

Utah! DIVISION of REAL ESTATE NEWS

*A publication for Utah's real estate,
appraisal, and mortgage professionals.*

Gary R. Herbert, Governor • Francine A. Gian, Executive Director • Deanna Sabey, Division Director

FOURTH QUARTER 2009



Deanna Sabey

From the Director's Desk

My father taught me to be ready for opportunities when they come knocking. When the chance to become Division Director came my way, I knew the position was one of those outstanding opportunities I could not pass up. I had worked for years as general counsel

for a nationwide mortgage company and had my real estate license long ago in California. Given my professional background as a lawyer and my love of the real estate industry, I jumped at the chance to become the DRE's new Director.

When I started working at the DRE in August of this year, the first thing I noticed was that Division staff work very hard and take their jobs seriously. They care about the real estate, appraiser, and mortgage industries. They are not afraid to think outside the box and help come up with solutions to make the Division more effective and efficient. I thought it would be good to recognize them for their efforts. One of my old clients had a practice of sharing at staff meetings the correspondence from customers who expressed their thanks for the good services of an employee. I have adopted that practice. If you have a good experience with one of our staff members, I encourage you to send me an e-mail: realestate@utah.gov.

The DRE remains fully engaged in the education, licensure, and regulation of real estate, mortgage and appraisal professionals. Since August, the Division

has spent hundreds of hours working on the process for mortgage licensees to transition onto the NMLS system. Utah is mandated by federal law to participate in this system. Staff has been working on new mortgage and appraiser rules, some of which have been finalized or are now out for public comment (see Rules, Rules, Rules article on page 14). We are planning to implement an on-line complaint process in January so the Division can respond more quickly to complaints. These are just a few of the "upgrades" taking place at the DRE.

The Division finally has the ability to e-mail our newsletter to you. You might have received the newsletter you're reading right now by e-mail. This method of delivery saves paper, postage, staff time, etc. and eventually will allow you to receive more than just the newsletter via e-mail. In the future, we will be able to e-mail you renewal reminders, important bulletins, and other

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information you need to know regarding the DRE, your license, and your industry. Please make sure the Division has your most current e-mail address so you won't get missed. An on-line version of the newsletter will also be posted on the Division's website.

Recently, the Division modified its mission statement to add the clause "promote responsible business practices." With the ugly market downturn, some people seem to have either forgotten what responsible business practices are or justify their actions as responsible when their actions are illegal. A good example is the practices of some "professionals" involved in short sales and loan modifications. The press has covered stories involving victims of fee gouging, illegal property transfers, fraud, and blatant deceit perpetrated by unscrupulous people. Many of the bad actors don't even bother to get licensed. The Division has received complaints about such illegal practices and is taking action to "bring down" the bad guys.

In the state of Utah, a person who performs loan modification services on behalf of a consumer must be licensed as a mortgage loan officer. A loan modification occurs when a person assists a borrower in obtaining loan terms that vary from the existing loan terms. Done legally and ethically, a loan modification can be an excellent tool to help a borrower in trouble.

Short sales can also provide necessary relief for people who are struggling with mortgage payments or who are simply trying to sell a home. If someone is negotiating a short sale on behalf of another person, that individual must be a licensed real estate agent or broker. In a short sale, the lender accepts less than the borrower's remaining balance on the note in exchange for the proceeds of an approved real property sales transaction. The lender sometimes agrees not to seek further payment from the borrower after the transaction has closed. Unless the borrower gets a deficiency waiver from the lender, the lender can obtain a deficiency judgment and force the seller to pay the balance left on the note after the home sells.

Because real property values have significantly decreased over the past couple of years, a seller is sometimes left with no remedy other than a short sale in order to sell a property. It's not too hard to see why it is wise for a seller to enlist the services of a knowledgeable and ethical real estate agent to help navigate the short sale process.

Whether you are a mortgage lender, real estate professional, appraiser, or time-share professional, my approach to licensing and regulation is rather simple. If you are licensed, stay educated, and strive to provide the best service you can for your clients, you won't hear from the Division very often. If you do not adhere to responsible business practices and violate the laws and rules the DRE is charged to enforce, we will hold you fully accountable and bring you before a commission or board of your peers.

I hope to make your acquaintance under pleasant, non-adversarial conditions!



WELCOME



**MORTGAGE FOLKS PLEASE READ ALL
TRANSITION ARTICLES! THERE IS
CRITICAL INFORMATION THAT WILL
DIRECTLY AFFECT YOUR LICENSE!**

Transitioning A Utah Mortgage Loan Originator License Or Lending Manager License Onto The Nationwide Mortgage Licensing System:

To comply with the SAFE Act, all mortgage officers and lending managers must transition their licenses onto NMLS between January 4 and May 31, 2010. You will need to accomplish the following to facilitate your transition.

- Complete Education Requirement
- Complete Testing Requirement
- Complete Background Check
- Create an Individual Account in NMLS and Obtain a Unique Identifier Number
- Create/and or attest to an MU4 Form
- Establish a Sponsorship with your employer
- Submit your MU4 Form for transition through NMLS

Education Requirement—The SAFE Act requires that all licensees complete a minimum of 20 hours of pre-licensing education. If you are an existing licensee in Utah, many of you have met this requirement, either by completing our state-approved 20-hour pre-licensing education requirement or by completing two license renewal cycles, each of which included 14 hours of continuing education. There will be an opportunity for you to certify your prior completion of the education requirement once your record is created in NMLS. Details on this certification process will come out in a later newsletter. For now, be aware that there will be a \$15 fee assessed in NMLS to complete this process.

Testing Requirement—All licensees must complete a national and state component of the SAFE exam. All Utah licensees who have passed the state exam

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Annual Instructor Development Workshop A Resounding Success

Licensing instructors from around the state gathered for the annual Instructor Development Workshop this past October. This year's event was held in Salt Lake, and over 100 real estate, mortgage, and appraisal instructors (both pre-license and continuing education) enjoyed a fascinating and enlightening two-day training session.



Amy Chorew, a national technology instructor, showed our professional instructors the new tools available to better reach and communicate with students. According to Chorew, "Empowered instructors can empower licensees." She taught licensed instructors about synchronous online delivery and gave them guidance as to which topics work well in this medium. Chorew exposed attendees to different technology techniques such as enabling clip art, special effects, and animations, and embedding video into slides, websites, and Power Point presentations.

All attendees left with an increased understanding and enthusiasm to include new ideas and procedures into their teaching materials.

New Division Director Deanna Sabey introduced herself to the state's licensed instructors and presented her insight into our industries and the Division's regulatory responsibilities.

Mark Fagergren, the Division's Licensing/Education Director, discussed with attendees new DRE rules and Dee Johnson, Enforcement Director for the DRE, presented the current enforcement issues and challenges that are "rearing their heads" and causing regulatory problems.

This year's instructor workshop was very successful and was also a great way to encourage interaction between regulators and educators.



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Transitioning A Utah Mortgage Loan Originator License Or Lending Manager License Onto The Nationwide Mortgage Licensing System:

component in the past will be able to certify in NMLS that they have met this requirement. Details on this certification process will be explained later. There will be a \$5 fee assessed in NMLS to complete this process. **All** licensees will need to take and pass the **national** component of the SAFE test, even if you already passed the general portion of the current Utah mortgage originator exam. You have from now through December 31, 2010 to take and pass the NMLS national exam. We are recommending that you do this sooner rather than later so that you can beat the rush and ensure that your license will not be in jeopardy. Should you fail the exam, you must wait 30 days to retake the exam, so give yourself at least that much time—just in case. You must register for the exam in NMLS by creating an **Individual Account** and selecting the “Professional Requirements” tab. There is a \$92 fee to take the exam.

Background Check – Before December 31, 2010, you will be required to submit fingerprints into the NMLS and authorize a background check. This functionality is scheduled to be available sometime in January, 2010. **All** licensees will be required to submit their fingerprints—even those who completed this process in the past. Details on this process will be explained to you at a later time.

Individual Account in NMLS—Every licensee will need to create an individual account. This process will provide you with a unique identifier. Having an account will allow you to attest to your record if created by your company, schedule the NMLS exam, access your account for amendments, request or change sponsorships (entity affiliations), and perform other activities necessary to maintain your license. To create this account, access NMLS through this link: www.stateregulatoryregistry.org. Then click the “Log into NMLS” button.

Log into NMLS

Follow the guides provided on the NMLS Resource Page to create your account. If you need personal assistance, you can call the help

center at (240) 386-4444 during business hours (7:00 a.m. to 5:00 p.m.), and customer service professionals will answer your questions and walk you through the program.

Create or Attest to an MU4 Form—Every individual mortgage loan originator must complete a record in NMLS by completing an MU4 Form. This form may be completed by your employer. In that situation, you will simply have to attest to its accuracy. If you prefer, you may complete the form yourself. After you have obtained an Individual Account in NMLS, you may log onto the system (www.stateregulatoryregistry.org) to complete your record under the “Filing” tab. There are quick guides in the NMLS Resource Center that will guide you through this process. Please note that you will need to have your current DRE license number to avoid creating a “new license” and being assessed additional fees. You will also need to be prepared to provide ten years of residential and work history.

Establish a Sponsorship with your Employer – The company that employs you must request a sponsorship on your behalf. Before the PLM can do this, you must grant access. This is accomplished once you have completed your MU4 filing. You will log into NMLS at the NMLS website at www.stateregulatoryregistry.org/nmls and click on the following button: Under the “Filing” tab, click on Company Access and follow the instructions.

Log into NMLS

Submit your MU4 Form for Transition – Once your MU4 Form is completed, you can request transition. This process should be done **ONLY AFTER** you have submitted all required information, sent any required documentation to the DRE, and established your sponsorship with your company. The DRE regulators will review the request, verify accuracy, and then issue approval. Once the transition is approved, your license is fully transitioned into the NMLS system, and you are ready for the renewal process that begins November 1, 2010.



My Real Estate License Is Inactive... I Have It Placed With A Referral Company... **NOT!**

It's not unusual for the Division to receive a phone call from a licensee who says something like this: "I want to inactivate my license because I've decided to place it with a referral company." We need to clarify this issue in order to assist you in the proper maintenance of your license. The Division of Real Estate recognizes two different license statuses: "active" and "inactive". If your license is **INACTIVE**, you are not affiliated with **ANY** company. You are legally ineligible to engage in the business of a real estate agent or broker and you are prohibited from receiving any compensation, including referral fees. In order to be affiliated with any real estate company, including referral companies, property management groups, and commercial or residential brokerages, your license must be **ACTIVE**. There is a common misconception that a license may be placed on inactive status, but still affiliated with a referral company.. This is untrue! The only license that will allow you to be compensated for providing referrals is an active license. It is very important to familiarize yourself with the terms used by the Division in order to avoid costly penalties and unnecessary fees.



Staff Spotlight

Jennica Robison DRE Receptionist

Have you ever visited the Utah Division of Real Estate office located in the Heber M. Wells building? Have you ever called the UDRE's main phone number? If you have, you surely know that the UDRE has one of the best receptionists a professional office could have! Jennica has been the receptionist for our Division for over two years. Throughout this time, we can honestly say our office has never run more smoothly or efficiently. She has brought to the front desk



a level of professionalism and expertise that we deeply appreciate. Jennica has a friendly and disarming disposition. She is extremely bright and provides detailed and focused assistance to the professionals who arrive at our office.

Jennica has multiple responsibilities at the Division. She not only warmly greets all visitors with a sincere smile, but she addresses a plethora of wide ranging questions while answering the phone. Jennica also distributes all incoming mail, makes an initial review of fingerprint submissions, reviews new license and continuing education applications, processes license renewals and change cards, and handles anything else that comes through the fax machine or mail. Jennica is the initial point of contact with our licensees and the general public, and we are very proud that she represents us in serving you!

