAM, Mortgage Lending Officer, Springville, UT. Agreed to pay a \$500.00 civil penalty and to have his license placed on probation for two years in a February 6, 2008 Order. Mr. Martinson acted as a real estate agent when he wasn't a licensed real estate agent and used another real estate agent's name on a REPC when that real estate licensee was not aware his name was used in the transaction. Mr. Martinson also signed an "As Is" addendum to the original REPC using the buyer's name without a valid power of attorney. Case # 27067.

MILLER, JODI, Unlicensed Mortgage Lending Officer, Salt Lake City, UT. Agreed to pay a \$20,000.00 civil penalty in a February 6, 2008 Order in which she admits to doing loan transactions without a mortgage lending officer license. Case # MG36969.

MOORE, LUKE, Mortgage Lending Officer Renewal Applicant, West Valley City, UT. Application for mortgage lending officer renewal was granted but the license was placed on probation for the initial licensing period in a February 26, 2008 Order, because of an alcohol-related offense.

QUALITY HOME LOANS, INC., Renewal Applicant, Calabasas, CA. Application to renew its license to engage in the business of residential mortgage loans was denied in a January 24, 2008 Order, for failing to appear at the January 2, 2008 hearing.

RANES, WHITNEY, Mortgage Lending Officer, Salt Lake City, UT. Application for mortgage lending officer appeal was granted in a January 24, 2008 Order. Ms. Ranes probationary status on her license is removed.

RITTER, RACHEAL, Mortgage Lending Officer, West Jordan, UT. Application for mortgage lending officer was denied in a December 20, 2007 Order due to concerns about both the length and recency of the applicant's criminal record. The applicant cannot apply for a mortgage lending officer license for a period of twelve months.

ROACH, SHAWN, Mortgage Lending Officer for Champion Mortgage Company, Lehi, UT. Agreed to pay a \$15,000.00 civil penalty as well as the revocation of his license for a three year period in a November 7, 2007 Order. Mr. Roach admits to violating Utah Code Annotated Section 61-2c-301(1)(1) in which he created numerous fraudulent letters that were altered or created for various mortgage loans, sent fraudulent bank statements to the lender and submitted a loan package which included false employment and income information. If Mr. Roach wishes to apply for a license after his three year revocation period, a hearing will be held to determine if a new license will be granted or denied. Case # 33327.

ROWSON, PHILLIP, Principal Lending Manager for Champion Mortgage Company, Riverton, UT. Agreed to pay a \$20,000.00 civil penalty, revocation of his license for a five year period, and prohibition of any ownership or management interest in any other mortgage company during his five year revocation period in an November 7, 2007 Order. Mr. Rowson violated Utah Code Annotated Sections 61-2c-301(1)(d)(l)(r)(s) in which he employed and paid unlicensed individuals to originate mortgage loans, allowed and knew of fraudulent activity going on with other loan officers with Champion, verified false employment and income information, knew of different individuals being temporarily added to bank accounts in order to show that the company had sufficient funds to meet underwriting conditions, and submitted a loan that stated a property would be "owner occupied" when in fact it was an investment property. Case # 35349.

SCHARMANN, NICOLE, Mortgage Lending Officer Renewal Applicant, Tooele, UT. Application for mortgage lending officer renewal license is granted but placed on probation the initial term of the license



in a January 24, 2008 Order, due to a diversion agreement involving several counts of controlled substances.

SMITH, DEAN, Principal Lending Manager Applicant, Irvine, CA. Application for principal lending manager is granted but placed on probation for the initial licensing period in a February 26, 2008 Order due to a recent alcohol related conviction.

SOLARTE, JAIME A., Mortgage Lending Officer, West Jordan, UT. Agreed to the revocation of his mortgage license in the State of Utah in a November 7, 2007 Order, in which Mr. Solarte entered a guilty plea in United States District Court for Conspiracy to Launder Money and Conspiracy to Structure Money Transactions. This violates Utah Code Annotated Section 61-2c-301(2), which prohibit a licensee to enter a guilty plea involving a crime of moral turpitude. Case # 28648.

STEUBING, JENNIFER, Mortgage Lending Officer Applicant, Henderson, NV. Application for mortgage lending officer is granted but placed on probation in a February 26, 2008 Order. The probationary period will be lifted once Ms. Steubing has paid an outstanding court fine for an alcohol-related conviction.

