

Utah Department of Commerce

# Division of Real Estate

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

# NEWS

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## Licensing Reporting And Disclosure Requirements: Who, What, And When?

Individuals and entities holding licenses or registrations with the Division of Real Estate are required to report various issues to the Division for review. The purpose of this article is to help all licensees understand the current requirements for reporting and disclosure, the applicable deadlines, and the possible sanctions for failure to comply.

### What must be reported during the term of a license – PRIOR TO RENEWAL

The requirements applicable to each industry are outlined in the charts below, which include references and links to the rules and statutes that set forth the requirements as of the publication date of this newsletter. Here are some of the things that licensees occasionally claim to be confused about:

1. You must report a criminal case as specified in the charts within 10 days of the court's entering a conviction or accepting your plea in abeyance/diversion agreement. This means that the reporting requirement is triggered before the case is completely finished. If you wait to report until after sentencing, or after your appeal is concluded, or after you complete your probation/sentencing requirements, you will be in violation of the reporting requirement and will be sanctioned.
2. You should not rely on your attorney's opinion as to whether a criminal issue is serious enough to trigger the reporting requirement. We have seen attorneys who are not familiar with the licensing statutes guess—and guess incorrectly—about the effect that a criminal case will have on a person's license. Your best course of action is to have your attorney contact the Division's hearing officer or assistant attorney general for guidance in helping you comply.
3. If your attorney (or anyone else) tells you that a criminal matter will not be on your record, don't

believe it. If you are charged in a criminal case, it is on your record. It does not "fall off" or become "automatically expunged" after you complete your probation or after a period of time passes.

4. If you fail to comply with the reporting requirement as to a criminal case, but successfully complete your sentence and get the matter dismissed prior to the date on which you renew your license, you will still be held accountable and sanctioned for your failure to comply.
5. Complying with the reporting requirement does not mean that you are safe from a regulatory action. The Division may bring an action on the grounds of a criminal case, a license sanction imposed by another state, or a bankruptcy—even if the issue is reported appropriately and in a timely manner.
6. Shoplifting = theft, even if all you did was leave the store in the company of someone who took merchandise without paying. A class C misdemeanor shoplifting charge resolved through conviction, plea in abeyance, or diversion agreement must be reported.

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## DIRECTOR'S MESSAGE



**Jonathan Stewart**

When I was in college, I worked part-time for a local credit union. The manager of the credit union always stressed consistency; all members were supposed to be treated the same way. It didn't matter how much money members had in their accounts or how long they had belonged to the credit union, the rules applied to everyone. Not everyone liked this policy, and we would often hear the question, "Do you know how long I have banked here?" Credit union policy forbade employees from giving more than \$500 cash to anyone in the drive-through. One evening while I was working the drive-through, a police car came through, and the driver sent in the tube containing a withdrawal slip for more than \$500 cash. I explained to him the credit union rule dealing with cash withdrawal limits and informed him that if he wanted more than \$500 in cash, he would have to come inside. This policeman later called my manager complaining about the rule, saying that he was a policeman, so I should have made an exception and given him the cash he had requested. Around the end of every month, we have licensees contact our office asking us to bend the license renewal rules. Some of the common reasons we hear are:

1. I didn't know you had to have the CE done by the 15th. I got the courses done before my expiration date and that should be enough. (Please refer to the article entitled "Completion of Continuing Education By the 15<sup>th</sup> Day of the Month of License Expiration" on page 10.)
2. Someone else in my office was supposed to renew my license for me.
3. I didn't know I had to renew. I thought it automatically happened when I finished my CE hours.
4. I just paid you \$800; didn't that include my renewal fee? (Don't mistake the DRE for the Board of Realtors or the MLS.)
5. My license is inactive; I didn't think I had to renew.
6. I didn't receive any reminder to renew.
7. I just missed it by one day, so can't you make an exception?
8. I thought my license didn't expire until next year.
9. This is my first time renewing, so I didn't know all the requirements.
10. I've been licensed for 20+ years with no complaints...can't you make an exception?



While Division employees are very sympathetic to our licensees' individual circumstances, it is important for us to be consistent in the application of statutes and rules, including the approval of license renewals. If we bend the rules for one licensee, then we have to make exceptions for everyone, which is unfair to the licensees who finish their CE on time and renew on time. The vast majority of licensees renew their licenses on time, and we appreciate all of you. You are professional, and you provide such a valuable service to the community. We consider it a privilege to work to support you, and as always, we hope you will continue to contact the Division with your questions and concerns.



# **Monster Homes: Don't Be Scared To Pass Or Ask For Help**

**By Jeff Nielsen**

Lately, the Division of Real Estate's staff has seen a problematic trend in the appraisal complaints the Division is receiving: appraisals being done on what we have internally termed Monster Homes. Are these so called Monster Homes kind of like the house in the movie "Monster House", which comes to life and devours everything in its path? No, but they seem to be causing plenty of issues for appraisers in general. So what are these so-called Monster Homes? They include homes that are large and unusual, such as an overbuilt home for a particular community, or homes with unique features such as unique swimming pools, large indoor sport courts, etc. Their key feature: the problems they are causing appraisers due to their (pardon the Bushism) "uniquities." We are seeing that appraisers are not recognizing, or are not sure how to deal with, the uniqueness of these Monster Homes. Some of the appraisals do not recognize or account for super-adequacy/functional obsolescence of the home, or particular spaces within the home, such as the indoor sport courts. Some of the appraisers are unsure whether to include certain indoor space as part of the gross living area, and some appear to be unsure how to analyze the space for comparable purposes in general. This leads to another problem with the Monster Homes, which is choosing suitable comparable homes for the sales comparison approach. Some appraisers are not choosing to expand their search area for appropriate comparable homes when it is appropriate to do so. Others are expanding the search area, but failing to recognize value discrepancies because the chosen comparable homes are located in superior communities. Lastly, Monster Homes are causing appraisers to find (or invent) unique methods for appraising the home. Appraisers must be careful, for example, that if they state a certain value of depreciation has occurred, they also show the basis for the depreciation adjustments in the report and work file in order to explain and justify the methodology used in generating the depreciation value.