So, if you ever have questions and want a friendly person to talk to... Jennica can quickly and efficiently assist you while making your day a little bit brighter.



License Renewal Q & A

Q: Does my license renew this year or next?

A: The easiest way to determine your renewal date is to check your pocket or wall license for this information.

If you can't find either of your printed licenses, you can quickly verify your license expiration date by going to the Division website at www.realestate.utah.gov. On the main page is a link that allows you to look up specific information on any licensee. Click on "Look Up A License". Type your name and click "submit" and then "detail". Your name, license number and license expiration date will appear.

Real estate and appraiser licenses are valid for two years. Mortgage licenses will all expire on December 31, 2010. Thereafter, mortgage licensees will renew annually between November 1st and December 31st.

Q: If I have an inactive real estate license, do I need to renew it?

A: YES!! Your license can remain on inactive status for as many renewal cycles as you desire, HOWEVER, it essential that you renew your license prior to its expiration date. If a license is placed on inactive status and a licensee fails to renew, that license will expire! Real estate licensees renewing an inactive license do not require continuing education, but the application must be submitted along with the necessary renewal fee. Under NMLS requirements, a mortgage licensee is required to complete continuing education in order to renew the license even if the license is renewed on inactive status. Appraisers do NOT have an inactive license status.

Q: How do I know my renewal was received and processed by the UDRE?

A: If you have successfully renewed your license, you will receive a new license in the mail within ten business days. Online renewal applicants can immediately print a temporary license to use until the UDRE license arrives. If you have not received your license within ten business

days.... something is wrong! Have you updated your address? Did you send in a renewal fee? Was the credit card you submitted declined? Did you send in all your CE certificates? Did the CE you submitted meet the minimum number of hours and core course requirements?

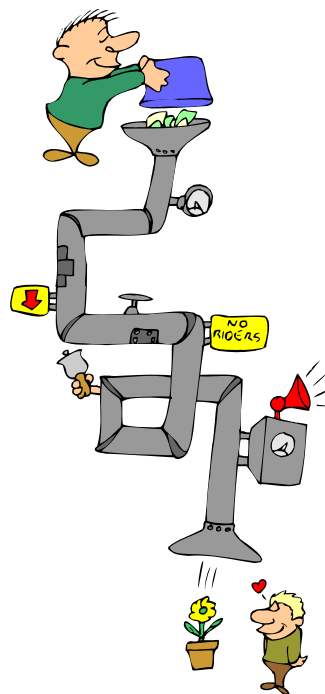
Q: Why didn't I receive credit for the continuing education I recently completed?

A: The course provider is responsible for submitting proof of education completion for licensees. These providers have 10 business days to "bank" the education into your personal continuing education account. Check your RELMS account 10 days after you finish a course. If your account does not show

the course, contact the course provider. If the provider still fails to bank your education, complete a "CE Banking Complaint" form and send it to the UDRE.

Q: I need continuing education hours...Where do I find some courses?

A: The UDRE maintains a list of all approved courses. Simply go to www.realestate.utah.gov and select the drop down menu for your industry. Then go to Education FAQ's, scroll down and click the link to certified continuing education. This list will provide an array of certified courses for the choosing!



***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.

BODELL, J. MARTELL, State Certified Residential Appraiser, Salt Lake City, UT. In a July 22, 2009 stipulation and order, Mr. Bodell agreed to pay a civil penalty of \$1,250.00. Mr. Bodell was requested by a lender to review an appraisal report provided by a certified appraiser. If Mr. Bodell agreed with the appraiser's findings, he was to sign as a supervisory appraiser. Mr. Bodell reviewed and signed the report but did not inspect the subject property or any of the comparable sales. In so doing, he violated the USPAP Ethics Standard as to conduct. The appraisal report had several USPAP violations, and the appraiser used inappropriate methods in the selection of comparables for the sales comparison approach in the URAR. Case number AP 43592.

BODELL, M. TRENTON, State Certified Residential Appraiser, Draper, UT. In a June 22, 2009 stipulation and order, Mr. Bodell agreed to pay a civil penalty of \$3,750.00. Mr. Bodell included, but failed to analyze, two prior transfers of the subject property in his report. In addition, Mr. Bodell used comparables outside the subject property's neighborhood while ignoring comparables within the neighborhood, indicating that he was influenced by the sales contract

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JEANETTE PAYNE



**APPRAISER LICENSING AND
CERTIFICATION BOARD**

I am honored and excited about the opportunity to help move the appraisal profession forward. I studied Arabic at Harvard and graduated from the University of Utah. I am a Certified Residential Appraiser and have over 20 years experience in the appraisal profession. I started appraising as an FHA appraiser and have appraised mostly VA, Relocation and Eminent Domain residences. I have been active in the Utah Chapter of the Appraisal Institute and in the past have served as Education Chair, Candidate Guidance Co-Chair, Christmas Party Chair as well as various other assignments. I have experience being a reviewer for the State Division of Real Estate and am presently a pre-license Appraisal Instructor. I received the "Appraiser of the Year" award both from the Salt Lake Sub-Chapter and the Utah Chapter of the Appraisal Institute. I am married to Allan Payne, MAI, SRA and have 4 daughters and sixteen grandchildren.



Disciplinary Sanctions Continued from page 8

in beginning his search for similar comparables. In doing so, Mr. Bodell violated USPAP Standards Rule 105(b), USPAP Standards Rule 1-1(a), and USPAP Standards Rule 2-1(a). Case number AP 43593.

HARDY, KENNY A., State Certified Residential Appraiser, Provo, UT. In a July 22, 2009 stipulation and order, Mr. Hardy agreed to surrender his State Certified Residential Appraiser license and to wait five years before applying for any appraiser license. Mr. Hardy used improper real estate appraisal procedures and methodology in reaching appraised values for three subject properties. Mr. Hardy failed to accurately analyze immediate past previous sales of two subject properties. For one, he arrived at a value 104% higher than that evidenced by an arm's-length sale six months earlier. For the second, he arrived at a value 158% higher than that evidenced by an arm's-length sale 12 months earlier. In a third subject property, Mr. Hardy failed to consider, select, and apply the closed sale comparables that were most similar to the subject property. In each case, Mr. Hardy failed to maintain accessible and complete work files. In doing so, Mr. Hardy violated USPAP Standards Rule 1 (2006), including subparts 1-4, 1-4(a), 1-5, 1-5(a), and 1-5(b); and USPAP Standards Rule 2 (2006), including subpart 2-1(a). Case numbers AP 38809, AP 43851, and AP 43850.

MAY, MARK B., State Certified Residential Appraiser, Bountiful, UT. In a November 18, 2009 order following a disciplinary hearing before the Board, Mr. May was ordered to pay a civil penalty of \$10,000.00. In violation of Utah Admin. Code § 162-107.1.2 and with regard to four separate properties, Mr. May signed appraisal certifications stating that he had personally inspected the properties. In reality, a registered trainee working under the supervision of Mr. May performed the inspections. The Board notes that these actions may be seen to violate the USPAP Scope of Work Rule, USPAP Standards Rule 2-1(a), USPAP Standards Rule 1-1(b), USPAP Standards Rule 2-2(b)(vii), and the USPAP Ethics Rule as to conduct in addition to **Utah Admin. Code § 162-107.1.2**. Case numbers AP 46361, AP 46362, AP 46363, and AP 46364.

PARKINSON, SCOTT M., State Certified Residential Appraiser, Smithfield, UT. In a June 24, 2009 stipulation and order, Mr. Parkinson agreed to pay a \$1,000.00 civil penalty and successfully complete a 45-hour real estate appraisal course. Mr. Parkinson used improper real estate appraisal procedures and methodology in reaching the appraised value for a property. He incorrectly applied an extraordinary assumption that effectively nullified the remainder of the report. He failed to provide support and documentation for the highest and best use analysis that he included in the appraisal report. Mr. Parkinson did not include adequate detail in the sales comparison section of the appraisal in that it had no comparable location map and did not contain the total size of each comparable used. Mr. Parkinson failed to analyze and discuss the zoning for the subject property. In addition, he failed to provide information as to the specific jurisdiction or to the legal uses allowed under current zoning. In doing so, Mr. Parkinson violated **Utah Code Ann. § 61-2b-27**, USPAP Standard 1 (2006), USPAP Standards Rule 1-1(c) (2006), USPAP Standard Rule 2 (2006), and USPAP Standards Rule 2-1(c) (2006). Case number AP 37104.

SNELL JR., PHILLIPA., State Certified General Appraiser, Salt Lake City, UT. In a September 23, 2009 stipulation and order, Mr. Snell agreed to the revocation of his State Certified General Appraiser license and the issuance of a State Certified Residential License. Mr. Snell further agreed to pay a civil penalty of \$2,000.00. Mr. Snell appraised a commercial property intended for subdivision at \$8,500,000.00 without analyzing a prior listing of the property for \$1,080,000.00 and subsequent sale in the same year for \$900,000.00. In doing so, Mr. Snell violated USPAP Standards Rule 1-5(b) and Utah Admin. Code § R162-106-7. In addition, Mr. Snell used three land comparables, one of which was an unverifiable 2004 sale of the subject property for \$5,200,000.00. The other two comparables were listings. In doing so, Mr. Snell violated USPAP Standards Rule 1-1(a), USPAP Standards Rule 1-4(a), and USPAP Standards Rule 2-1(a). Case numbers AP 28517, AP 29308, AP 32252, AP 36798, and AP 37888.

TARR, DANIEL BRENT, State Certified Residential Appraiser, West Jordan, UT. In a November 9, 2009 stipulation and order, Mr. Tarr agreed to pay a \$1,000.00

civil penalty and complete a 15-hour USPAP course. In preparing an appraisal report, Mr. Tarr used inappropriate comparables, several of which were listings. In doing so, Mr. Tarr violated USPAP Standards Rules 1-1(a) and 1-4(a). Case number AP 41100.

WOOD, JEFFREY D., State Certified Residential Appraiser, Fillmore, UT. In a July 22, 2009 stipulation and order, Mr. Wood agreed to pay a civil penalty of \$3,750.00 and to complete a 15-hour USPAP Course. Mr. Wood appraised a parcel of vacant land intended for active development. He used three comparables, two of which were from established developments with improvements and outside the subject area. There were 23 sales in the subject area that Mr. Wood did not consider in his market data analysis. Mr. Wood used a hypothetical assumption to establish the value upon completion. He failed to report the appraisal as being "subject to" completion or to detail the hypothetical assumption in determining the current market value. In so doing, Mr. Wood violated USPAP Standards Rule 1-1 (a), USPAP Standards Rule 1-2(g) and USPAP Standards Rule 2-1(a). Case number AP 37889.

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.

ADAMS, ANTHONY, Mortgage Officer, Costa Mesa, CA. In a November 3, 2009 order, conditional license is automatically revoked on a finding that Mr. Adams failed to accurately disclose his criminal history on his licensing application.

ALLISON, HOLLIE, Mortgage Officer Applicant, Salt Lake City, UT. In a July 7, 2009 order, application is granted with restriction. License is placed on probation

for the initial licensing period due to convictions for multiple driving violations, compounded by Ms. Allison's failure to disclose her convictions on her application.

AMERICASH CREDIT, INC., Mortgage Entity, Brea, CA. In a November 4, 2009 stipulation and order, the company agreed to pay a \$2,500.00 civil penalty. In violation of Utah Code Ann. § 61-2c-301(1)(r), the company failed to exercise reasonable supervision over unlicensed staff such that an employee originated loans without being licensed as a mortgage officer. Case number MG 46823.