VERESCH, TIMOTHY, Mortgage Lending Officer Applicant, Layton, UT. Application for mortgage lending officer is denied in a January 24, 2008 Order due to the length and recency of Mr. Veresch's criminal record. Mr. Veresch must wait twenty-four months from the Order date before reapplying for a license.

YOUNICA, EDWARD, Mortgage Lending Officer Renewal Applicant, Provo, UT. Application for mortgage lending officer renewal is granted but placed on probation in a February 15, 2008 Order. Mr. Younica shall be placed on probation until he provides proof to the Division that he has completed the court-ordered parenting class in a recent criminal conviction.

The following is a list of individuals whose mortgage licenses were revoked for failure to accurately disclose their criminal background on their initial applications:

Name	Revocation Date
DEHART, DUSTIN	02/06/2008
DUNLEAVEY, SEAN	01/30/2008
GILMORE, ALEK	02/06/2008
GRESHAM, CURTIS	12/15/2007
HAYS, STEWART CHANDLER	01/30/2008
MINCEY II, ANTHONY	12/14/2007
NAY, RYAN	02/06/2008
PHILLIPS, JONATHAN	02/06/2008
PITNEY, BRYAN	02/06/2008
SMITH, STEPHANIE	02/06/2008
WEIGER, KYLE	01/30/2008

## REAL ESTATE



*Please note that there are 30 days after the order date for a licensee or an applicant to file a request for agency review of the order, and that there are 30 days after the issuance of an order on review for a licensee or an applicant to file a petition for judicial review. Some of the orders listed may be within those appeal periods.*

AIRMET, JOHN D., Principal Broker, American Fork, UT. Agreed to pay a \$1,000.00 civil penalty in a January 16, 2008 Order, because Mr. Airmet failed to adequately supervise one of his agents which resulted in a violation of advertising rules by advertising property management under a different unlicensed company name on the agent's website, and by not having met the requirements of having the brokers name one half the size of the agents name as required on signs. Case # RE36088.

ANDERSON, SHELBY, Sales Agent Applicant, Herriman, UT. Application for sales agent license approved on probationary status for two years in a December 20, 2007 Order because of factors including battery, retail theft, and failing to disclose criminal history to the Division.

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BALL, BRYAN D., Principal Broker, Ogden, UT. Agreed to pay a \$10,000.00 civil penalty in a February 13, 2008 Order, in which he failed to properly supervise one of his agents (including the payment of commissions), whose license was expired. Case # RE37859.

BARKER, JASON, Sales Agent Applicant, Provo, UT. Application for sales agent license approved on probationary status for two years in a December 20, 2007 Order, because of a past conviction of assault and unlawful detention.

BISCHOFF, SUSAN, Sales Agent Applicant, Farmington, UT. Application for sales agent license approved on probationary status for two years in a December 20, 2007 Order, because of factors including alcohol-related reckless driving and driving on a suspended/revoked license.

BODRERO, AMY, Sales Agent Applicant, Logan, UT. Application for sales agent license approved on probationary status for two years in a November 1, 2007 Order, because of several misdemeanor convictions for alcohol and driving incidents and for driving on a denied driver's license.

BOSWELL, PRESTON T., Sales Agent, Ogden, UT. Agreed to pay a \$10,000.00 civil penalty in a February 13, 2008 Order, for being involved in at least four listing transactions while his license was expired. Case # RE 37858.

CHARBONNEAU, DANIELLE, Sales Agent Renewal Applicant, Ogden, UT. Application for sales agent license renewal is approved but placed on probation for the term of her license in a February 26, 2008 Order, due to a recent criminal conviction.

CHILTON, ANDREA, Sales Agent Applicant, Kaysville, UT. Application for sales agent license approved on probationary status of two years in a November 1, 2007 Order, because of a 2001 federal conviction of bank fraud.

CHRISTIANSSEN, CHARLOTTE L., Broker, Mayfield, UT. Agreed to pay a \$5,500.00 civil penalty in

a February 13, 2008 Order. Ms. Christiansen's broker license was immediately revoked and she was given a sales agent license which was suspended until the civil penalty is paid. She will be placed on probation for a two year period starting the date the penalty is paid in full and also required to submit quarterly reports to the Division containing all of her real estate transactions. She may not apply for a broker license for a five year period for among other things, failing to exercise reasonable supervision over her employees when she was aware that one of her agents was conducting licensed activities without a real estate license. Ms. Christiansen also represented both the buyers and seller in a real estate transaction without consent of all the parties and because she substantially misrepresented herself to the Division. Case #RE20-06-10, RE02-12-28.