Since many of these Monster Homes are causing appraisers to solve the problems in unique ways, the Division wishes to emphasize that any methodology used must comply with USPAP and with our state statutes and rules. Specifically, the Monster Homes seem to point to competency related issues. Remember, when an appraiser accepts an assignment, the appraiser is claiming to have the competency required to complete the assignment. Now, what is the solution? If you, as an appraiser, are unsure how to deal with a specific home or portion of the appraisal, do one of two things: seek assistance from another appraiser (that has knowledge and expertise in the matter you are struggling with), or decline the assignment. We all know times have been tough the last few years, and sometimes the appraisal fee can be a tempting bite at the apple. But is it worth having your appraisal land on an investigator's desk, potentially resulting in an action by the Division? Hopefully not. Don't be eaten alive by the Monster Homes. If you are unsure how to handle a Monster Home, seek help, or turn down the assignment until you are confident you will be able to meet USPAP's competency rule for that particular type of assignment.



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## What must be disclosed at renewal

When you apply to renew your license, you are expected to demonstrate honesty, truthfulness, and competency. This means that you are expected to read each disclosure question thoroughly and in circumstances where you are able to give it your full attention, make sure you understand it, and conduct research if necessary to ensure that you are answering accurately. At renewal, you are required to disclose whether any of the following has occurred since the date on which you last answered the disclosure questions:

1. Any sanction of a professional license.
2. Any current investigations or pending actions by a state or federal regulatory body.
3. Any felony, class A misdemeanor, or class B misdemeanor criminal charge that you resolved through conviction, plea in abeyance, diversion agreement, withheld judgment, or similar method.
4. Any current criminal investigations or pending criminal actions.
5. Any finding against you of contempt of court.
6. Any civil judgments entered against you on grounds of fraud, misrepresentation, or deceit.

Here are a few tips:

1. **DON'T GUESS.** If you don't know whether your criminal case was a felony, class A misdemeanor, or class B misdemeanor, **GO FIND OUT.** If your circumstances are confusing and you are not sure how you should answer, get help from Division staff. Here are some common class B misdemeanors that licensees frequently fail to disclose:
  - Animal (dog) at large
  - Failure to register a vehicle/towed vehicle
  - Failure to maintain insurance on a vehicle
  - Intoxication
  - Failure to appear for court proceedings
  - Failure to comply with a court order (such as paying a fine)
  - Various charges related to domestic violence (assault, interruption of a communication device, domestic violence in the presence of a child)
  - Child abuse/neglect
2. **DON'T HURRY.** Take the time to read the questions. If you don't understand them, get help from Division staff.
3. If you report an issue to the Division during the term of your license (within ten days, for most issues), you still have to disclose it when you renew.

## Consequences for failing to report or failing to disclose

The Division seeks a sanction against every licensee who fails to comply with a reporting requirement or who makes a misrepresentation in a license application, regardless of the reason or explanation. Here are a few of the reasons or explanations we hear frequently for failing to report or disclose:

- "I had no idea I was required to report that. I would have done it if I had known. I wasn't trying to hide it—I've just never even heard of this reporting requirement."
- "I guess I just didn't read the question carefully enough. I'm licensed in other states that don't ask for as much detail, so I just assumed these questions were the same."
- "I totally forgot about that criminal situation and had no idea it was a class B misdemeanor. All I had to do was pay a fine. My attorney told me it wouldn't even be on my record."
- "I was cited for a class C misdemeanor/infraction. I had no idea that the court added a class B misdemeanor failure to appear/comply charge."
- "It was just a traffic ticket, and I paid it. I had no idea that it was going on my record as a misdemeanor charge."
- "That was such a minor thing, and it has nothing to do with real estate. Why do you even care about that?"

At minimum, we will seek to put a license on probation or assess a \$250 civil penalty for a failure to report or a failure to disclose. If the issue that is required to be reported or disclosed is more serious, or if there are multiple violations, we seek more stringent penalties.

*SEE CHARTS ON FOLLOWING PAGES*



## MORTGAGE

What to report	Deadline	Reference
Change in: <ul style="list-style-type: none"> <li>• Licensee's name.</li> <li>• Business name.</li> <li>• Business address.</li> <li>• Home address.</li> <li>• Principal lending manager.</li> <li>• Sponsorship.</li> </ul>	<b>10 DAYS</b>	<a href="#">§ 61-2c-205(3)(a)</a>
Felony charge resolved through conviction, plea in abeyance, diversion agreement, or similar agreement under which a criminal charge is held in suspense for a period of time.	<b>10 DAYS</b>	<a href="#">§ 61-2c-205(4)(a)(i)-(ii)</a>
Misdemeanor charge involving financial services or a financial services-related business, fraud, a false statement or omission, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, or extortion that is resolved through conviction, plea in abeyance, diversion agreement, or similar agreement under which a criminal charge is held in suspense for a period of time.	<b>10 DAYS</b>	<a href="#">§ 61-2c-205(4)(a)(i)-(ii)</a>
Suspension, revocation, surrender, cancellation, or denial of a professional license or professional registration, whether the license or registration is issued by Utah or another jurisdiction.	<b>10 DAYS</b>	<a href="#">§ 61-2c-205(4)(a)(iv)</a>
Entry of a cease and desist order or a temporary or permanent injunction against the licensee by a court or licensing agency because of conduct or a practice involving the business of residential mortgage loans, or conduct involving fraud, misrepresentation, or deceit.	<b>10 DAYS</b>	<a href="#">§ 61-2c-205(4)(a)(v)</a>
Filing a personal bankruptcy.	<b>10 DAYS</b>	<a href="#">§ 61-2c-205(4)(a)(iii)</a>
Filing for bankruptcy of a licensed mortgage entity.	<b>10 DAYS</b>	<a href="#">§ 61-2c-205(4)(a)(iii)</a>
<b>How to report</b> Make an appropriate change to your MU1 or MU4 form, as applicable, and be prepared to provide documentation (such as a marriage license, corporate registration certificate, court documents, or orders issued by a regulatory agency) as instructed by the Division.		

## How Do I Manage My License?

### Real Estate License Management System (RELMS)

The RELMS system allows real estate agents, brokers and appraisers to access online services. If you need training on how to use RELMS please visit [www.realestate.utah.gov](http://www.realestate.utah.gov) to find a RELMS class. RELMS courses count for core continuing education credit and is essential to managing your license.