AVERY, KENNETH P., Mortgage Officer Applicant, Bountiful, UT. In a July 29, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to recent citations for traffic violations and subsequent proceedings. Mr. Avery appealed the order. In a November 12, 2009 order following the appeal hearing, the Commission placed Mr. Avery's license on probation for a period of six months.

BARTON, HEATHER M., Mortgage Officer Renewal Applicant, Draper, UT. In a July 16, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a plea agreement with regard to two traffic-related misdemeanor charges, compounded by Ms. Barton's failing to report her plea agreements to the Division within ten business days as required by statute.

BARTON, JEFF, Principal Lending Manager Applicant, Malibu, CA. In a November 2, 2009 order, application is granted with restriction. License is suspended due to a conviction for assault.

BOUCK, STANLEY BRANDON, Mortgage Officer Applicant, American Fork, UT. In an August 12, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to Mr. Bouck's entering a guilty plea to a charge of violation of a protective order.

BRANTLEY, STEVEN D., Mortgage Officer Renewal Applicant, South Jordan, UT. In a November 12, 2009 order following a hearing before the Commission,

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Disciplinary Sanctions Continued from page 9

application is granted with restriction. License is placed on probation due to Mr. Brantley's having stipulated to the revocation of his title insurance license while under investigation by the Utah Insurance Commission.

BROWN, ASHLEY C., Mortgage Officer Applicant, Salt Lake City, UT. In a July 29, 2009 order, application is granted with restriction. License is immediately suspended for a period of 60 days and thereafter placed on probation for the term of the license. In her application, Ms. Brown failed to disclose past convictions for trespass causing property damage, possession of alcohol by a minor, public intoxication, and DUI.

BROWN, ELLEN I., Mortgage Officer, Highland, UT. In a September 2, 2009 stipulation and order, Ms. Brown agreed to pay a civil penalty of \$2,500. In violation of **Utah Code Ann. §61-2c-301**, Ms. Brown offered to pay an unlicensed individual valuable consideration for performing acts that require a license. Case number MG 45944.

BROWN, MICHAEL (MIKELL), Mortgage Officer Renewal Applicant, Herriman, UT. In an October 8, 2009 order following a hearing before the Commission, application is granted with restriction. License is placed on probation for the renewal period due to Mr. Brown's having been prosecuted on charges of attempted aggravated assault and threat/use of a dangerous weapon in a fight with resulting fine, suspended jail sentence, and terms of probation.

BUDGE, JEANIE M., Principal Lending Manager, Layton, UT. In a November 4, 2009 stipulation and order, Ms. Budge agreed to a civil penalty of \$10,000.00 and the revocation of her principal lending manager license for a five-year period. In violation of **Utah Code Ann. § 61-2c-301(1)(d)(i)**, Ms. Budge originated, processed, and closed at least 15 FHA loans under the license of her sister, who was employed by Envision Lending. The object of the scheme was to circumvent the requirement of having Ms. Budge's company, E-Money Solutions Mortgage, Inc., obtain FHA approval. Case number MG 46914.

BURKE, ALAN, Mortgage Officer, Ogden, UT. In a November 4, 2009 stipulation and order, Mr. Burke agreed to pay a \$5,000.00 civil penalty. In violation of **Utah Code Ann. § 61-2c-301(1)**, Mr. Burke submitted FHA loans through E-Money Solutions, which was not FHA approved. Case number MG 46973.

BYRON, HEATHER L. Associate Lending Manager, Salt Lake City, UT. In an October 7, 2009 stipulation and order, Ms. Byron agreed to a five-year revocation of her ALM license and a civil penalty of \$12,500. In violation of **Utah Code Ann. §61-2c-301**, Ms. Byron submitted a loan application for a repeat client without verifying that the client's income had not changed since the previous application. The reported income was \$5,000 per month more than the client actually made. The loan was approved, but the client could not afford the payments, with the result that the property was foreclosed and sold. Case number MG 44798.

CAMPBELL, DEREK EDWARD, Principal Lending Manager, Salt Lake City, UT. In an October 7, 2009 stipulation and order, Mr. Campbell agreed to pay a civil penalty of \$2,500.00. In violation of **Utah Code Ann. §61-2c-301**, Mr. Campbell employed a mortgage officer while that individual's license was affiliated with a different PLM. Case number MG 46469.

CARROLL, CANDICE M., Mortgage Officer, West Point, UT. In a November 4, 2009 stipulation and order, Ms. Carroll agreed to pay a civil penalty of \$2,500.00. In violation of **Utah Code Ann. § 61-2c-301(1)(a)**, Ms. Carroll referred two loans to a mortgage company with which she was not employed and accepted a percentage of the commissions from the loan closings as a referral fee. Case number 46394.

CARRUTH, ROBERT P., Mortgage Officer Applicant, Sunset, UT. In an October 6, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to criminal history involving theft and possession of controlled substances.

CAWLEY, MICAH A., Mortgage Officer Applicant, Salt Lake City, UT. In a July 16, 2009 post-revocation order, automatic revocation of conditional license is upheld on

a finding that Mr. Cawley did not have a reasonable good faith belief at the time of application that he was not required to disclose a conviction for unlawful purchase, possession, or consumption by a minor.

COLE, JOHN, Principal Lending Manager Renewal Applicant, Laguna Beach, CA. In an August 24, 2009 amended order, application is granted with restriction. License is placed on probation for the renewal period due to licensing actions in Georgia and Wisconsin.

COMMUNITY LENDING GROUP, INC., Mortgage Entity, Riverton, UT. In an October 7, 2009 stipulation and order, owner Jared Hart agreed to pay a civil penalty of \$2,500. In violation of **Utah Code Ann. §61-2c-301**, the company distributed misleading advertising material in that it appeared to be sent from a government agency and did not clearly disclose what type of program or interest rate was being offered. Case number MG 46607.

CONSUMERS REAL ESTATE FINANCE CO., Mortgage Entity Renewal Applicant, Ft. Lauderdale, FL. In a July 7, 2009 Order, renewal application is granted with restriction. License is placed on probation for the renewal period due to compliance violations identified in the company's Ohio office and resulting in sanctions imposed by the Ohio Department of Commerce.

COOKE, BRIANE., Principal Lending Manager Renewal Applicant, Burlingame, CA. In a July 29, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to an arrest for DUI.

COOPER, FALESHA, Mortgage Officer Renewal Applicant, Mountain Green, UT. In a September 15, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a DUI conviction.

CRIPPEN, TIFFANY J., Mortgage Officer Applicant, Midvale, UT. In a September 8, 2009 order following a hearing before the Commission for which Ms. Crippen did not appear, application denied due to evidence that Ms. Crippen had criminal history

involving multiple traffic incidents and a past license denial that she did not disclose on her application.

DEVEY, TORIL., Mortgage Officer, Saratoga Springs, UT. In a November 4, 2009 stipulation and order, Ms. Devey agreed to the revocation of her license for a period of five years and a civil penalty of \$2,500.00. In violation of Utah Code Ann. § 61-2c-301(1), Ms. Devey misled borrowers and lenders into thinking that she was originating their FHA loans through Envision Lending when, in reality, she was turning the loans over to her sister, who worked for E-Money Solutions Mortgage, Inc., a company that was not FHA approved. Case number MG 46916.

E-MONEY SOLUTIONS MORTGAGE, INC., Mortgage Entity, Layton, UT. In a November 4, 2009 stipulation and order, Jeanie Budge, as agent for the entity, agreed to the revocation of the entity's license and a \$25,000.00 civil penalty. Ms. Budge further agreed not to sell E-Money Solutions Mortgage, Inc. to any other individual or entity. In violation of **Utah Code Ann. § 61-2c-301(1)(d)(i)**, the company processed and closed FHA loans without being FHA approved and misled borrowers and lenders into thinking that the loans were being handled by Tori L. Devey, who was affiliated with Envision Lending. Case number MG 46996.

ERICKSON, JODY, Mortgage Officer Applicant, Spanish Fork, UT. In an August 3, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to two convictions involving the illegal consumption of alcohol.

EVANS, CHRIS, Unlicensed Individual, Cottonwood Heights, UT. In a September 2, 2009 stipulation and order, Ms. Evans agreed to pay a civil penalty of \$1,250.00. In violation of **Utah Code Ann. §61-2c-201**, Mr. Evans accepted payment for facilitating a loan modification without being licensed as a mortgage officer. Case number MG 44713.

EVANS, JOHN W., Mortgage Officer Applicant, Salt Lake City, UT. In an October 8, 2009 order following a hearing before the Commission, application is granted with restriction. License is immediately suspended until

continued on next page

Disciplinary Sanctions Continued from page 11

Mr. Evans provides proof from the Office of Recovery Services that he is current with his child support obligation. License is thereafter placed on probation for the remainder of the initial licensing period.

FARRAR, WILLIAM, Principal Lending Manager, Lehi, UT. In an August 5, 2009 stipulation and order, Mr. Farrar agreed to pay a civil penalty of \$5,000.00. In violation of **Utah Admin. Code R162-205-2** and **Utah Code Ann. § 61-2c-301(1)**, Mr. Farrar allowed an unlicensed individual to transact the business of residential mortgage loans. Case No. MG 45313.

FIVE STAR PARTNERSHIP, LLC, Mortgage Entity Renewal Applicant, Henderson, NV. In a November 17, 2009 order, application is granted with restriction. License is placed on probation due to the company's having been sanctioned by HUD for making negligent misrepresentations in its yearly verification report.

GEERTMAN, KEVIN J., Mortgage Officer, Denver, CO. Mr. Geertman failed to accurately disclose his criminal history in a 2007 application and therefore suffered an automatic revocation pursuant to **Utah Code Ann. § 61-2c-202(4)(d)**. In a November 23, 2009 order, the Division found, first, that Mr. Geertman has been sufficiently sanctioned for his failure to disclose his criminal history in his 2007 application; and, second, that Mr. Geertman otherwise qualifies for licensure. Therefore, in a November 23, 2009 order, the Division vacated the order that revoked Mr. Geertman's 2007 conditional license.

GIARDINA, ERIC M., Mortgage Officer Applicant, San Diego, CA. In a July 16, 2009 order, application is granted with restriction. License is placed on probation for the entire initial licensing period due to several misdemeanor pleas and convictions, with sanctions thereafter imposed by the State of California against Mr. Giardina's California real estate salesperson license.

GRANGE, STEVE S., Mortgage Officer, Ogden, UT. In a November 4, 2009 stipulation and order, Mr. Grange agreed to pay a civil penalty of \$2,500.00. In violation of **Utah Code Ann. § 61-2c-301(1)**, Mr. Grange referred

three loans to a mortgage company with which he was not employed and accepted a percentage of the commissions from the loan closings as a referral fee. Case number MG 46930.

GREEN, J.R., Principal Lending Manager, Sandy, UT. In an August 5, 2009 Stipulation and Order, Ms. Green agreed to pay a \$2,500.00 civil penalty. In violation of **Utah Admin. Code R162-205-2** and **Utah Code Ann. § 61-2c-301(1)**, Ms. Green allowed an unlicensed individual to transact the business of residential mortgage loans. Case number MG 45786.

GUFFEY, SHAD, Associate Lending Manager, Ogden UT. In a November 4, 2009 stipulation and order, Mr. Guffey agreed to pay a civil penalty of \$20,000.00. In violation of **Utah Code Ann. § 61-2c-301(1)**, Mr. Guffey paid loan referral fees to a mortgage officer licensed with another mortgage company. Case number MG 46396.