COTTON-BETTERIDGE, SAMUEL, Sales Agent Renewal Applicant, Eagle Mountain, UT. Application for sales agent license renewal was approved but placed on probation for the licensing period in a February 15, 2008 Order, due to a plea in abeyance on two charges.

CROWE, IAN, Sales Agent Applicant, St. George, UT. Application for sales agent license approved on probationary status of two years in a December 20, 2007 Order, due to past criminal convictions.

CULBERTSON, RICHARD, Sales Agent, Lehi, UT. Agreed to pay a \$40,000.00 civil penalty and the revocation of his sales agent license for a five year period in an October 17, 2007 Order. Mr. Culbertson admits to using the identity of another individual for purchasing a home for his personal residence, falsely indicating on settlement documents that the home would be "owner occupied" and acting as a real estate agent in three separate transactions using that same individual's information on settlement documents. He forged signatures of that same individual on documents, obtained an appraisal for the purpose of inflating the price of the subject property to obtain money in excess of the sales price and acquired cash at the closing for his personal benefit. Mr. Culbertson also

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diverted proceeds from loans to a company controlled by him at closing as part of the scheme to conceal the true terms from the lender. Case # RE35870.

CZYRAS, ANDREW, Sales Agent Applicant, Draper, UT. Conditional license issued on October 3, 2007 was revoked for failing to disclose a past criminal history. In a January 3, 2008 Order, the Division reversed its decision based on the applicant's reasonable good faith belief that there was no criminal history to be disclosed. The license of Mr. Czyras is reinstated.

DAY, KEVIN T., Principal Broker, Clearfield, UT. Conditional license issued on January 2, 2008 was revoked in a January 14, 2008 Order, because Mr. Day failed to disclose his criminal history with the Division.

ELLIS, JUSTIN, Sales Agent Renewal Applicant, Sandy, UT. Application for sales agent license renewal was approved and placed on probation for the licensing period in a February 15, 2008 Order, due to past criminal convictions.

FLINT, DOMINIQUE, Sales Agent Applicant, Eagle Mountain, UT. Application for sales agent license is approved but the license will be suspended for one month then placed on probation for the initial licensing period in a February 15, 2008 Order, due to several criminal convictions.

HERRERA, JOSEPH, Sales Agent Applicant, Sandy, UT. Application for sales agent license approved on probationary status for two years in a December 20, 2007 Order, due to past criminal convictions.

HOLBROOK, TYSON, Broker Applicant, Sandy, UT. Application for broker license approved on probationary status for two years in an October 29, 2007 Order in which the applicant failed to disclose several misdemeanor convictions. Mr. Holbrook is required to provide a copy of this Order to all companies/firms with whom he affiliates as well as appear before the Real Estate Commission at the end of his license cycle.

HOLLINGSHEAD, JAMES, Sales Agent Applicant, South Jordan, UT. Application for sales agent license is approved but placed on probation for the licensing term in a February 15, 2008 Order, due to his criminal history and recent suspension of his auto salesperson's license.

JACKSON, STEVEN, Sales Agent Applicant, Murray, UT. Application for sales agent license approved on probationary status of two years in a December 20, 2007 Order, due to a past criminal conviction.

JONES, JULIE, Sales Agent Applicant, Providence, UT. Application for sales agent license approved on probationary status for two years in a January 3, 2008 Order, because of civil liens filed against her by the Department of Workforce Services. Ms. Jones is required to provide a copy of this Order to all Brokers with whom she affiliates.

JONES, PHILIP, Sales Agent Applicant and Principal Lending Manager Applicant, Riverton, UT. Application for sales agent and principal lending manager license approved on probationary status for two years in a October 29, 2007 Order, due to past criminal convictions.

KELLY, DAVID, Sales Agent Applicant, Salt Lake City, UT. Application for sales agent license approved but suspended for one year in a January 3, 2008 Order, because of court judgments, numerous traffic tickets, and driving on a suspended license. During Mr. Kelly's suspension, he must pay off existing fines, citations, judgments, and complete a new real estate sales agent course. In order to activate his license, the applicant must provide proof of complete payment of his fines, citations, and judgments. He will be placed on probation for the remainder term of his license.

KIDD, DARIN J., Sales Agent, Layton, UT. Agreed to pay \$2,500.00 civil penalty (this fine was determined from an earlier statutory fine schedule, that was the maximum allowable fine at the time of this violation) in an January 16, 2008 Order, as well as have his license placed on probation for a period of two years and

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complete an additional course on ethics and agency in addition to Mr. Kidd's ordinary continuing education courses. Mr. Kidd prepared a Real Estate Purchase Contract although the property was not listed until several days later. In addition, an addendum to the REPC was never submitted to underwriting. Case # RE29749.