#### Available Online Services:

- Renew License
- Change Address
- Change License Status
- Change Affiliation
- Manage Company Roster
- Order Duplicate License
- View CE Courses Taken
- View and Order License History



## REAL ESTATE

### Requirements for ALL INDIVIDUAL LICENSEES

What to report	Deadline	Reference
Change in affiliation with a principal broker.	Prior to making the change	<a href="#">R162-2f-207(6)(a)</a>
Change in licensee's: <ul style="list-style-type: none"> <li>• Business address.</li> <li>• Mailing address.</li> <li>• Home address.</li> <li>• E-mail address.</li> <li>• Name.</li> </ul>	<b>10 DAYS</b>	<a href="#">§ 61-2f-207(1)</a>  also see <a href="#">R162-2f-207(6)(c)</a>
Felony charge resolved through conviction, plea in abeyance, diversion agreement, or similar agreement under which a criminal charge is held in suspense for a period of time.	<b>10 DAYS</b>	<a href="#">§ 61-2f-301(1)(a)-(b)</a>
Misdemeanor charge involving financial services or a financial services-related business, fraud, a false statement or omission, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, or extortion that is resolved through conviction, plea in abeyance, diversion agreement, or similar agreement under which a criminal charge is held in suspense for a period of time.	<b>10 DAYS</b>	<a href="#">§ 61-2f-301(1)(a)-(b)</a>
Suspension, revocation, surrender, cancellation, or denial of professional license or professional registration, whether the license or registration is issued by Utah or another jurisdiction.	<b>10 DAYS</b>	<a href="#">§ 61-2f-301(1)(d)</a>
Entry of a cease and desist order or a temporary or permanent injunction against the licensee by a court or licensing agency because of conduct or a practice involving the business of real estate, or conduct involving fraud, misrepresentation, or deceit	<b>10 DAYS</b>	<a href="#">§ 61-2f-301(1)(e)</a>

### Additional requirements for PRINCIPAL BROKERS

What to report	Deadline	Reference
Filing a personal bankruptcy.	<b>10 DAYS</b>	<a href="#">§ 61-2f-301(1)(c)</a>
Filing bankruptcy for a registered brokerage.	<b>10 DAYS</b>	<a href="#">§ 61-2f-301(1)(c)</a>
Termination of a sales agent, associate broker, or branch broker.	<b>3 DAYS</b>	<a href="#">§ 61-2f-304(1)</a>
Change in assignment of branch manager.	Date change takes effect	<a href="#">R162-2f-207(6)(b)</a>
Termination of the principal broker's affiliation with an entity.	Prior to making the change	<a href="#">R162-2f-207(6)(a)</a>
Location of business records following termination of business operations.	<b>10 DAYS</b>	<a href="#">R162-2f-401c(1)(c)</a>

### Requirements for REGISTERED ENTITIES

What to report	Deadline	Reference
Change in entity's affiliation with a principal broker.	Prior to making the change	<a href="#">R162-2f-207(6)(a)</a>
<ul style="list-style-type: none"> <li>• Change in entity's name.</li> <li>• Change in corporate structure.</li> <li>• Dissolution of corporation.</li> <li>• Change in location where brokerage records are kept.</li> </ul>	<b>10 DAYS</b>	<a href="#">R162-2f-207(6)(c)</a>

**How to report** – See [R162-2f-207\(3\)](#) for details. In summary:

- To report a change in address or a change in affiliation between a principal broker and an individual licensee, submit the change through RELMS.
- To report a change in an individual or business name, submit to the Division a paper change form, along with documentation (such as a marriage license or corporate registration certificate) as instructed by the Division.
- To report a change in assignment of branch broker or a change in affiliation between an entity and a principal broker, submit to the Division a paper change form.
- To report any other issue, provide the Division with a signed statement, and be prepared to provide relevant documentation (such as court documents or orders issued by a regulatory agency) as instructed by the Division.

## APPRAISAL

What to report	Deadline	Reference
Change in: <ul style="list-style-type: none"> <li>• Licensee's name.</li> <li>• Business name.</li> <li>• Business address.</li> <li>• Home address.</li> <li>• E-mail address.</li> </ul>	<b>10 DAYS</b>	<a href="#">§ 61-2g-402(2)</a>
Creation or termination of an affiliation, as defined in <a href="#">R162-2g-102(1)</a> .	<b>10 DAYS</b>	<a href="#">R162-2g-306b(4)</a>
Felony charge resolved through conviction, plea in abeyance, diversion agreement, or similar agreement under which a criminal charge is held in suspense for a period of time.	<b>10 DAYS</b>	<a href="#">§61-2g-306(3)(a)-(b)</a>
Misdemeanor charge involving financial services or a financial services-related business, fraud, a false statement or omission, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, or extortion that is resolved through conviction, plea in abeyance, diversion agreement, or similar agreement under which a criminal charge is held in suspense for a period of time.	<b>10 DAYS</b>	<a href="#">§61-2g-306(3)(a)-(b)</a>
Suspension, revocation, surrender, cancellation, or denial of professional license or professional registration, whether the license or registration is issued by Utah or another jurisdiction.	<b>10 DAYS</b>	<a href="#">§61-2g-306(3)(c)</a>
Entry of a cease and desist order or a temporary or permanent injunction against the licensee by a court or licensing agency because of conduct or a practice involving an act regulated by the appraisal statute, or conduct involving fraud, misrepresentation, or deceit	<b>10 DAYS</b>	<a href="#">§61-2g-306(3)(d)</a>
<b>How to report</b> – See <a href="#">R162-2g-306b(3)</a> for details. In summary: <ul style="list-style-type: none"> <li>• To report a change in individual or business name, provide the Division with a paper change form.</li> <li>• To report a change in affiliation or address, record the change through RELMS.</li> <li>• To report any other issue, provide the Division with a signed statement, and be prepared to provide relevant documentation (such as court documents or orders issued by a regulatory agency) as instructed by the Division.</li> </ul>		

## APPRAISAL MANAGEMENT

What to report	Deadline	Reference
Change in: <ul style="list-style-type: none"> <li>• Registered name.</li> <li>• DBA.</li> <li>• Trade name.</li> <li>• Assumed business name.</li> </ul>	<b>10 DAYS</b>	<a href="#">R162-2e-201(3)(c)</a>
<b>How to report</b> Send a written communication to the Division explaining the change. Be prepared to attach relevant documentation, including evidence that the name has been registered properly with the Division of Corporations and Commercial Code.		