HLH GROUP, REAL ESTATE DREAMHOMES, INC., and ELIZABETH STEIN, Respondent, Santa Ana, CA. In a July 22, 2009 cease and desist order, Respondent ordered to immediately discontinue mortgage operations, including advertising, soliciting clients, filling out loan applications, quoting interest rates, and explaining disclosures and mortgage terms to borrowers until properly licensed with the Division of Real Estate.

HOCHSTEDLER, WILLIAM R., Mortgage Officer Renewal Applicant, Logan, UT. In a July 6, 2009 order, renewal application is granted with restriction. License is placed on probation for the renewal period due to convictions for reckless driving and driving under the influence of alcohol, compounded by Mr. Hochstedler's failure to report his convictions to the Division within ten business days as required by statute.

JACOBSON, JASON F., Associate Lending Manager, Morgan, UT. In a November 4, 2009 stipulation and order, Mr. Jacobson agreed to pay a \$5,000.00 civil penalty. In violation of **Utah Code Ann. § 61-2c-301**, Mr. Jacobson accepted, on at least two occasions, a referral fee for sending a loan to a company with which he was not employed. Case number MG 46762.

JAMESON, BEVERLY, Mortgage Officer Renewal Applicant, Payson, UT. In a July 14, 2009 order, renewal application is granted with restriction. License is placed on probation for the renewal period due to a plea agreement to a misdemeanor charge of assault – domestic violence, compounded by Ms. Jameson's failure to report the plea to the Division within ten business days as required by statute.

JONES, JAYSE R., Mortgage Officer Applicant, Draper, UT. In a July 14, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to a conviction for operating a vehicle with registration revoked.

KALIKAKIS, KRISTEN M., Mortgage Officer, Sandy, UT. In a November 16, 2009 order, Ms. Kalikakis's conditional license reinstated without restriction upon successful appeal.

KOFOED, LARAH, Mortgage Officer Applicant, Layton, UT. In an August 20, 2009 Order, application is granted with restriction. License is placed on probation for the initial licensing period due to a plea agreement with regard to a charge of misdemeanor retail theft.

KONDAUR CAPITAL CORPORATION, Mortgage Entity Renewal Applicant, Orange, CA. In a September 15, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a finding by the Georgia Department of Banking and Finance that the company was operating without a license and without qualifying for a license exemption.

LAMBERT, SEAN D., Principal Lending Manager, South Ogden, UT. In a November 4, 2009 stipulation and order, Mr. Lambert agreed to pay a \$2,500.00 civil penalty. In violation of [Utah Code Ann. § 61-2c-301\(1\)\(r\)](#), Mr. Lambert accepted a loan from a mortgage officer employed by a different company and paid that mortgage officer a percentage of the commission from the loan closing as a referral fee. Case number MG 46665.

LANGFORD, MARK A., Mortgage Officer Applicant, Carrollton, TX. In a November 23, 2009 order,

application is granted with restriction. License is placed on probation due to multiple misdemeanor charges and subsequent court proceedings including possession of marijuana, driving while intoxicated, and traffic violations.

LARSEN, JIMMYK, Mortgage Officer Applicant, Alpine, UT. In a July 6, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to Mr. Larsen's having entered into plea agreements with regard to multiple misdemeanor charges.

LAW, ALLISON SUE, Mortgage Officer Renewal Applicant, Salt Lake City, UT. In a July 16, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a recent misdemeanor conviction for retail theft.

LAWYER, JAMES A., Mortgage Officer, Cedar Hills, UT. In an October 7, 2009 stipulation and order, Mr. Lawyer agreed to the revocation of his right to reinstate his expired license and to the forfeiture of his right to apply in future for a new mortgage officer license. Mr. Lawyer entered into this stipulation to resolve the Division's allegations that he engaged in acts that constitute violations of [Utah Code Ann. §61-2c-301\(1\)\(g\)](#).

LITTLE, ROBERT ALLEN, Unlicensed Individual, Cottonwood Heights, UT. In a September 2, 2009 stipulation and order, Mr. Little agreed to pay a civil penalty of \$2,500.00. In violation of [Utah Code Ann. §61-2c-201](#), Mr. Allen acted in the capacity of a loan officer without being licensed as such. Case number MG 46137.

MADRIL, ANDRES J., Mortgage Officer Renewal Applicant, Grand Junction, CO. In a July 16, 2009 post-revocation order, automatic revocation of conditional license is upheld on a finding that Mr. Madril did not have a reasonable good faith belief at the time of application that he had no criminal history to report.

MARKOSIAN, ROBERT, Mortgage Officer Renewal Applicant, Sandy, UT. In a July 13, 2009 order, application is granted with restriction. License is immediately suspended

RULES, RULES, RULES

Appraisal

During the 2009 legislative session, the Utah Legislature passed **House Bill 86**, and the sections that affect the appraisal industry are codified in **Utah Code § 61-2b**. The new provisions require appraiser trainees who register with the Division to undergo a background check through the FBI and the Utah BCI. It also requires trainees to renew the registration every two years. Subsequently, the Appraisal Board drafted Rule 162-110 to put these requirements into place. The rule was published for comment in the December 1, 2009 state bulletin. **Trainees take note: If you registered with the Division and did not undergo a background check, you have to re-register.**

- If you registered prior to January 1, 2008, you have until January 1, 2011 to re-register.
- If you registered during the 2008 calendar year, you must re-register in 2011 by the anniversary of your registration date. For example, a trainee whose registration was approved on June 1, 2008 would have until June 1, 2011 to re-register.
- If you registered on or after January 1, 2009, you must re-register by the two-year anniversary of your registration date. For example, a trainee whose registration was approved on February 1, 2009 would have until February 1, 2011 to re-register.

Here's some friendly advice: **DON'T WAIT UNTIL THE LAST MINUTE.** You have to provide evidence of having completed 21 hours of UDRE approved CE or AQB approved qualifying education in order to re-register. You also have to complete the 7-hour National USPAP Update Course. So, if you intend to complete your training and sit for the examination, you should get the process going. Click [here](#) for the complete text of the proposed rule.

While working on Rule 162-110, the Board noted other sections of the rules that needed some updating. Amendments to Rules 162-101, 162-102, 162-104, and 162-105 were published for comment on December 15, 2009. Here are some highlights:

- Individuals logging their experience toward licensure or certification no longer have to calculate points. Just keep track of your hours.
- Trainees, you may **NOT** be supervised by a state licensed appraiser. Make sure that your supervisor is a state certified appraiser, or your experience **will not count**. This is not a new requirement. It has been in place since January 1, 2008, but there still seems to be some confusion in the industry, so we've clarified the rules.
- Supervisors, you may **NOT** sign an appraisal report that requires you to certify that you personally inspected the property if you sent your trainee out to do the inspection. When the scope of work and appraiser certification sections of your appraisal report state that you personally inspected the property, you have to go look at it before you sign. This is not a new rule, but it seems to be a problem throughout the industry. The Division is taking disciplinary action against supervisors in these situations.
- Individuals have 12 months to reinstate an expired registration, license, or certification.

Here are links to the full text of these rules as proposed:

- [Rule 162-101](#)
- [Rule 162-102](#)
- [Rule 162-104](#)
- [Rule 162-105](#)

The public comment period for these rules ends at 5:00 P.M. on January 14, 2010. Let us know your thoughts!

House Bill 86 allowed the Division and the Board to exempt certain individuals from having to comply with USPAP. See [Utah Code § 61-2b-8\(5\)\(c\)](#). The Board has proposed an amendment to Rule 162-106 that would exempt the following:

- Division staff and employees
- members of experience review committees
- members of technical review committees
- hearing officers
- members of county boards of equalization
- administrative law judges
- members of the Utah State Tax Commission

- Board members

The rule was published in the December 15, 2009 state bulletin and is open for public comment until 5:00 P.M. on January 27. Click [here](#) for the full text of Rule 162-106 as proposed. A public hearing will be held on January 27 from 9:00 A.M. until 10:00 A.M. in room 210 of the Heber Wells Building. So if you have thoughts on this issue, be sure to let us hear them!

Appraisal Management Companies

House Bill 152, passed in the 2009 legislative session, is codified as **Utah Code § 61-2e**. The Board has put **Rule 162-150** into place in order to implement the specific requirements of this new law. Here are some highlights:

- Any AMC that contracts for ten or more Utah appraisals in a calendar year must register with the Division and renew the registration every two years.
- Any person exercising control over an AMC must undergo a background check.
- AMCs must verify that the appraisers with whom they contract are licensed or certified and in good standing with the Division.
- AMCs must put into place a system to ensure that the appraisers with whom they contract are conducting appraisals in accordance with USPAP standards.
- AMCs must require appraisers to disclose within the body of the appraisal report the fee that goes to the AMC and the fee that goes to the appraiser.
- AMC employees who select appraisers must take and pass the 15-hour national USPAP course.
- AMCs may not do any of the following:
 - § remove an appraiser from the appraiser panel without cause or without notifying the appraiser of the removal;
 - § attempt to influence an appraiser's work by withholding payment or through any other

means that might be considered undue influence;

- § require an appraiser to complete an appraisal that the appraiser does not feel qualified to complete or within a time frame that the appraiser considers to be inadequate to allow for proper research, inspection, etc.;
- § prohibit or inhibit communication between the appraiser and the lender, real estate agent, mortgage broker, or any other person the appraiser needs to talk to in order to get relevant information;
- § require the appraiser to violate USPAP;
- § make the appraiser's fee subject to a favorable outcome;
- § request a broker price opinion to facilitate a mortgage loan transaction; or
- § require the appraiser to remit a portion of the appraiser's fee to the AMC.

Mortgage

Senate Bill 31 was passed in the 2009 legislative session to bring the Utah Residential Mortgage Practices and Licensing Act, **Utah Code § 61-2c**, into compliance with the federal SAFE Act. The new provisions go into effect tomorrow, January 1, 2010. Shortly thereafter, the Commission and Division will publish revised mortgage rules relating to the legislative changes.

This newsletter includes information that will help you know what you need to do so your transition to the new licensing system will be smooth. Here are some highlights.

- Register in the NMLS database **by May 31, 2010**.
- Be sure that your education is adequate. Here's what will work:
 - § You took the 20-hour prelicensing course in order to obtain your initial license. **–OR–**
 - § You have renewed your license at least twice, such that you have completed two license renewal cycles of 14 hours of continuing education since the time you obtained your initial license.

Disciplinary Sanctions Continued from page 13

for 120 days and thereafter placed on probation for the duration of the renewal period due to multiple DUI convictions, compounded by Mr. Markosian's failure to report his convictions to the Division within ten business days as required by statute, and further compounded by Mr. Markosian's failure to disclose the proceedings and resulting convictions on multiple renewal applications. Mr. Markosian appealed the decision. In a September 8, 2009 order following the appeal hearing, the Commission determined to uphold the Division's order.

MILLER, MARGO, Mortgage Officer Renewal Applicant, Salt Lake City, UT. In an August 20, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a plea agreement with regard to charges of DUI, improper lane travel, and failure to display license plate, compounded by Ms. Miller's failing to report the proceedings to the Division within ten business days as required by statute.

MORAN, JAMES P., Mortgage Officer Applicant, Sandy, UT. In an August 13, 2009 order, application is granted with restriction. License is immediately suspended for 30 days and thereafter placed on probation for the duration of the initial licensing period due to Mr. Moran's failing to disclose a DUI at the time of application.

MUMME, NATHAN, Mortgage Officer Applicant, West Jordan, UT. In a September 15, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to criminal convictions for possession of a controlled substance and possession of drug paraphernalia.