KILLPACK, CASEY, Sales Agent Applicant, Salt Lake City, UT. Applicant's request to reverse his license revocation is denied in a February 25, 2008 Order, due to past criminal convictions that were not disclosed to the Division.

KOSKAN, KEITH, Broker Renewal Applicant, Smithfield, UT. Application for broker license renewal approved but placed on probation for the renewal period in a February 15, 2008 Order, due to several driving on suspended/revoked license convictions.

KUNZ IV, MORRIS, Sales Agent Applicant, West Jordan, UT. Application for sales agent license approved on probationary status for two years in an October 29, 2007 Order, because of a misdemeanor conviction and plea in abeyance. Mr. Kunz is required to provide a copy of this Order to all Brokers with whom he affiliates.

LARSON, DEREK C., Sales Agent Applicant, Santa Clara, UT. Application for sales agent license approved on probationary status of two years in a October 29, 2007 Order, due to three different incidents of unlicensed activity through Division of Occupational and Professional Licensing.

LOPEZ, JORGE, Sales Agent Applicant, Ogden, UT. Application for sales agent license is approved but placed on probation until the applicant provides proof to the Division that he has completed an anger management class and paid restitution in a February 15, 2008 Order, for disorderly conduct.

MAGNUSON, CAROL, Broker Renewal Applicant, Draper, UT. Application for broker license renewal is approved but placed on probation for the initial licensing term in a February 26, 2008 Order for a plea in abeyance agreement.

MANNING, ANGELICA, Sales Agent Applicant, Salt Lake City, UT. Application for sales agent license approved in a December 20, 2007 Order, but then immediately suspended until Ms. Manning has paid off her court-ordered fine. The license will be placed on probationary status for the remaining term of her license due to a criminal conviction for consuming alcohol as a minor and subsequent contempt of court factors.

MANZANARES, MICHELLE, Sales Agent Renewal Applicant, Clinton, UT. Application for sales agent license renewal approved but placed on probation for the licensure term in a February 26, 2008 Order, due to a criminal conviction.

MCGUIRE, JONATHAN, Sales Agent Applicant, Midvale, UT. Application for sales agent license approved on probationary status for two years in an October 29, 2007 Order, due to factors involving several misdemeanor convictions. Mr. McGuire must provide a copy of this Order to all brokers with whom he affiliates.

NELSON, CYNTHIA, Sales Agent Applicant, Salt Lake City, UT. Application for sales agent license approved on probationary status for two years in an October 29, 2007 Order, because the applicant failed to disclose a criminal conviction.

NELSON, IRVIN, Sales Agent Applicant, Smithfield, UT. Application for sales agent license denied in a January 3, 2008 Order, because of factors including felony sexual abuse of a child and forcible sex abuse. Mr. Nelson may reapply for a license when his name is removed from the sex offender registry.

PEHRSON, STEVE, Broker, Provo, UT. Agreed to pay a \$1,250.00 civil penalty in an December 19, 2007 Order, as well as relinquish his real estate broker's license for a period of five years, complete a course on ethics and trust account management in addition to ordinary continuing education courses. While Mr. Pehrson was a principal broker for Rose Hollow Management Company, he failed to actively supervise employees on a regular basis



and signed documents and checks without seeing signed pages from tenants and/or clients. Case # RE34634.

PETERSON, ANGELA, Sales Agent Applicant, Kaysville, UT. Application for sales agent license approved on a probationary status for two years in a January 3, 2008 Order, due to factors involving a drug and attempted forgery conviction. Ms. Peterson must provide a copy of this Order to all brokers with whom she affiliates.

PULSIPHER, KYLE, Sales Agent Renewal Applicant, Cedar City, UT. Application for sales agent renewal license is denied in a November 1, 2007 Order, because the State of Nevada previously issued a Cease and Desist Order for being involved in eleven fraudulent mortgage loans. In a Stipulated Settlement agreement with the State of Nevada, Mr. Pulsipher agreed to pay a \$45,000.00 fine and have his license permanently revoked. The applicant cannot reapply for a license for a three year period at which time a new hearing will be scheduled to determine if his license will be granted or denied.