## SCHOOLS and INSTRUCTORS

### Requirements for Mortgage and Real Estate Schools

What to report	Deadline	Reference
Change in information submitted in the application for registration, including: <ul style="list-style-type: none"> <li>• Contact information.</li> <li>• Names/topics of courses offered.</li> <li>• Schedule of courses offered.</li> <li>• Instructors.</li> <li>• Statement of attendance requirements as provided to students.</li> <li>• Refund policy as provided to students.</li> <li>• Disclaimer as provided to students.</li> <li>• Criminal history disclosure statement as provided to students.</li> </ul>	<b>15 DAYS</b>	For mortgage: <ul style="list-style-type: none"> <li>• <a href="#">R162-2c-203(1)(d)</a></li> <li>• <a href="#">R162-2c-301(5)(a)(i)</a></li> </ul> For real estate: <ul style="list-style-type: none"> <li>• <a href="#">R162-2f-206a(3)(e)</a></li> <li>• <a href="#">R162-2f-401d(1)(a)</a></li> </ul>

### Requirements for Appraisal Schools

What to report	Deadline	Reference
Change in contact information.	<b>10 DAYS</b>	<a href="#">R162-2g-307a(3)(a)</a>
A school director or owner being convicted, or entering a plea in abeyance or diversion agreement, as to a criminal offense, excluding class C misdemeanors.	<b>10 DAYS</b>	<a href="#">R162-2g-307a(3)(b)</a>
Any material change in a prelicensing course that could affect approval.	<b>10 DAYS</b>	<a href="#">R162-2g-307b(4)</a>

### Requirements for Appraisal Instructors

What to report	Deadline	Reference
Resolution of a criminal charge, with the exception of a class C misdemeanor, through conviction, plea in abeyance, diversion agreement, or similar agreement under which a criminal charge is held in suspense for a period of time.	<b>10 DAYS</b>	<a href="#">R162-2g-307d(5)</a>

#### How to report

Send a written communication to the Division explaining the change. Be prepared to attach relevant documentation, as instructed by the Division.

## Lending Manager Change

With a recent change to The Utah Residential Mortgage Practices and Licensing Act, the Division has sought to remove what was previously an unnecessary regulatory transition requirement and fee assessment through the NMLS. There is now a single license category of “Lending Manager” in the Nationwide Mortgage Licensing System (NMLS) for lending managers in Utah. Utah licensing personnel will continue to track through the Utah licensing database (outside of the NMLS), whether the lending manager is functioning as a Principal Lending Manager (PLM), Branch Lending Manager (BLM), or Associate Lending Manager (ALM). Effective July 6, 2012, the NMLS will only allow the selection of “Lending Manager” for new applicants. On July 13, 2012 the NMLS will convert all existing PLM, BLM, and ALM license types to “Lending Managers”. The Division is pleased that lending managers will no longer be required to submit an NMLS transition each time they change their license designation from one to another of the three lending manager

categories. Please note: although the three categories still remain part of Utah’s licensing structure, for NMLS purposes, these license types have been eliminated. The Division of Real Estate will continue to require a lending manager to function as the entity’s PLM in overseeing and taking responsibility for all first-lien residential mortgage loans and for the conduct of all mortgage loan originators and support staff affiliated with the company. Similarly, the Division will require a unique lending manager to function as a BLM in overseeing and taking responsibility for all first-lien residential mortgage loans originated from a branch office, and for the conduct of all mortgage loan originators and support staff operating there. Lending managers who have no statutory or rule mandated management responsibilities will be designated as ALM’s in Division licensing records. Once again, in July, lending managers will drop the license type PLM, BLM, or ALM in the NMLS and only the license type “Lending Manager” will be available. The Lending Manager status will now solely be tracked in the Division’s licensing database.





## TIMESHARE

### Requirements for Developers

What to report	Deadline	Reference
Conviction against the developer for a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions.	<b>5 DAYS</b>	<a href="#">§ 57-19-8(3)</a>
Injunction or administrative order restraining a false or misleading promotional plan involving land dispositions.	<b>5 DAYS</b>	<a href="#">§ 57-19-8(3)</a>
The developer's filing a petition in bankruptcy (personal or business).	<b>5 DAYS</b>	<a href="#">§ 57-19-8(4)</a>
The occurrence of any event that may have a material adverse effect on the subdivision.	<b>5 DAYS</b>	<a href="#">§ 57-19-8(4)</a>
A final order of a trial court, or the settlement agreement, consent agreement, or other document evidencing resolution of a lawsuit by or against a developer, if there is a finding that the developer engaged in fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in a real estate transaction.	Promptly	<a href="#">§ 57-19-8(5)</a>
Change in developer's contact information.	<b>10 DAYS</b>	<a href="#">R162-57a-5(9)(a)(i)</a>
Change in any items required to be included in the disclosure statement provided to prospective purchasers. These items are outlined in <a href="#">§ 57-19-11</a> and include the following: <ul style="list-style-type: none"> <li>• Name and address of the developer.</li> <li>• Criminal and civil cases involving the developer.</li> <li>• Description of the developer's experience in the industry.</li> <li>• Description of the interest being offered in the project, including provisions to protect a purchaser's interest from loss through foreclosure.</li> <li>• Maximum number of interests in the project.</li> <li>• Any event that may have a material adverse effect on the operation of the project.</li> </ul>	<b>10 DAYS</b>	<a href="#">R162-57a-5(9)(a)(ii)</a>
Change in any of the information that the Division requires a developer to submit in order to obtain a registration, including: <ul style="list-style-type: none"> <li>• Bylaws of the registered project.</li> <li>• States where the project is registered.</li> <li>• Names of salesperson(s) hired to market the project.</li> <li>• Copies of instruments creating liens or other encumbrances.</li> </ul> For a complete list of items, refer to <a href="#">R162-57a-5(3)</a> .	<b>10 DAYS</b>	<a href="#">R162-57a-5(9)(a)(iii)</a>
Suspension, revocation, surrender, cancellation, or denial of a professional license or professional registration issued to the developer.	<b>10 DAYS</b>	<a href="#">R162-57a-5(9)(a)(v)</a>
Entry of a cease and desist order, a temporary or permanent injunction, or a regulatory action against the developer on the basis of conduct or a practice involving the marketing of interests, or conduct involving fraud, misrepresentation, or deceit.	<b>10 DAYS</b>	<a href="#">R162-57a-5(9)(a)(vi)</a>
Filing of a lawsuit by a purchaser against the developer on grounds relating to the advertising or sale of an interest, the disclosures required under Section <a href="#">57-19-11</a> , rescission rights, fraud, or misrepresentation of interests.	<b>10 DAYS</b>	<a href="#">R162-57a-5(9)(a)(vii)</a>