NA NATIONWIDE MORTGAGE CORP., Mortgage Entity Renewal Applicant, Mission Viejo, CA. In a July 8, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to compliance violations identified in the company's Idaho, Texas, Virginia, and California operations with resulting sanctions imposed by those states' respective regulatory agencies. Violations included disseminating illegal advertising material, allowing unlicensed staff to engage in activity requiring a license, and failing to provide state-specific disclosures.

NABOZNY, VINCENT M., Mortgage Officer Applicant, Bountiful, UT. In a November 3, 2009 order, application is granted with restriction. License is placed on probation due to criminal proceedings including misdemeanor charges of public intoxication, DUI, and driving on a suspended/revoked license.

NAISBITT, AVA, Mortgage Officer Renewal Applicant, Washington, UT. In an August 17, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a plea agreement with regard to charges of intoxication and interference with arresting officer, compounded by Ms. Naisbitt's failure to report the proceedings to the Division within ten business days as required by statute.

NEWMAN, GREGORY P., Mortgage Officer, Salt Lake City, UT. In a November 18, 2009 order, conditional license is automatically revoked on a finding that Mr. Newman failed to accurately disclose his criminal history on his licensing application.

NEXTAG, INC., Mortgage Entity Renewal Applicant, San Mateo, CA. In a September 28, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to the parent company's having entered into a settlement agreement with the Virginia State Corporation Commission as to allegations that its acquisition of NEXTAG, INC. was effected in violation of Virginia state law.

ORTAR, RAGUN S., Mortgage Officer Applicant, Riverton, UT. In a July 29, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to misdemeanor convictions for possession of paraphernalia and retail theft.

POPE, KIMBERLEY, Mortgage Officer Applicant, Payson, UT. In a July 9, 2009 post-revocation order, automatic revocation of conditional license is upheld on a finding that Ms. Pope did not have a reasonable good faith belief at the time of application that she had no criminal history to disclose.

KAGIE'S KORNER

CAN A REAL ESTATE AGENT OR ASSOCIATE BROKER BE PAID A COMMISSION DIRECTLY FROM THE TITLE COMPANY?

Quite often Investigator Kagie gets this question posed to him, and until recently the answer was a resounding NO. But this year the Utah State Legislature passed legislation-- Utah Code Annotated Section 61-2-10(1) (b)--that allows a title company to cut a check made payable to an associate broker or agent. However, this statute requires that the check be delivered to the principal broker, as per state statute and administrative rules. The Real Estate Commission on August 21, 2009 approved the following rule, which governs how a title company may disburse commission checks:

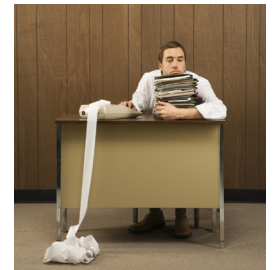
R162-4-4. Written Instructions for Commission Distribution by Title Insurance Agent.

(1) If a principal broker elects to assign a portion or all of the principal broker's compensation to an associate broker or sales agent in accordance with Utah Code Annotated Section 61-2-10, the principal broker shall provide written instructions to the title insurance agent that include the following:

- (a) an identification of the property involved in the real estate transaction;
- (b) an identification of the principal broker and sales agent or associate broker who will receive compensation in accordance with the written instructions;
- (c) a designation of the amount of compensation that will be received by both the principal broker and the sales agent or associate broker; and
- (d) a prohibition against alteration of the written instructions by anyone other than the principal broker.

(2) Items beyond those listed in Subsection (1) may be included in the written instructions at the discretion of the principal broker.

This procedure occurs solely at the discretion of the principal broker and must be done under the principal broker's written instruction and permission. The check must be delivered to the principal broker from the title company, and the broker must then deliver the check to the associate broker or agent.



Electronic Newsletter!



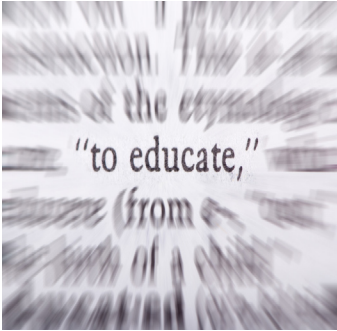
Are you reading your newsletter online? The Division of Real Estate would like to thank you for creating a RELMS account!

If you know someone who has not received this newsletter please advise them to log on to www.realestate.utah.gov and create their very own Real Estate Licensing Management System Account! With so much informative available why would you not want to create a RELMS account?

<https://secure.utah.gov/relms/index.html>



“COMMON” DEFINITIONS OF REAL ESTATE TERMS.....WHAT DO THEY REALLY MEAN?



ACTIVATE: The process of putting a license on active status. Agents may activate a license online through the license management system by paying a \$15 activation fee, affiliating with a company, and getting broker approval.

ACTIVE: License is valid. An agent with an active license is affiliated with a broker and is legal to engage in the business of a real estate agent. An active license must be renewed every two years with continuing education.

EXPIRED: License is void. An agent must renew or reinstate the license in order to return the license to good standing with the division. A person holding an expired license is **unlicensed**.

GRACE PERIOD: **MYTH.** An agent may **NOT** continue to conduct business **AFTER** the license has expired. Anyone who is engaging in **UNLICENSED ACTIVITY** will be disciplined.

INACTIVATE: The process of putting a license on inactive status. Agents may inactivate a license online through the license management system by disassociating with a brokerage and obtaining broker approval. Inactivating a license does not exclude the licensee from renewal requirements.

INACTIVE: License is in good standing, but agent is unaffiliated with a broker and unable to act as a real estate agent. Inactive agents may activate at any time by meeting the activation requirements. An inactive agent must still renew the license every two years.

ON HOLD: **MYTH.** The Division does not place a license “on hold” in any circumstances or for any reason.

REFERRAL STATUS: **MYTH.** This is not a term used or recognized by the Division. From what we can tell, the term “referral” is used unofficially in the industry to describe an agent who is not selling, but is seeking compensation for providing referrals. Any agent wishing to receive such compensation must hold an active license.

REINSTATEMENT: The process of renewing a license that has been expired for over 30 days. A license may be reinstated for up to one year after the license has expired. Additional continuing education and fees are imposed for reinstatement.

RENEWAL: License renewal is required once every two years regardless of whether the license is active or inactive. The renewal must be completed in order to extend the expiration date of the license. If the license is not renewed, the license will expire.

UNLICENSED ACTIVITY: See GRACE PERIOD, ON HOLD, INACTIVE, and REFERRAL STATUS above. Working as a real estate agent or broker without an active real estate license is unlicensed activity.



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RULES, RULES, RULES

- If you were licensed before October 1, 2009, complete at least 14 hours of continuing education before attempting to renew in 2010. **Note: that's 14 hours since your last renewal.** If you licensed after October 1, 2009, complete 8 hours of approved continuing education before December 31, 2010.
- Take (and pass!) the national portion of the new licensing exam.

The new rules are coming soon. Watch the **DRE website** for details.

Real Estate

House Bill 86 was passed in the 2009 legislative session, and the sections that affect the real estate industry are codified in **Utah Code § 61-2**. Here are some highlights:

- The number of hours for the prelicensing education course is increased to 120.
- The number of continuing education hours required for renewal is increased to 18. The Commission amended **Rule 162-3-6** and **Rule 162-9-2** to be consistent with this change and to provide additional guidelines for the increased continuing education requirement. The subsequent Commission rule requires that at least 9 of the 18 required CE hours must be core topic courses.
- You may be exempted from continuing education if you are elected or appointed to a government position where you spend substantial time addressing real estate issues. Don't assume you are automatically exempted. You have to be approved for exemption by the Commission and the Division before you submit your license renewal.



- You must report to the Division **within ten business days** any of the following:
 - the **entry** of a criminal conviction against you;
 - the **entry** of a plea in abeyance to a criminal charge against you;
 - your entering into a diversion agreement to resolve a criminal charge against you;
 - your **filing** of a personal or brokerage bankruptcy

We see many renewal applications where individuals report criminal incidents in response to the renewal licensing questionnaire but failed during the renewal period to report the incidents to the Division within ten business days as required by this statute. When that happens, we almost always put the license on probation—even for a class C misdemeanor traffic incident! Sometimes we take even more severe action. So, please, send us a letter if you go astray of the law.

- You have an additional six months to reinstate an expired license, for a total reinstatement window of one year. However, the longer you wait, the more continuing education you'll have to take.
- Principal brokers, if you want a title company to cut a commission check directly to a sales agent, you can provide written instructions authorizing that. However, the title company must still give the check to you, and you must pass it along to the sales agent. The Commission promulgated **Rule 162-4-4** to track with this legislative change.

The Commission has amended two additional rules:

- **Rule 162-6.1.9.1** allows you to give a token gift valued up to \$150.00 for an unsolicited referral that results in a transaction. Don't start advertising \$150.00 finder's fees. You can't give cash, and the referrals must be **unsolicited**.
- **Rule 162-3-6** prohibits you from taking one continuing education class multiple times within one renewal period. Sorry, but you just can't sit through a free one-hour



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PORTER, II, DONALD L., Mortgage Officer Applicant, Ladera Ranch, CA. In a November 17, 2009 order, application is granted with restriction. License is placed on probation due to a criminal charge of DUI and subsequent proceedings.

RIGBY, NICHOLAS, Mortgage Officer Applicant, Salt Lake City, UT. In an October 27, 2009 order, application is granted with restriction. License is placed on probation due to charges of possession of marijuana and solicitation of a prostitute, with subsequent criminal proceedings.

RIGGS, DON S., Mortgage Officer, Westminster, CO. In a November 3, 2009 order, conditional license is automatically revoked on a finding that Mr. Riggs failed to accurately disclose his criminal history on his licensing application.

RUSSELL, SCOTT W., Mortgage Officer Applicant, Ogden, UT. In a July 14, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to the Utah Insurance Department having found Mr. Russell in violation of its marketing regulations during his employment at a title company.

RYAN, MICHAEL, Mortgage Officer Applicant, Salt Lake City, UT. In a September 14, 2009 Order, application is granted with restriction. License is placed on probation for the initial licensing period due to criminal charges and proceedings for DUI.

SAWYERS, TOM G., Mortgage Officer Applicant, Sandy, UT. In an August 6, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to misdemeanor proceedings involving simple assault and a conviction for DUI.

SHAW, ROBERT A., Mortgage Officer Applicant, Meridian, ID. In an August 12, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to a conviction for providing prohibited articles to a minor.

SMITH, DEAN R., Principal Lending Manager, Irvine, CA. In a November 3, 2009 order, conditional

license is automatically revoked on a finding that Mr. Smith failed to accurately disclose his criminal history on his licensing application.

STIDHAM, DAVID M., Mortgage Officer Applicant, Salt Lake City, UT. In a September 14, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to Mr. Stidham's having outstanding traffic fines and being delinquent in his child support obligation.

STONECREST FINANCIAL MORTGAGE SERVICES, LLC., Mortgage Entity, Taylorsville, UT. In a September 2, 2009 stipulation and order, owner Sky E. Davis agreed to pay a civil penalty of \$2,500.00. In violation of **Utah Code Ann. § 61-2c-301**, the company allowed an employee to originate loans without being licensed as a mortgage officer. Case number MG 45969.

THOMASSEN, KREGG, Associate Lending Manager, Ogden, UT. In a November 4, 2009 stipulation and order, Mr. Thomassen agreed to pay a civil penalty of \$2,000.00. In violation of **Utah Code Ann. § 61-2c-301(1)**, Mr. Thomassen referred a loan to a mortgage company with which he was not employed and accepted a percentage of the commission from the loan closing as a referral fee. Case number MG 46928.