REEVE, ROGER, Dual Broker for CLAREO PROPERTY MANAGEMENT, FREEMAN, WAYNE, Unlicensed Personal Assistant, JUSTENSEN, ROB, Unlicensed Personal Assistant, dba JUSTUS INC. Order to Cease and Desist issued on October 23, 2007, from engaging in the business of, acting in the capacity of, advertising or assuming to act as a real estate broker or real estate sales agent in this state. Case #RE36385.

RICHARDS, CLAY, Sales Agent Applicant, Provo, UT. Application for sales agent license is denied in a November 1, 2007 Order, because of a sexual abuse of a child conviction. Mr. Richards may reapply once he is off the sexual offender list. A new hearing will be scheduled at that time to determine if his license will be granted or denied.

RICKS, RYAN, Sales Agent Applicant, Layton, UT. Application for sales agent license approved on probationary status for two years in a December 20, 2007 Order, because of a criminal plea and failing to disclose his criminal history to the Insurance Commission.

SHAW, SUSAN, Sales Agent Applicant, Kaysville, UT. Application for sales agent license approved on probationary status for two years in an October 29, 2007 Order, because the applicant failed to disclose a past criminal conviction.

SIMONSEN, CAMERON, Sales Agent Renewal Applicant, Salt Lake City, UT. Application for sales agent license renewal approved but placed on probation the term of license in a February 26, 2008 Order, due to a plea in abeyance agreement.

TIMOTHY, DALE, Sales Agent Applicant, Pleasant Grove, UT. Application for sales agent license approved but placed on probation the initial licensing period in a February 26, 2008 Order, due to past criminal convictions.

VENABLE, SAM, Sales Agent Applicant, Layton, UT. Application for sales agent license approved on probationary status for two years in an October 29, 2007 Order, because the applicant failed to disclose a criminal conviction.

VIDRINE, NATHAN G., Sales Agent, Ogden, UT. Agreed to pay \$2,500.00 civil penalty in a January 16, 2008 Order, for violating Utah Code Annotated Section 61-2-11(5)(b) in which Mr. Vidrine advertised property management activities under a different unlicensed company name on the agent's website and for not having met the requirement of having the broker's name one half the size of the agent's name as required on signs. Case# RE34169.

WALBURGHER, ADAM, Sales Agent Applicant, Lehi, UT. Application for sales agent approved on probationary status for two years in a September 14, 2007 Order, in which Mr. Walburgher later appealed that decision. The applicant failed to attend an appeal hearing scheduled on December 19, 2007. In a January 3, 2008 Order the original Division decision was affirmed.

WINDMILLER, JIM, Broker Renewal Applicant, Idaho Falls, ID. Application for broker renewal license is approved but placed on probation for licensing pe-

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riod in a February 15, 2008 Order, due to disciplinary actions taken by the Idaho Real Estate Commission.

The following is a list of individuals whose real estate licenses were revoked for failure to accurately disclose their criminal background on their initial applications:

Name	Revocation Date
CUEVAS, JOSEPH T.	02/06/2008
DAY, KEVIN T.	02/06/2008
DUNHAM, MICHAEL	02/06/2008
HARBAUGH, HARRISON	12/14/2007
HULL, BRYAN	02/06/2008
JENNINGS, KIRK	02/11/2008
KILLPACK, CASEY	01/30/2008
LINDSTEIN, MICHAEL	11/30/2007
NORDENSTROM, CHAD	02/06/2008
SKOWRONEK, JAMES	02/06/2008
SPANOS, CAMERON	11/30/2007
SPEER, DEBRA COVINGTON	02/11/2008
WEBER, ZACH	02/06/2008

## TIMESHARE

SELECT TRAVEL L.C. dba GREAT ESCAPES VACATION CLUB and/or BAREFOOT'N DEVELOPMENT COMPANY LLC, Orlando, FL. Order to Cease and Desist issued on January 18, 2008, from engaging in the business of offering / selling timeshare interests in this State until such time as the company has registered its timeshare development and salespersons with the Division. Case # RE37612.



## Common Appraisal Problems

By Craig Morley, Board Member

### Utah Appraiser Licensing & Certification Board

This article is intended to address a number of common misunderstandings and misperceptions regarding the appraisal practice. In an attempt to provide greater clarity and avoid industry confusion, this article has been submitted.

#### Scope of Work

The 2008-2009 edition of USPAP requires the appraiser to describe the scope of work to be performed in the development and reporting of the appraisal. Fannie Mae forms describe a minimum scope of work on the form. If you use a form where the scope of work is described, you MUST complete all aspects identified in the report form. Fannie Mae does not allow the form to be modified. Fannie Mae forms describe the type of inspection, and the extent of data verification required. Make sure that you are completely familiar with the addendum and that you are performing all of the work outlined on the appraisal report form.