### Requirements for Salespersons

What to report	Deadline	Reference
Change in the individual's: <ul style="list-style-type: none"> <li>• Legal name.</li> <li>• Contact information.</li> </ul>	<b>10 DAYS</b>	<a href="#">R162-57a-15(4)</a>
Resolution of a criminal offense through conviction, plea in abeyance, diversion agreement, or other agreement under which a criminal charge is held in suspense for a period of time.	<b>10 DAYS</b>	<a href="#">R162-57a-15(4)</a>

#### **How to report**

Send a written communication to the Division explaining the issue. Be prepared to attach relevant documentation (such as a marriage license, corporate registration certificate, court documents, or orders issued by a regulatory agency) as instructed by the Division.

## Completion Of Continuing Education By The 15<sup>th</sup> Day Of The Month Of License Expiration

Division rules require that, in order to renew on time without incurring a late fee, an individual is required to submit the real estate or appraiser license renewal through the online RELMS system--**including the completion and banking of continuing education credits--by the license expiration date.** Under Division rules, continuing education providers are allowed ten days from the course completion date to submit real estate and/or appraisal CE course completion information for their students. In addition, there is also a delay of three to five business days between the date an education provider submits a completion roster to the Division's third party processor, and the date those CE credits are deposited (i.e. banked) into the licensee's individual RELMS account. Licensees taking courses during the last two weeks of their renewal month will in many instances **not have adequate continuing education credits banked into their individual RELMS accounts when they attempt to renew their licenses in the RELMS system.** In order to prevent paying an unnecessary \$50 renewal late fee, licensees will need to complete their continuing education early enough to allow sufficient time for their providers to submit the completed courses for banking. Please complete your continuing education no later than the 15<sup>th</sup> of your renewal month in order to prevent the frustration and expense of having to renew your license late. The Division will not manually enter continuing education credits that have not been **completed** by the 15<sup>th</sup> of the renewal month. The Division could authorize a vendor to facilitate an instantaneous banking system for real estate and appraisal course CE credits. Why not make such a system available? It comes at an additional cost. The quoted/estimated fee to enable "live banking" is **\$1.50 per CE hour for all licensees, for each successive license renewal.** Most real estate licensees prefer that the Division strive to maintain our comparatively low licensing fees (currently \$42 for real estate and \$400 for appraiser) that DO NOT include the additional "live banking" fee (\$27 for real estate and \$42 for appraisers) per licensee for each renewal period to pay for the instantaneous banking of CE credits.

The benefits for "live banking" are nonexistent for licensees who complete their continuing education during the first 102 weeks of the two-year license. Instantaneous banking would only benefit licensees who delay completing their continuing education until the final two weeks of the two-year license, but all licensees would be required to pay the additional fee. Completing CE by the 15<sup>th</sup> of the renewal month eliminates the worry of potentially paying a late fee for courses that are not banked by the end of the renewal month.



### THANK YOU FOR ATTENDING THE CARAVAN

The Division completed the 2012 CARAVAN after making presentations in seven different locations throughout the state including Provo, Logan, Park City, Layton, Moab, Richfield, and St. George). In both Layton and St. George, two sessions were held. The Division believes that there was an excellent exchange of information between Division staff and our licensees. It is sincerely hoped that licensees felt that their time was well spent. The Division believes that this regulatory outreach program is best suited for the more remote and rural locations in the state where interaction between Division staff is not as convenient or readily accessible. Locations under consideration for CARAVAN 2013 are Cedar City, Kanab, Vernal, and Price. Please let us know of your interest in having the CARAVAN come to your location.



# **Mortgage Loan Originator Prelicense Education Hours Reduced**

Beginning July 1, 2012, the prelicense education hours to become a mortgage loan originator (MLO) in Utah are reduced from forty (40) to fifteen (15) hours. Prior to this change becoming effective, applicants to become MLO's have been required to complete the following prelicense education courses:

- 20 Hour – NMLS
- 40 Hour – Utah Division of Real Estate

MLO's are now required to complete the following prelicense education courses:

- 20 Hour – NMLS
- 15 Hour – Utah Division of Real Estate

The Division and the Utah Residential Mortgage Regulatory Commission determined that there were considerable redundancies between the curriculum of the 20-hour NMLS course and the 40-hour UDRE course. Despite the fact that there may be a span of time between when the two required courses are completed, the Commission and Division have concluded that curriculum content redundancies should be eliminated. The 40-hour Principal Lending Manager (PLM) course has not been changed. Despite there being some overlap in content between MLO and PLM prelicense education; there is a three-year span of time between when these courses are completed, making it reasonable to include some review materials. In addition, the subject matter comprehension and application levels are significantly different for initially licensing MLO's and more experienced, supervising PLM's. For this and other reasons, the PLM course will continue with the existing course content outline.

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## **Utah Mortgage Company Quarterly Condition (Call) Reporting & Annual Financial Condition Reporting Requirements**

Recent legislative changes were required to bring the state of Utah into compliance with S.A.F.E Act requirements. These changes went into effect on May 8, 2012, and require a quarterly condition (call) report of residential mortgage loan activities to be submitted to the nationwide database (NMLS). For further information on quarterly call reporting requirements please refer to the NMLS website at: <http://mortgage.nationwidelicensingsystem.org/slr/common/mcr/Pages/default.aspx>

The first call report required in Utah by this new legislation will be the third quarter 2012 report. The NMLS requires submission of the call report within 45 days of the end of every calendar quarter as follows:

2012 Third Quarter Data (July 1 – September 30)	Due November 14, 2012
2012 Fourth Quarter Data (October 1 – December 31)	Due February 14, 2013

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2013 First Quarter Data (January 1 – March 31)	Due May 15, 2013
2013 Second Quarter Data (April 1 – June 30)	Due August 14, 2013
2013 Third Quarter Data (July 1 – September 30)	Due November 14, 2013
2013 Fourth Quarter Data (October 1 – December 31)	Due February 14, 2014