VANDENBERG, RICHARD C., Mortgage Officer License, Syracuse, UT. In an October 7, 2009 stipulation and order, Mr. Vandenberg agreed to pay a civil penalty of \$2,500.00. In violation of **Utah Code Ann. § 61-2c-201**, Mr. Vandenberg originated loans for Z Lending without first affiliating his license with the company. Case number MG 46468.

WALL, GARRETT H., Mortgage Officer, South Ogden, UT. In a November 4, 2009 stipulation and order, Mr. Wall agreed to pay a civil penalty of \$2,500.00. In violation of **Utah Code Ann. § 61-2c-301(1)**, Mr. Wall referred two loans to a mortgage company with which he was not employed and accepted a percentage of the commissions from the loan closings as a referral fee. Case number MG 46919.

WALTERS, ROBERT J., Mortgage Officer Applicant, Grantsville, UT. In an August 17, 2009 order, application is granted with restriction. License is placed on probation

for the initial licensing period due to a conviction for theft.

WILSON, NATE D., Mortgage Officer Renewal Applicant, Sandy, UT. In a July 29, 2009 order, application is granted with restriction. License is suspended for 30 days and thereafter placed on probation for the duration of the renewal period due to a DUI conviction, compounded by Mr. Wilson's subsequently violating the terms of his sentencing, and further compounded by Mr. Wilson's failure to report his conviction to the Division within ten business days as required by statute.

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.

ADAMS, LONNY E., Real Estate Sales Agent Applicant, Kaysville, UT. In a July 20, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to a conviction for driving without insurance.

AITKEN, MELVIN GLEN, Real Estate Sales Agent, Bountiful, UT. In an October 21, 2009 stipulation and order, Mr. Aitken agreed to pay a civil penalty of \$10,000.00. In violation of **Utah Code Ann. § 61-2-11(5)**, Mr. Aitken was involved in at least four listings and was paid a commission for the sale of those listings during a time when his associate broker license was expired. Case number RE 45815.

ALLAK, AZHAR "ACE", Real Estate Sales Agent Applicant, Salt Lake City, UT. In a September 28, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to Mr. Allak's failure to disclose numerous traffic citations on his application questionnaire.

BAER, MICHAEL W., Real Estate Sales Agent Renewal Applicant, Heber City, UT. In a July 6, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a conviction for simple assault, compounded by Mr. Baer's failure to report his conviction to the Division within ten business days as required by **statute**.

BAKER, DENNIS B., Real Estate Sales Agent Applicant, Logan, UT. In an August 20, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to a DUI conviction.

BECKSTROM, STANLEY, Real Estate Sales Agent Renewal Applicant, Bountiful, UT. In an October 28, 2009 order following a hearing before the Commission, application is granted with restriction. License is suspended until Mr. Beckstrom negotiates and fulfills a stipulated agreement to resolve the Division's investigation into allegations that Mr. Beckstrom engaged in unlicensed activities. The license is thereafter placed on probation for the duration of the renewal period. In a November 18, 2009 stipulation and order, Mr. Beckstrom agreed to pay a civil penalty of \$5,000.00. In violation of **Utah Code Ann. § 61-2-1(1)**, Mr. Beckstrom allowed his real estate sales agent license to expire, but continued to list and market properties for over three months. Case number RE 46368.

BERREST, EDDIE H., Real Estate Sales Agent Renewal Applicant, Salt Lake City, UT. In a July 8, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to convictions for DUI and alcohol-related reckless driving, compounded by Mr. Berrest's failure to report his convictions to the Division within ten business days as required by **statute**.

BLOOD, KEVIN B., Real Estate Sales Agent Applicant, Layton, UT. In an August 17, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to a misdemeanor conviction for attempted burglary of a building.

BODRERO, AMY L., Real Estate Sales Agent Applicant, Logan, UT. In a November 3, 2009 order, application is

granted with restriction. License is placed on probation for the initial licensing period due to a misdemeanor traffic conviction, which occurred while Ms. Bodrero's license was on probation, and compounded by Ms. Bodrero's failure to report her conviction to the Division within ten business days as required by [statute](#).

BRADSHAW, PAUL C., Real Estate Sales Agent Applicant, Salt Lake City, UT. In an October 27, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to criminal charges and subsequent proceedings for disturbing the peace and possession/consumption of alcohol by a minor.

BURR, VIRGINIA R., Real Estate Sales Agent, Pleasant Grove, UT. In a September 16, 2009 stipulation and order, Ms. Burr agreed to the revocation of her license, a five-year waiting period before reapplying, a mandatory hearing upon her reapplication, and a civil penalty of \$15,000.00. In violation of [Utah Code Ann. §61-2-11](#), Ms. Burr misrepresented to investors that she represented property owners; had the investors wire \$100,000.00 into her personal checking account; created or caused to be created one false unrecorded trust deed note; delivered false promissory notes to investors; and diverted proceeds from the investment placements for her personal use. Case number RE43758.

BURROUGHS, JAMES T., Real Estate Sales Agent Renewal Applicant, South Jordan, UT. In a September 21, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to Mr. Burroughs's having signed a consent agreement with the state of Montana in light of allegations that he closed two loans without providing the borrowers with certain disclosures required under state law.

BUTLER, BRETT, Real Estate Sales Agent Applicant, Draper, UT. In an August 17, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to several misdemeanor convictions involving controlled substances.

CALLAHAN, KAYLA, Real Estate Sales Agent Applicant, Ivins, UT. In a September 9, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to criminal prosecution and a resulting plea agreement on DUI charges.

CHIDESTER, JAMISON, Real Estates Sales Agent Applicant, American Fork, UT. In a July 28, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to multiple misdemeanor proceedings including illegal consumption of alcohol and possession of a controlled substance.

CHRISTENSEN, DUSTIN BERNELL, Real Estate Sales Agent Applicant, West Jordan, UT. In a September 21, 2009 default order following Mr. Christensen's failure to appear at his scheduled application hearing, the Commission denied the application upon consideration of Mr. Christensen's having been prosecuted for lewdness and of his previously having sanctions placed on his mortgage officer license.

COLLETT, APRIL D., Real Estate Sales Agent Renewal Applicant, Logan, UT. In a July 20, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a plea agreement with regard to a charge of retail theft.

CORDON, BRENT C., Real Estate Sales Agent Applicant, Ogden, UT. In a November 23, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to criminal history including two incidents of disorderly conduct.

CRACRAFT, SAVANNAH A., Real Estate Sales Agent Applicant, Salt Lake City, UT. In a July 6, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to convictions for battery, disturbing the peace, and use or possession of drug paraphernalia.

CRANDALL, JR., JAMES P., Real Estate Sales Agent Renewal Applicant, Orem, UT. In a July 21, 2009 order following a hearing before the Commission, application is granted with restriction. License is immediately suspended for one year and thereafter

placed on probation for the duration of the licensing period due to Mr. Crandall's failure to comply with a stipulation entered into on February 14, 2008.

DELAY, BABBETTE, Principal Broker, Salt Lake City, UT. In a November 18, 2009 stipulation and order, Ms. De Lay agreed to pay a civil penalty of \$5,000.00. In violation of **Utah Code Ann. § 61-2-11(14)**, Ms. De Lay failed to exercise reasonable supervision over the activities of a sales agent who allowed her license to expire, but thereafter acted as a sales agent in three transactions. Case number RE 44404.

DEL TORO, DUSTIN, Real Estate Sales Agent Applicant, St. George, UT. In a November 18, 2009 order following a hearing before the Commission, application is granted with restriction. License is suspended until Mr. Del Toro provides proof to the Division that he has completed an anger management course as ordered by the court in proceedings arising out of charges for assault, domestic violence in presence of a child, and disorderly conduct. The license is thereafter placed on probation for the duration of the initial licensing period.

DICKERSON, SELAMAWIT A., Real Estate Sales Agent Applicant, Bountiful, UT. In a September 28, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to multiple traffic citations, including DUI.

DUBUC, JR., CHARLES R., Real Estate Principal Broker, Layton, UT. In an October 21, 2009 stipulation and order, Mr. Dubuc agreed to pay a civil penalty of \$2,500.00. In violation of **Utah Code Ann. § 61-2-11(14)**, Mr. Dubuc paid a commission to an agent who had an expired license and, additionally, paid a commission to an unlicensed individual. Case number RE 46359.

ELSWOOD, JUSTIN T., Real Estate Sales Agent Renewal Applicant, Draper, UT. In a July 20, 2009 order, renewal application is granted with restriction. License is placed on probation for the renewal period due to plea agreements with regard to charges of possession of a controlled substance and possession of drug paraphernalia.

FERRIS, KIP ALLEN, Real Estate Sales Agent Applicant, St. George, UT. In a July 20, 2009 post-revocation order, automatic revocation of conditional license is upheld on a finding that Mr. Ferris did not have a reasonable good faith belief at the time of application that he had no criminal history to report.

FLANDERS, RANDY W., Real Estate Sales Agent Reinstatement Applicant, Salt Lake City, UT. In a July 14, 2009 order, application is granted with restriction. License is placed on probation for the licensing period due to a DUI conviction.

FRAZIER, JOSHUA, Real Estate Sales Agent Applicant, Nibley, UT. In an August 24, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to a plea agreement with regard to a charge of unauthorized sale/use of fireworks, and further due to Mr. Frazier's failure to disclose several traffic citations as part of his application.

GARBETT, MARK H., Real Estate Sales Agent Renewal Applicant, Sandy, UT. In a November 3, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to Mr. Garbett's having pled guilty and suffered convictions on charges of no proof of insurance and no registration card in vehicle, compounded by his failure to report his convictions to the Division within ten business days as required by **statute**.

GARCIA, MONTE, Real Estate Sales Agent Renewal Applicant, Salt Lake City, UT. In a July 21, 2009 order following a hearing before the Commission, application is granted with restriction. License is placed on probation for the renewal period due to two misdemeanor convictions, compounded by Mr. Garcia's failure to report his convictions to the Division within ten business days as required by **statute**. Mr. Garcia is ordered to report his probationary status to his principal broker.

GODFREY, DANNY L., Real Estate Sales Agent Renewal Applicant, Clarkston, UT. In an August 6, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a citation for hunting without a valid license.

GRAY, CHERRY LYNN, Real Estate Sales Agent Renewal Applicant, Lehi, UT. In an October 26, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a civil judgment arising out of divorce proceedings.

GUNN, KANDICE, Real Estate Sales Agent Renewal Applicant, West Jordan, UT. In a July 20, 2009 order, renewal application is granted with restriction. License is placed on probation for the renewal period due to a conviction for alcohol-related reckless driving.

HARRIS, MICHAEL J., Real Estate Sales Agent Renewal Applicant, Herriman, UT. In a September 15, 2009 order, renewal application is granted with restriction. License is placed on probation for the renewal period due to a conviction for alcohol-related reckless driving.

HATCH, CORY B., Real Estate Sales Agent Applicant, Layton, UT. In a September 9, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to multiple traffic violations.

HIGLEY, RANDALL J., Real Estate Sales Agent Applicant, Malad, ID. In a November 16, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to criminal proceedings on charges of aggravated assault (domestic violence).

HOCHING, BEAVER TAITULIATU, Real Estate Sales Agent Applicant, Ogden, UT. In a July 16, 2009 post-revocation order, automatic revocation of conditional license is upheld on a finding that Mr. Ho Ching did not have a reasonable good faith belief at the time of application that he had no criminal history to report.