#### MLS Photos

We are concerned by the number of MLS photos used in appraisal reports. Fannie Mae requires that comparable sales are to be inspected by the appraiser. There are few (if any) reasonable explanations for not using the photograph that you take while inspecting the comparable. Original inspection photos taken by the appraiser should always be included as part of the appraisal file.

## Supplemental Standards

HUD has additional supplemental standards that must be complied with. Be careful not to put contradictory scope of work addendums in your report. Some appraiser's are putting generic addendums in the appraisal report that are in conflict with the scope of work identified in the report form.

## Intended Use and Users

You are required to discuss with your client what the intended use for an appraisal is, and who the intended user(s) are. In addition the scope of work must be determined between the appraiser and the client. Potential problems can be avoided if you determine in advance what your client needs before the appraisal assignment is accepted. A written engagement letter outlining the scope of the appraisal assignment is always preferable.

## Sales and Listing Histories

### Subject Property

USPAP requires a three year sales history of the subject and a one year listing history of the subject. Since August of 2003, the state of Utah has expanded the reporting requirement for the listing history of the subject property to three years preceding the effective date of the appraisal.

An appraiser should attempt to determine if the subject property was sold or transferred in the past three years. Many counties have online record searches that allow for easy access to sale and transfer data information. Simply because a property is new or proposed does not negate the requirement to provide the three year sales history. USPAP does not exclude new construction from the sales history requirement. You may not be able to report the purchase price, but you should report the steps taken to verify this information. Lot sale information may be useful in supporting your site value in the cost approach if your scope of work includes that analysis.

### Comparable Sales

USPAP does not require a sales history for comparable sales. Fannie Mae requires a one year sale/transfer history for comparable sales. Many clients require a more extensive sales history than is required by USPAP. It is important to remember that while USPAP does not require a comparable sale transfer history, Fannie Mae does.

## Misleading Appraisal Reports

Fannie Mae forms have very specific scope of work requirements and have defined the intended use and user in the appraisal report. Appraisers should NOT use Fannie Mae forms for anything other than a mortgage loan transaction. Most software vendors provide non lender forms that allow the appraiser to define the intended use and the intended user. Make sure that you know what scope of work is defined in the appraisal report form you are using. The Appraisal Institute has an appraisal report form for both lots and residential homes that can be used for non lender transactions.

Unsupported or omitted statements in an appraisal report can result in a misleading appraisal report. Many appraisal reports have poorly described neighborhood and property descriptions that lack the necessary information for the client to make an informed decision. Many reports reflect significant reductions in the effective age of a property with no explanation or comments as to what was done to lower the effective age. Many reports include generic neighborhood and site descriptions where neighborhood values and ages seem inconsistent with the subject property. Specific, relevant and informative explanations are always best.

Unsupported adjustments are common and may be misleading. There appears to be little thought given to adjustments made to comparable sales. Examples include reports where the appraiser uses the same adjustment method regardless of the age, size and quality of the property being appraised. Some appraisers will make adjustments for age and size that are clearly not extracted from the market. Make sure that you can support the adjustments you are making from the market.

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## Appraiser Trainees

No experience credit will be awarded towards becoming a Licensed or Certified appraiser if the Trainee seeking experience credit is not identified in the appraisal report; and their participation in the appraisal process is described (in reasonable detail).

An appraiser Trainee is not an appraiser and shall not sign the appraisal report, solicit work in their own name, or be paid directly from the client. A Trainee may represent the Certified Appraiser in obtaining work (in behalf of the Trainee's supervisor or the supervisor's appraisal firm) and participating in the appraisal process. If you are a registered Trainee or are a Certified Appraiser considering supervising up to three Trainees, make sure you know the rules regarding proper supervision, inspection of properties, earning experience points, etc. Answers to these and other questions can be found on The Division's website at <http://www.rules.utah.gov/publicat/code/r162/r162-105.htm>

Many lender/clients have supplemental standards that exceed that which is required by USPAP and state rules. Most lender clients require the appraiser to sign the appraisal report as having inspected the interior and exterior of the subject and the exterior of the comparable sales. The inspection date is the date the appraiser who signed the report looked at the property. Appraisers who allow the Trainee to do all of the work and do not inspect the subject and comparable sales where the scope of works requires it, are in violation of USPAP.