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In addition, licensed mortgage entities in Utah are now required to annually submit a financial condition report of the entity. The entity financial condition report is due within 90 days of the entity's fiscal year end. For further information on the submission of financial condition reporting requirements, please refer to the NMLS website at: <http://mortgage.nationwidelicensingsystem.org/slr/common/fs/Pages/default.aspx>

## Where's That Rule?

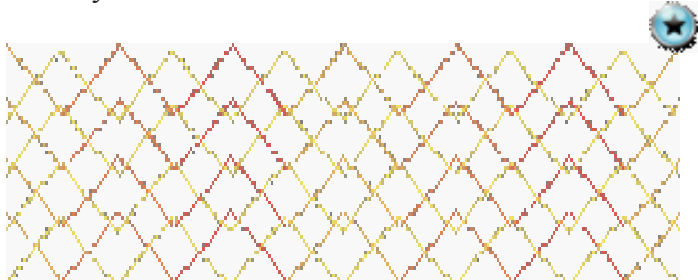
The Division of Administrative Rules (DAR) is the agency that maintains Utah's administrative code, which contains all of the rules that govern licensees. To find a rule, go to the DAR [website homepage](#). There you'll find a link to the [code](#). All of the DRE rules are found in [Section R162](#) as follows:

- Mortgage industry: [R162-2c](#)
- Appraisal Management industry: [R162-2e](#)
- Real Estate industry: [R162-2f](#)
- Appraisal industry: [R162-2g](#)
- Timeshare and Camp Resort industry: [R162-57a](#)

In each industry, the rules are broken into subsections that generally correspond to the statutory sections governing the same issues.

In addition to maintaining an online library of administrative rules, the DAR publishes the [Utah State Bulletin](#), which contains draft versions of rules that are being proposed. The bulletin is published twice each month, on the 1<sup>st</sup> and the 15<sup>th</sup>. Proposed rules must be published for at least 30 days before they are finalized so that the public may review them and [make comments](#). The DRE regularly submits rules for publication and welcomes public comment.

If you need to review a rule (but don't happen to have this article and its handy hot-links in front of you), go to the DRE website. On the menu page for each industry, you will find a link to the rules as currently published by the DAR. Be sure to note the date on which the DAR website was last updated. If you think there might be a recent change that is not reflected there, you can refer to the DRE website, where you will find the text for all recent amendments.



## RULE DEVELOPMENTS SINCE MARCH 31, 2011

### AMC

On, May 23, 2012, a new section was added to the AMC rules. [R162-2e-402](#) outlines the rules that the industry, Division, and Appraiser Board will be required to follow in informal adjudications of application and disciplinary matters involving appraisal management companies.

### MORTGAGE

On June 7, 2012, several amendments to the existing rules were made effective, as follows:

- Throughout, language is modified to provide that a person licensed as a lending manager may act for a sponsoring entity as a principal lending manager, an associate lending manager, or a branch lending manager without obtaining a new license each time the individual changes roles.
- Throughout, references to the mortgage loan originator prelicensing course are changed to reflect a 15-hour course rather than a 40-hour course.
- In Section [R162-2c-102](#), definitions are provided for the term "incentive program" and for the acronym "LM," standing for lending manager.
- In Section [R162-2c-201](#) licensing procedures for all license types are modified to state that an applicant must evidence financial responsibility, authorize the NMLS to provide the individual's credit report to the division, and record with the NMLS a mailing address if mail cannot be delivered to the individual's home address. Additionally, education requirements for a lending manager license are revised to eliminate the Utah-specific mortgage loan originator prelicensing course, and new provisions require that an applicant for a lending manager license demonstrate experience as a mortgage loan originator, both through years of experience and through points awarded for actual origination work, with limited provisions for substituting alternate work related to loan origination.
- In Section [R162-2c-203](#), existing provisions regarding certification of continuing education courses and instructors are deleted, as the NMLS now handles these certifications without involvement from the states.

## RULE DEVELOPMENTS SINCE MARCH 31, 2011

Language is added to clarify that any mortgage office from which Utah loans are originated is required to have a lending manager on site to supervise origination activities.

- In Section [R162-2c-209](#), language is added to specify that an individual who holds a loan originator license may act as a loan processor, even if the license is not sponsored by a licensed entity.
- A new section, [Section R162-2c-301b](#), is added regarding incentive programs. A licensed entity may pay a sponsored mortgage loan originator for bringing business to the company, so long as the entity observes limits as to amount paid (no more than \$300 per payment) and frequency of payment (no more than 3 times per year), and ensures that a person being paid has not acted in a manner that would trigger the statutory licensing requirement per [§ 61-2c-102\(1\)\(h\)](#). [Section R162-2c-301a](#) is also modified to refer to incentive programs.
- In Section [R162-2c-302](#), a new provision requires a licensed entity to maintain in its records the name and contact information for the borrower in each transaction.
- New sections, [R162-2c-501a](#) and [R162-2c-501b](#), specify the types of professional activities that may be substituted for loan origination work in order to satisfy the experience requirement for licensure as a lending manager.

### REAL ESTATE

On July 15, 2012, the following proposed amendments will be published in the Utah State Bulletin for public comment:

- In Subsection R162-2f-102, the definition of “brokerage records” is proposed to be amended so as to specify that trust account records include records of deposits and conveyances.
- In Subsection R162-2f-201, new language is proposed to require an applicant with criminal history involving violence or physical coercion to provide records from which the Commission may assess whether the applicant might pose an ongoing threat to the public.
- In Subsection R162-2f-202b, clarifications to existing language are proposed so as to state that

a trust account name must contain the term “real estate trust account” or “property management trust account” as applicable, and that trust accounts must be separate from operating accounts. Additionally, new language proposed in this subsection states that a principal broker license may not be awarded to an applicant whose sales agent license is on suspension or probation at the time of application.