HOWARTH, CRAIG A., Real Estate Sales Agent Renewal Applicant, Tooele, UT. In a July 14, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a diversion agreement with regard to a charge for trespassing and a plea agreement with regard to a traffic citation.

HOWELL, STEPHEN A., Real Estate Sales Agent Renewal Applicant, Salt Lake City, UT. In a November 3, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to criminal proceedings and resulting plea agreement on a charge of interfering with a legal arrest.

JACKSON, STEVEN F., Real Estate Sales Agent Renewal Applicant, Salt Lake City, UT. In a November 23, 2009 order, application is granted with restriction. License is placed on probation for the renewal period. Mr. Jackson is ordered to provide to the Division the court order establishing his ongoing child support obligation. In order to renew in 2011, Mr. Jackson must provide to the Division evidence that he is current with his monthly child support payments and that he has made significant progress toward satisfying any arrearage assessed by the court.

JOHNSON, BARBARA E., Real Estate Sales Agent Renewal Applicant, Park City, UT. In a November 24, 2009 order, application is granted with restriction. License is placed on probation for the duration of Ms. Johnson's criminal probation relative to a DUI charge.

JONES, JENNIFER M., Real Estate Sales Agent Applicant, Park City, UT. In a May 18, 2009 order, conditional license is automatically revoked on a finding that Ms. Jones failed to accurately disclose her criminal history on her licensing application. In a July 8, 2009 post-revocation order, automatic revocation of conditional license is upheld on a finding that Ms. Jones did not have a reasonable good faith belief at the time of application that she had no criminal history to report.

JONES, SOPHIE, Real Estate Sales Agent Applicant, Salt Lake City, UT. In a July 30, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to a diversion agreement with regard to a charge of driving under the influence.

KAUFMANN, PAUL H., Real Estate Sales Agent Renewal Applicant, Park City, UT. In a July 14, 2009 order, application is granted with restriction. License is immediately suspended for 30 days and thereafter placed on probation for the duration of the renewal period due to a

conviction for criminal mischief, which Mr. Kaufmann failed to disclose to the Division in his 2007 renewal.

KELSO, DOUGLAS A., Real Estate Sales Agent Renewal Applicant, Layton, UT. In a July 20, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a DUI conviction.

KILCHRIST, JASON M., Real Estate Sales Agent Renewal Applicant, Sandy, UT. In a July 16, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a conviction for assault, compounded by Mr. Kilchrist's failure to report his conviction to the Division within ten business days as required by [statute](#).

KIMBALL, RYAN V., Real Estate Associate Broker, South Jordan, UT. In a July 16, 2009 stipulation and order, Mr. Kimball agreed to pay a \$2,500.00 civil penalty. In violation of [Utah Code Ann. § 61-2-11](#), Mr. Kimball acted as a limited agent in a transaction in which he was a principal. Case number RE 35659.

KNUDSON, JOSEPH C., Real Estate Sales Agent Renewal Applicant, Hurricane, UT. In a November 18, 2009 default order following a hearing before the Commission at which Mr. Knudson failed to appear, application denied.

KUNZ, LOIS, Real Estate Principal Broker, Ogden, UT. In an October 21, 2009 stipulation and order, Ms. Kunz agreed to pay a civil penalty of \$5,000.00. In violation of [Utah Code Ann. § 61-2-11\(14\)](#), Ms. Kunz failed to exercise reasonable supervision over an agent in her employ who handled at least two transactions while the agent's license was expired. Case number RE 46358.

LAPAY, MICHAEL B., Real Estate Associate Broker, Park City, UT. In an October 21, 2009 stipulation and order, Mr. Lapay agreed to pay a civil penalty of \$10,000.00. In violation of [Utah Admin. Code R162-6.1.11.3.1](#), Mr. Lapay acted as both a limited agent and a principal in four transactions. Case number RE 46613.

LARSEN, DOUGLAS, Real Estate Sales Agent Applicant, American Fork, UT. In a September 17, 2009 order following a hearing before the Commission, application is granted with restriction. License is placed on probation due to a past conviction regarding fiduciary duty. Mr. Larsen is ordered to report to any principal broker under whom he works during the probationary period both the fact of the conviction and the circumstances surrounding it.

LARSEN, LONNIE C., Real Estate Sales Agent Renewal Applicant, Highland, UT. In a November 2, 2009 order following a hearing before the Commission, application is granted with restriction. License is placed on probation for the renewal period due to Ms. Larsen's having been convicted on five counts of attempted acquisition of a controlled substance by prescription alteration, compounded by her failure to report her convictions to the Division within ten business days as required by [statute](#). Ms. Larsen is ordered to report her probationary license status and both the fact and terms of her court-ordered probation to her principal broker. She is further ordered to report to the Division when she completes her court-ordered probation.

LENOFF, GARY S., Real Estate Sales Agent Applicant, San Rafael, CA. In an August 20, 2009 post-revocation order, automatic revocation of conditional license is upheld on a finding that Mr. Lenoff did not have a reasonable good faith belief at the time of application that he had no criminal history to report.

LEWIS, LITTLE JOE NICHOLAS, Real Estate Sales Agent Renewal Applicant, Grand Junction, CO. In a July 6, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a conviction for disorderly conduct, compounded by Mr. Lewis's failure to report his conviction to the Division within ten business days as required by [statute](#).

LUC, DAVID, Real Estate Sales Agent Applicant, West Jordan, UT. In a November 16, 2009 order, application is granted with restriction. License is suspended for 30 days and thereafter placed on probation for the remainder of the initial licensing period due to multiple misdemeanor traffic convictions, compounded by Mr. Luc's failure to disclose

the full extent of his criminal history on his application.

LUGO, RUBEN S., Real Estate Sales Agent Renewal Applicant, Draper, UT. In an October 1, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to Mr. Lugo's entering a guilty plea to a charge of disorderly conduct.

LYONS, TIMOTHY C., Real Estate Sales Agent Renewal Applicant, Lehi, UT. In a November 24, 2009 order, application is granted with restriction. License is placed on probation for the duration of Mr. Lyons's criminal probation relative to a DUI charge.

MALOCO, DONNETTE, Real Estate Sales Agent Applicant, St. George, UT. In a November 2, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to a conviction for corporal injury on spouse/cohabitant.

MANISONE, BRANDEN, Real Estate Sales Agent Applicant, Lehi, UT. In a September 28, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to charges and resulting plea agreements involving driving without insurance, driving without valid registration, and driving without a valid license.

MARSHALL, RONNARD L., Real Estate Principal Broker Renewal Applicant, Bountiful, UT. In a September 15, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a charge of patronizing a prostitute and a resulting plea agreement.

MERRILL, MARSHA M., Real Estate Sales Agent Renewal Applicant, Salt Lake City, UT. In a November 23, 2009 order, application is granted with restriction. License is placed on probation for the duration of Ms. Merrill's criminal probation relative to charges of DUI, collision with unattended property, and failure to keep proper outlook.

MILLER, WAYNE, Real Estate Principal Broker Renewal Applicant, Washington, UT. In a September

21, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a charge of DUI and a resulting plea agreement.

MONTEMURRO, MARCELA P., Real Estate Associate Broker Applicant, Sandy, UT. In a November 2, 2009 order following a hearing before the Commission, application is granted with restriction. License is placed on probation, and Ms. Montemurro is prohibited from activating her principal broker license during the renewal period. At the time of application, Ms. Montemurro was out of compliance with a stipulated agreement she had previously entered into with the Division.

MORSE, GLEN B., Real Estate Sales Agent Renewal Applicant, West Valley City, UT. In a September 17, 2009 order following a hearing before the Commission, renewal application is granted with restriction. License is suspended until Mr. Morse pays the civil penalty he stipulated to on April 9, 2009.

NEEDHAM, SMITH EDWARD, Real Estate Sales Agent Applicant, Logan, UT. In a November 4, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to a history of multiple traffic offenses.

OBAD, NICHOLAS J., Real Estate Sales Agent Renewal Applicant, Sandy, UT. In a July 21, 2009 default order following a hearing before the Commission at which Mr. Obad failed to appear, the Division's March 2, 2009 order suspending Mr. Obad's license for 30 days and thereafter placing it on probation for the remainder of the license period is upheld.

OCHSENBEIN, JONATHAN J., Real Estate Sales Agent Renewal Applicant, Roy, UT. In a July 14, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a plea agreement with regard to a charge of speed contest or exhibition on highway.

PALMER, MERRILL JAMES, Real Estate Principal Broker, Sandy, UT. In a November 18, 2009 stipulation and order, Mr. Palmer agreed to pay a civil penalty of \$2,500.00. In violation of [Utah Code Ann. § 61-2-11-14](#),

Mr. Palmer failed to exercise reasonable supervision over an agent who continued to transact business after allowing his license to expire. Case number RE 46367.

PERRY, STEVEN M., Real Estate Sales Agent Renewal Applicant, Salt Lake City, UT. In a November 3, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to criminal prosecution and resulting plea agreement on a charge of DUI, compounded by Mr. Perry's failure to report the outcome of the case to the Division as he was ordered to do at the time of his 2007 renewal.

PETERSON, ADAM A., Real Estate Sales Agent Applicant, Herriman, UT. In a July 29, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to misdemeanor convictions for selling tobacco to a minor and retail theft.

PETERSON, MATTHEW W., Real Estate Sales Agent Renewal Applicant, Kaysville, UT. In a July 14, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a conviction for intoxication in/about a vehicle, compounded by Mr. Peterson's failure to report his conviction to the Division within ten business days as required by [statute](#).

PLANT, BRANDON R., Real Estate Sales Agent Renewal Applicant, Sandy, UT. In a September 15, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to prosecution and resulting plea agreement on charges of disorderly conduct and domestic violence in the presence of a child.

REYNOLDS, ASHLEY R., Real Estate Sales Agent Renewal Applicant, Draper, UT. In a July 16, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a conviction for impaired driving, compounded by Ms. Reynolds's failure to report her conviction to the Division within ten business days as required by [statute](#).

RITTER, RONALD L., Real Estate Sales Agent, Fayetteville, NC. In a November 13, 2009 order, conditional license is automatically revoked on a finding that Mr. Ritter failed to accurately disclose his criminal history on his licensing application.

RUSSELL, SCOTT W., Real Estate Sales Agent Renewal Applicant, Ogden, UT. In a July 29, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to the Utah Insurance Department having found Mr. Russell in violation of its marketing regulations during his employment at a title company.

SALTAS, PAULA, Real Estate Sales Agent, Murray, UT. In a November 18, 2009 stipulation and order, Ms. Saltas agreed to pay a civil penalty of \$7,500.00. In violation of [Utah Code Ann. § 61-2-1\(1\)](#), Ms. Saltas acted as a sales agent in three transactions after her license had expired. Case number RE 44405.

SCHULTZ, THOMAS J., Real Estate Sales Agent License, West Jordan, UT. In a September 16, 2009 stipulation and order, Mr. Schultz agreed to the revocation of his sales agent license, a five-year waiting period before reapplying with the Division, a mandatory hearing upon reapplication, and a civil penalty of \$15,000.00. In violation of [Utah Admin. Code R162-6-1](#), Mr. Schultz participated in gross misrepresentation to members of the public as to the actual terms of a real estate private financing scheme, which he helped to initiate. Case number RE 42893

SCOTT, COLLEEN A., Real Estate Sales Agent Renewal Applicant, Magna, UT. In a September 21, 2009 order, application is granted with restriction. License is placed on probation due to prosecution and resulting plea agreement on a charge of assault.