## Undue Influence by Clients

Appraisers are commonly asked to do something by a client that violates USPAP. The appraiser has the primary responsibility to know what is appropriate and what is not.

Lender's need better education on what they can expect from an appraiser. Many lenders do not want to engage an appraiser if the appraisal is going to be a problem and will try to determine what the property will appraise for before the appraisal is actually requested.

Any appraiser, who provides a range of value, "less than" or "greater than", has appraised the property and must comply with USPAP Standard Rule 1. Conveying what has been developed, while complying with Standard Rule 1; the information must be reported in compliance with Standard Rule 2. An appraiser can not tell a client how much a property will appraise for before the appraisal assignment is given to the appraiser. Any contingent appraisal assignment should be declined. An example of a contingent appraisal assignment would be one in which the appraiser's services are not paid for "unless the loan closes", or "don't complete the appraisal if you can not achieve a predetermined value".



The Division of Real Estate employee's would like to thank Derek for his leadership over the past 2 1/2 years. Derek came to our Division in October 2005 with new ideas, goals and gave the Division a new direction. He had a knack for focusing on what was important to not only the licensee but also to the Division. Derek wanted us each to re-think the way we served licensees and how we protect and better serve the public. The Division began to evolve into a more efficient, well organized and professional organization. All interaction with licensees, schools, educators, commissioners and each other were reviewed and evaluated in order to achieve an overall higher level of performance. Our first year with Derek provided big changes for our licensing processes, license renewals, investigations and

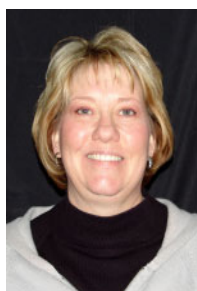
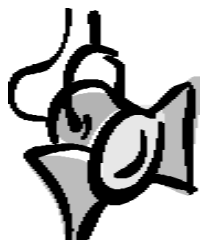


# Staff Spotlight

**Carla**

**Westbroek**

**Appraiser Education  
Licensing Specialist**



Carla Westbroek has been with the Division since December 2004 as our Appraiser Education and Licensing Specialist. Prior to coming to the Division Carla worked for title and mortgage companies. Carla recalls a favorite work experience when she worked for Davis County school district for 11 years as a reading

tutor for elementary children. She loved interacting with the kids and truly enjoyed being around them all. Carla has five children and five grandchildren (with one more on the way) with whom she loves spending time. In addition to spending quality time with her family Carla enjoys reading and loves to travel (with her most memorable visit to Australia).

Carla had one of her most challenging years in 2007 since she began working at the Division. As many of you know, in 2007 appraisers were attempting to qualify under existing pre-licensing requirements before more rigorous federal requirements were imposed. In addition, many ad valorem appraisers were required to document prior years work experience. Together these combined challenges triggered hundreds of “clarifying phone calls”. We are pleased that both Carla and our state's appraisers survived. Carla was the lifeline for the many challenges and obstacles appraiser applicants and licensees faced. Carla has calmed the nerves of many appraisers over her years working with the Division. Last year, if you were to walk by Carla's desk she had stacks and stacks of “proof of experience packages” that she would wade through. The Division staff would routinely check in to see if she was able to climb out of her cubicle as she was surrounded by

piles of packages. Carla says it was definitely a challenge complying with the massive changes occurring in 2007 but takes great pride in the advancements and accomplishments of this past year. She has a positive attitude for the future of appraisers. She would like to thank all the appraisers for their patience, understanding and the positive feedback she received during this difficult transition. She has enjoyed learning the “in’s and out’s” of education/licensing and has a great respect for what it takes to become an appraiser, she truly enjoys working with the appraisers!

**Utah!** **DIVISION of REAL ESTATE**  
NEWS

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## Supervision Requirements Increase For Principal Lending Managers

Recently Division rules were approved which call for the expanded supervision of licensees and unlicensed staff by Principal Lending Managers (PLM's). In addition to supervision rules previously established for PLM's, these recent rule changes provide for increased supervision standards for PLM's:

Principal lending managers shall;

R162.205.2.1 (e) establish and enforce written policies and procedures for ensuring the independent judgment of any underwriter employed by the entity which employs the principal lending manager;

(f) establish and follow procedures for responding to all consumer complaints, and personally review any complaint relating to conduct that could constitute a violation of federal or state law governing residential mortgage lending by a licensee affiliated with the principal lending manager or by any unlicensed staff;

(g) establish and maintain a quality control plan that includes at a minimum procedures for performing pre-closing and post-closing auditing of at least ten percent of all loan files and taking corrective action for problems identified through the audit process. Quality control plans which comply with HUD/FHA or Freddie Mac requirements shall be deemed to be in compliance with this rule; and

(h) review for compliance with applicable federal and state laws all advertising and marketing materials and all marketing methods to be used by the entity and licensees affiliated with the principal lending manager.