- In several subsections, existing provisions are proposed to be modified so as to specify that a principal broker is required to inform the Division of where trust accounts and brokerage records are maintained, and to clarify that both trust and operating accounts must be in a bank or credit union that is located in Utah.
- Subsection R162-2f-207 is proposed to be amended so as to clarify that a brokerage must obtain a new registration whenever a corporate change results in a new business license or a new registration with the Division of Corporations and Commercial Code. Other changes in corporate structure or ownership would require notification to the Division, but would not nullify an existing entity registration.
- In Subsection R162-2f-401b, new language would prohibit licensees from making a misrepresentation to the Division in an investigation, and from having a seller sign a document allowing the licensee to lien the seller’s property in a short sale transaction.
- Throughout, nonsubstantive changes are proposed to correct numbering and internal references as needed due to these amendments as well as changes made to the real estate statute (§ 61-2f) in the 2012 legislative session (H.B. 191). In addition, a new, separate subsection—R162-2f-501—is proposed for the appendices currently located at the end of Subsection R162-2f-407.

*continued on page 14*



continued from page 13

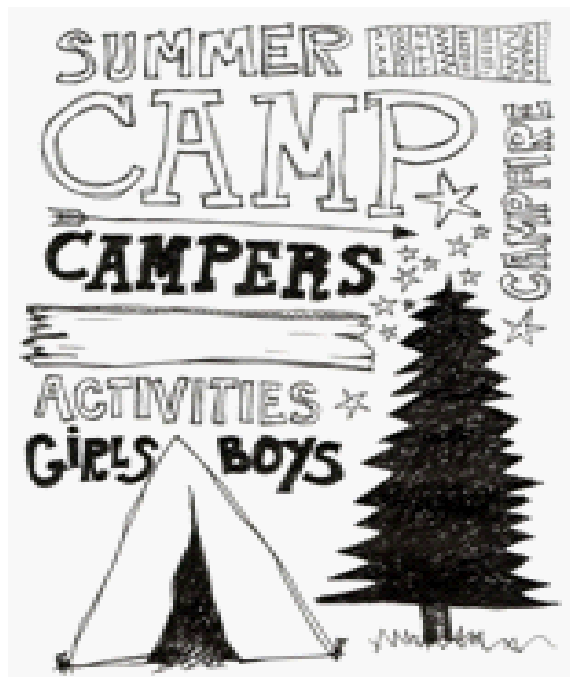
Public comments on these proposed rules will be accepted through August 14, 2012.

## TIMESHARE

On May 1, 2012 the following amendments to the timeshare rules were published for comment in the Utah State Bulletin:

- In Section R162-57a-5, modification of the notification requirement so that the filing of a civil lawsuit no longer triggers a notice requirement. Rather, the notice requirement would be triggered by a finding of fraud, misrepresentation, or deceit in a judicial or administrative proceeding. Also in Section R162-57a-5, proposed language would require a developer to amend a project registration upon a court's certifying a class in a class-action lawsuit against the developer.
- In Section R162-57a-11, modification of the disclosure requirement so that a developer is not required to provide the complete property report to a prospective purchaser at the beginning of a direct sales presentation. At that point, the developer would be required to provide notice of the right to rescind; the full property report could then be provided at any time prior to the purchaser's signing a sales contract.
- In Section R162-57a-13, modification of the requirement to re-disclose the rescission right. Rather than requiring re-disclosure in any circumstance where the developer is contacted by a purchaser during the rescission period, the requirement would be limited so that it applies only where the developer is contacted during an applicable rescission period by a purchaser who expresses a desire to terminate the contract.

The Division received some excellent comments from the American Resort Development Association (ARDA) and will be working with representatives of the association to determine how best to proceed.



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## **Do You Have A Question Or A Suggestion For The Division?**

Do you have a question you have been wanting to ask an investigator but have not had the time to call? Do you have questions about your license? We want to hear about your ideas and suggestions. All questions and suggestions will be anonymous. Selected questions will be answered in the next newsletter.

Submit questions to:

[DREnewsletter@utah.gov](mailto:DREnewsletter@utah.gov)

### **Questions:**

1. Can people living outside of Utah work as unlicensed personal assistants for a brokerage that is licensed in Utah?

Yes, as long as they limit their efforts to the duties that an unlicensed personal assistant may provide. Additionally, it does not matter if the person is a licensed agent in another state. If the transaction occurs in Utah, the statutes and administrative rules for Utah apply. For further information on unlicensed personal assistants, refer to the 2009 3<sup>rd</sup> quarter and 2011 4<sup>th</sup> quarter Division Newsletters and Kagie Korner articles.

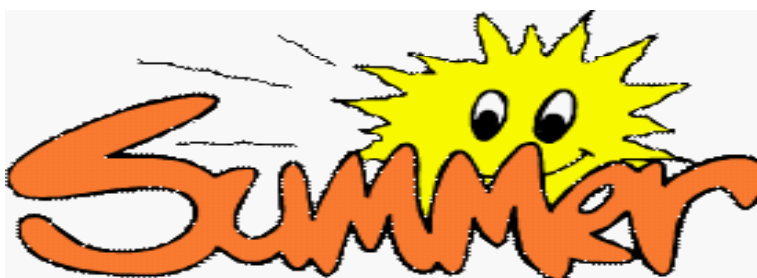
2. Your article in the 1<sup>st</sup> quarter 2012 newsletter regarding appraisal values and real estate agent purchase contract values is timely and, in reality, a big problem. A related problem that we are seeing is the growing disparity between county assessor property values and appraised values. We are seeing the assessor summarily rejecting appraisals (including MAI commercial appraisals) in favor of their own in-house value appraisals, which are, in many cases, 25% or higher. Does the DRE have any jurisdiction or influence in this area?

To start, the Division will review any complaint that is provided to the Division, including complaints based on appraisal-related valuations.

To further explain the substantive issue raised by this question, we need to better understand how the property tax assessment process works. Values listed on a county assessor's website were determined based on a lien date of January 1 for the current year. In addition, the current values are not available for review until about May of each year, but the values are not posted to the website until July (once the new tax rate is set). To use the year 2012 as an example, the value for 2012 would not be posted on the county assessor's website until about July 2012.

This delay means if an appraiser does an appraisal on a property in June 2012, and then compares that appraised value to the value listed on the county assessor's website, the appraiser will be comparing a current valuation against an assessment from 18 months earlier. In these circumstances, it would not be at all surprising to see a discrepancy.

One suggestion is to involve the assessor's office, the lender, the parties to the transaction, and any others who might have an interest in the value of a property when discrepancies are found, as the type of situation outlined above could account for and explain the problem. Conclusions can often occur more quickly through good communication with the parties than through submitting a complaint to the Division. However, as stated above, the Division will always accept and review any complaint submitted.