SHAW, JULIE, Real Estate Sales Agent, Salt Lake City, UT. In an October 21, 2009 stipulation and order, Ms. Shaw agreed to pay a civil penalty of \$5,000.00 and to have her license placed on probation for one year. In violation of [Utah Code Ann. § 61-2-11\(1\)](#), Ms. Shaw made a substantial misrepresentation to the public and to real estate professionals by listing a property without authorization from the owner of record to do so. Case number RE 36001.

SHERWOOD, ADAM, Real Estate Sales Agent Applicant, Layton, UT. In a November 23, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to criminal history involving multiple misdemeanor proceedings, compounded by Mr. Sherwood's failure to accurately disclose the full extent of his criminal history on his application.

SHOWALTER, DAVID, Real Estate Principal Broker and Real Estate Dual Broker, Santa Clara, UT. In a September 24, 2009 default order following a hearing before the Commission at which Mr. Showalter failed to appear, licenses revoked. Mr. Showalter may not reapply with the Division for five years, and he is assessed a civil penalty of \$25,000.00 due to evidence that Mr. Showalter has violated multiple **statutes** and **rules** governing professional conduct, including those prohibiting the making of substantial misrepresentations, making false promises likely to induce, pursuing a continued and flagrant course of action, mishandling funds belonging to others, disregarding orders of the Commission, engaging in dishonest dealing, breaching a fiduciary duty, failing to deposit monies with the principal broker, commingling funds belonging to others with one's own funds, failing to inform the principal broker of a real estate transaction, failing to adhere to the terms of a REPC, and knowingly participating in a transaction in which a materially incorrect document is used. Case numbers RE 32977 and 85458.

SMITH, BRANDON R., Real Estate Sales Agent Renewal Applicant, Bountiful, UT. In a July 30, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to two misdemeanor traffic citations, compounded by Mr. Smith's subsequently failing to comply with the court's orders.

SMITH, SHIRLEYA., Real Estate Sales Agent Renewal Applicant, Salt Lake City, UT. In a July 6, 2009 order, application is granted with restriction. License is placed on probation for the renewal period due to a conviction for operating a vehicle without insurance, compounded by Ms. Smith's failure to report her conviction to the Division within ten business days as required by **statute**.

STELTER, JEFFREY M., Real Estate Sales Agent Applicant, Lindon, UT. In a November 17, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due a conviction for retail theft and multiple misdemeanor violations, which Mr. Stelter failed to fully disclose on his licensing questionnaire.

STOCK, RICHARD, Real Estate Sales Agent Applicant, Eagle Mountain, UT. In a September 9, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to past alcohol-related convictions.

STRACHER, GLEN, Real Estate Sales Agent Applicant, Kamas, UT. In a September 9, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to Mr. Stracher's failing to disclose a conviction for criminal mischief on his licensing questionnaire.

STRANGE, LESLIE, Real Estate Sales Agent Renewal Applicant, Clearfield, UT. In a July 21, 2009 order following a hearing before the Commission, application is granted with restriction. License is suspended until such time as Mr. Strange complies in full with a stipulation to the Utah Real Estate Appraiser Licensing and Certification Board or, alternatively, appears before the Appraiser Board and arranges a modification of the stipulation so as to allow for compliance over time. Upon resolution of the stipulation, Mr. Strange's license is to be placed on probation for the duration of the licensing period.

SUCHER, JASON F., Real Estate Principal Broker, Orem, UT. In a August 11, 2009 stipulation and order, Mr. Sucher agreed to pay a \$20,000.00 civil penalty. In violation of **Utah Code Ann. § 61-2-11** and **Utah Admin. Rules § R162-4-2** and **§ R162-5-4**, Mr. Sucher failed, over a period of 18 months, to supervise an employee who embezzled \$130,000.00 from the company's trust account. Case number RE 45773.

TEW, EDDYE K., Real Estate Sales Agent, Springville, UT. In an October 27, 2009 order following a disciplinary hearing before the Commission, Ms. Tew is ordered to pay a civil penalty of \$8,000.00. In violation of **Utah Code Ann. § 61-2-1(1)**, Ms. Tew allowed her license to expire and

thereafter negotiated two contracts and published four listings. In violation of **Utah Admin. Code § R162-6.1.8**, Ms. Tew negotiated two contracts in a manner that failed to conform with accepted industry standards. In violation of **Utah Admin. Code § R162-6.1.11**, Ms. Tew failed, in all six transactions, to execute agency agreements with the clients she represented. Case number RE 39250.

THOMPSON, TRISHAANN, Real Estate Sales Agent Applicant, Clearfield, UT. In a July 16, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to Ms. Thompson's failure to remain at the scene of an accident during her employment as a police officer, with the result that her police officer certifications were suspended.

TUCKER, KIMBERLY, Real Estate Sales Agent Renewal Applicant, Sandy, UT. In a November 3, 2009 order, application is granted with restriction. License is placed on probation during the pendency of the criminal proceedings currently in progress against Ms. Tucker on six charges of communications fraud. Upon the court's issuing a final judgment, Ms. Tucker's license shall be subject to review by the Division.

WEISSINGER, VINCENT J., Principal Broker, Henderson, NV. In a July 7, 2009 order following a disciplinary hearing before the Commission, Mr. Weissinger's principal broker license is revoked, and he is assessed a civil penalty of \$6,000.00. Mr. Weissinger must wait five years before applying for any license with the Division. In violation of Utah Code Ann § 61-2c-3(1)(a)(i) and Utah Admin. Code §§ R162-2-6.1.5.1 and R162-2-6.1.11.1, Mr. Weissinger placed advertisements for properties without first entering into a written agency agreement with the owner(s) of those properties.

WILLIAMS, WESLEY B., Real Estate Principal Broker Renewal Applicant, Cottonwood Heights, UT. In a September 17, 2009 order following a hearing before the Commission, application is granted with restriction. License is immediately suspended until Mr. Williams provides proof that he has paid all fines relative to his traffic offenses and satisfied all

civil judgments in full. License will thereafter be placed on probation for the duration of the renewal period.

WILSON, NATE D., Real Estate Sales Agent Renewal Applicant, Sandy, UT. In a July 29, 2009 order, application is granted with restriction. License is immediately suspended for 30 days and thereafter placed on probation for the duration of the renewal period due to a DUI conviction, compounded by Mr. Wilson's subsequently violating the terms of his sentencing, and further compounded by Mr. Wilson's failing to report his conviction to the Division within ten business days as required by **statute**.

WINQUIST, CAMERON T., Real Estate Sales Agent Applicant, Kaysville, UT. In a September 28, 2009 order, application is granted with restriction. License is placed on probation for the initial licensing period due to a 1994 conviction for attempted burglary of a building and multiple driving offenses.



Active or Inactive Mortgage Licensees Must Transition Into NMLS

Beginning January 4, 2010, the Utah Division of Real Estate will be transitioning to the new Nationwide Mortgage Licensing System (NMLS). Each licensee who wishes to maintain his license, whether in an active or inactive status, must transition his/her license. This also applies to all mortgage entities as well. Letters have been mailed out to all licensees explaining this process and the steps involved. If you did not receive your letter, you will find a copy on our web page at www.realestate.utah.gov.

It is important that you have your current license number in order to transition. All license numbers are 7 digits followed by 4 letters, for example 7560488-MLAF. For the purposes of this transition, use only the first 7 digits, for example 7560488, where requested in the NMLS system. If you are unsure of your number, please verify it in RELMS before transitioning your records. This will prevent the system from charging you for a new license.



THANK YOU COMMISSIONER SAMPSON

As I have finished my four year term as a Real Estate Commissioner I look back over those years and it was an awesome experience. I was able to serve with very capable Real Estate and industry professionals who had the interest of the public and the Real Estate profession at the top of the list. Also, I was able to work with a couple of great Division Directors who had the same interest and vision enabling us to work together to accomplish great things for our industry and the people of Utah.



Just a few things that come to mind: Being able to raise the bar for those entering into our profession assuring the public of a better educated and a more professional licensee. With the help of the Real Estate educators and the State Legislature we were able to increase the number of hours required to get a license and also the number of house of continuing education to renew our licenses. We were able to spell out classes that are required for new licensees during their first licensing period so as to help educate them on the basic needed to represent the public and be a better licensee.

With the help of the Attorney Generals office we were able to write rules and regulations governing our industry to assure that those who violate the rules and regulations come before the commission for a hearing in a timely manner. We were also able to raise the amount of the fines that can be levied hopefully making those who want to do business that would be harmful or misleading to the public think again before engaging in such action. There is much more, but needless to say, great people are working together to accomplish great things.

There is a lot of going being done by your commissioners and the excellent staff at the Real Estate Division and also the Utah Association of Realtors to enhance our profession and protect the general public in this great State. It was a pleasure to work with all of them and all of the licensees in the state.

Thanks again for the opportunity to serve...

Utah! NEWS **DIVISION of REAL ESTATE**

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SAFE: 2009 and 2010 Changes			
	Existing Licensees	New Licensees (UNTIL December 31, 2009)	New Licensees (AFTER December 31, 2009)
License Expiration	December 31, 2010 Licenses will then be annual	December 31, 2010 Licenses will then be annual	December 31, 2010 Licenses will then be annual
Pre-licensure Education	None required. Each licensee will be required to pay a \$15.00 certification fee to NMLS.	20 hours of Utah DRE approved education. Each licensee will be required to pay a \$15.00 certification fee to NMLS	20 hours of NMLS education AND 40 additional hours of Utah DRE-education.
Background Checks	Beginning in 2010, all licensees will be required to complete a background check every 3 years through NMLS.	Beginning in 2010, all licensees will be required to complete a background check every 3 years through NMLS.	All licensees will be required to complete a background check every 3 years through NMLS.
Testing	Prior to December 31, 2010, licensees will have to pass the new NMLS national exam. Those licensees who have passed the Utah state exam (regardless of their passing score) do NOT have to retake the NMLS Utah portion of the state exam. Each licensee will be required to pay a \$5.00 certification fee to NMLS.	Now until December 31, 2009: Pass national NMLS exam at NMLS testing center. Must also pass Utah state portion of exam at Utah DRE Pearson Vue test center.	January 1, 2010-Feb. 21, 2010: Pass national NMLS exam at NMLS testing center. Must also pass Utah state portion of exam at Utah DRE Pearson Vue test center. February 22, 2010 and thereafter: Pass the national and Utah NMLS exams at NMLS testing center.
Continuing Education	Licensees will complete 14 hours of Utah DRE or NMLS CE for 2010 renewal (Including a min. of 2 hrs of Ethics and 3 hrs Federal/State laws governing mortgage lending). Subsequent renewals will require 8 hrs of NMLS CE including 3 hrs federal law and regulations, 2 hrs of ethics (fraud, consumer protection, and fair lending practices), 2 hrs non-traditional mortgages, and 1 hr elective	Now until December 31, 2009: Licensees will complete 8 hrs of Utah DRE or NMLS CE including 3 hrs federal law and regulations, 2 hrs of ethics (fraud, consumer protection, and fair lending practices), 2 hrs non-traditional mortgages, and 1 hr elective. for 2010 renewal. Subsequent renewals will require 8 hrs of NMLS CE in topics described above.	Licensees will complete 8 hrs of Utah DRE or NMLS CE including 3 hrs federal law and regulations, 2 hrs of ethics (fraud, consumer protection, and fair lending practices), 2 hrs non-traditional mortgages, and 1 hr elective; for 2010 renewal. Subsequent renewals will require 8 hrs of NMLS CE in topics described above.
Fees	State fees will remain unchanged NMLS fees will be added	State fees will remain unchanged NMLS fees will be added	State fees will remain unchanged NMLS fees will be added

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