As noted, these rules establish new industry standards for

the supervision of individuals who are under the supervisory control of the PLM. Each of the four new rules establish new supervising requirements and standards for Principal Lending Managers.



The critical role played by underwriters in the lending process is underscored by these rules. Procedures to ensure an underwriter's independent judgment are now required

when employed by a mortgage entity. Customer complaints will now require tracking and monitoring to ensure an adequate response and that licensees and staff are in compliance with State and Federal laws.

Of perhaps greatest significance, is the requirement for a comprehensive quality control plan to be administered by the PLM for (at a minimum) both "pre" and "post" closing audits of all residential mortgage loan files. This quality control plan (under the direct supervision of the PLM) shall include a minimum requirement of at least 10% of all loan files. The requirement for a quality control plan includes the capability to identify and track problems as well as the requirement to take corrective action for recognized deficiencies.

In addition, PLM's now have a greater responsibility for ensuring compliance for all marketing and advertising conducted either by the entity or by licensees affiliated with the PLM of an entity. All PLM's are now required to ensure that all marketing materials and advertising comply with all applicable state and federal laws for both the entity and individual licensees.

The Division of Real Estate and The Utah Residential Mortgage Regulatory Commission believe that these new rules will significantly raise industry standards. Advertising and customer complaint resolution will now be more closely scrutinized by supervising PLM's. A staff underwriter's independent judgment has been emphasized and strengthened. The introduction of a PLM supervised quality control plan where at least 10% of all files are audited will help to ensure adequate and timely supervision of all lending activities.

These rules are currently effective. All PLM's should initiate an immediate assessment of their business practices in order to gauge how their mortgage entity is currently operating in light of these new standards. We encourage your prompt and focused efforts to ensure that each actively licensed mortgage entity is in compliance with these new requirements.

**THANK YOU**

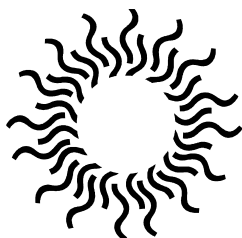
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education. As you know he implemented an expanded and more user friendly website, former Director Miller also expanded and dramatically improved online renewals, change cards, and forms for complaints and education. The changes on our web site have been greeted with enthusiasm and appreciation from the public.

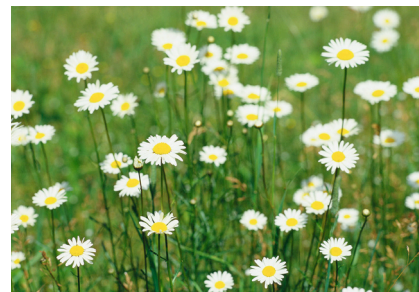
He traveled for our yearly Caravans across the state, spoke regularly at industry meetings, task force groups, with legislators and each time he did this, he was always frank about the challenges and obstacles we were facing. Former Director Miller took the time to explain what he was doing to help each industry overcome their challenges. Each time he met with our industries he was met with lively discussions but always a solid foundation for seeking what was "best for all." This interaction and commitment to achieve excellence improved the Division as a regulatory agency, and enhanced the performance of the real estate, mortgage and appraisal industries. He laid the ground work for a lasting and solid relationship with the public.

We wish Derek B. Miller the very best in his new challenges and are truly thankful for the leadership he provided us.



**2008  
UTAH  
DIVISION OF  
REAL ESTATE  
SPRING CARAVAN**

The Division will be visiting outlying areas for our annual spring caravan. Meet the new Director Mark Steinagel, listen as he discusses his desire to assist licensees and to hear his assessment of "where we are" and "where we are going." Also hear from Mark Fagergren and Dee Johnson regarding licensing, education and enforcement issues. Pre-registration is required for all locations.



Watch your mail or stay tuned to the Division's website for further details if you live in or adjacent to a county where the caravan will be held.

- Park City April 24th
- Roosevelt April 25th
- St. George April 30th
- Richfield May 1st
- Moab May 2nd
- Layton May 6th
- Lindon May 12th
- Logan May 15th

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