## Independent Processors Become Licensed Or Employed With Licensed Mortgage Entity

In the last newsletter, the Division explained that under the S.A.F.E. Act, loan processors are required to be licensed as mortgage loan originators if they work as independent processors. In other words, unless a processor is employed by a licensed mortgage entity, he or she must hold an MLO license. Please refer to page 3 of the first quarter 2012 newsletter article titled “Loan Processors Must Be Licensed or Employed” for further clarification: [http://realestate.utah.gov/newsletters/newsletter\\_q1-2012.pdf](http://realestate.utah.gov/newsletters/newsletter_q1-2012.pdf).

This article is intended to address two additional questions that have recently come to the attention of the Division.

**Question:** If a company does not perform any mortgage loan origination, but does perform loan processing by W-2 employees, must the company license as a mortgage entity and have a Principal Lending Manager?

**Answer:** A company that exclusively performs loan processing by W-2 employees is NOT required to become a licensed entity and, therefore, would NOT be required to have a Principal Lending Manager. However because this processing company is not licensed as a mortgage entity, each of the loan processors working for the processing company WOULD be required to individually meet all S.A.F.E. Act licensing requirements (i.e. pass both the 20-hour NMLS prelicensing education course and 15-hour Utah MLO prelicensing education course and pass both the national and Utah state portions of the NMLS exam) and become individually licensed as MLOs.

**Question:** If the company that does not perform mortgage loan origination but does perform loan processing elects to become a licensed mortgage entity, would this processing company be required to have a Principal Lending Manager, and would the individual loan processors still be required to individually meet the S.A.F.E. Act licensing requirements?

**Answer:** If a processing company chooses to become a licensed mortgage entity in Utah, it WOULD be required to have a Principal Lending Manager since it would be authorized to perform residential mortgage loans (the DRE is not able to exempt a licensed company from having a PLM on the company’s assurance that it has elected not to originate). Since the individual loan processors would now be employed (W-2), by a licensed mortgage entity and supervised by a licensed Principal Lending Manager, they (the individual loan processors) would NOT have to meet S.A.F.E. Act licensing requirements.



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## Division Newsletter Question From A Licensee

Is a license required to be a Homeowners Association (HOA) Manager?

**The answer to this question is a qualified “no.” Read on:**

Homeowners Associations and/or Homeowners Association Managers are not regulated by the Division of Real Estate; accordingly they do not require a real estate license. If HOA managers perform routine management duties such as scheduling repairs or maintenance, accounting for the receipt of fees and/or reserves, dealing with budgets and insurance, and enforcing HOA rules, they would not be required to obtain a real estate license. If the duties of an HOA manager expand to include advertising, offering, attempting to offer, or otherwise engaging or attempting to engage in the business of selling or managing real estate with the expectation of receiving valuable consideration, the HOA manager would need to acquire a real estate license.





## What Can A Loan Originator Do To Help Sell A Property?

The Division gets calls from both real estate agents and loan officers asking, “**What can loan originators do to help sell a property?**” Can they co-market the property with the sales agent and help pay for the flyers or website? Can they help a For Sale by Owner (FSBO) seller by printing information about the property and making the information available on their sign? Can they have the contact information for the FSBO seller on their flyer?

**Co-marketing.** There is no specific prohibition against a real estate professional and a loan officer using the same flyer to simultaneously market a property and the financing options. However, doing so can create problems, so you should not take this route without taking some precautions at the outset. There is a risk of potentially confusing the general public as to which role each licensee plays. The same concern could apply when a loan officer and real estate agent share a website rather than having two separate and unique websites that clearly identify the companies that the licensees work for. The public could contact the mortgage professional to ask questions about a home (i.e. how old the roof is, etc.), thus placing the loan officer in a position of answering questions and violating the Utah Real Estate Licensing and Practices Act and related administrative rules. On the flip side, the public could contact the real estate agent looking for a rate quote or asking other questions related to financing. Once again, if the agent answers, the agent would be in violation of the Utah Residential Mortgage Practice and Licensing Act and related administrative rules. Both the Real Estate Commission and the Mortgage Commission have given the following direction: to guard against missteps that could escalate quickly into disciplinary action, mortgage and real estate professionals should each have their own signs, flyers, and websites, thus making it clear to the general public which role each plays.

**FSBOs.** I often get asked what a loan officer can do for a FSBO in order to assist in marketing a property. The answer: nothing. When a loan officer prints or pays for the printing of a FSBO property fact flyer—even where the flyer contains the seller’s contact information—the

loan officer steps across the line. Advertising a property for sale in any manner requires licensure under the Utah Real Estate Licensing and Practices Act.

A loan officer can place a sign on a property, whether it is listed with a real estate agent or is being sold by the owner, as long as the sign and flyers are carefully restricted to marketing the financial information, such as types of loans a prospective buyer may look into in order to finance the purchase of the property.



### SECOND QUARTER LICENSING & DISCIPLINARY ACTIONS



*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.*



## SECOND QUARTER LICENSING & DISCIPLINARY ACTIONS cont.

Please note that Utah law allows 30 days for administrative review of an order. Some of the actions below might be subject to this right of review or currently under review.

### APPRAISAL

GROVER, KIM E., State-certified residential appraiser, Heber City, UT. In a March 28, 2012 stipulation, Ms. Grover agreed to pay a \$1,000 civil penalty and to take a 15-hour course titled Online Residential Report Writing and Case Studies. Ms. Grover produced an appraisal report in which she failed to recognize a property as a duplex, incorrectly reported the zoning, misrepresented the property's highest and best use, and misrepresented specific features such as the cooling system and the flooring. These actions violate the USPAP scope of work and ethics rules, as well as USPAP standard rule 1-1(c). Case number AP-11-56865.

WILLS, SCOTT, State-certified residential appraiser, Heber City, UT. In an April 26, 2012 default order, appraiser credential was revoked and Mr. Wills was assessed a \$95,000 civil penalty due to 19 violations of statute and rule, including provisions requiring a certified appraiser to respond to a Division request for information and documents in an investigation. In addition, the Board found that Mr. Wills acted fraudulently by inflating an appraisal and by signing an appraisal report that contained a material misrepresentation as to the identity of the person who inspected the property. These actions violate Utah Code §§ 61-2g-502(2)(c) and 61-2g-502(2)(n), as well as Utah Administrative Code §§ R162-2g-502a(1)(a) and R162-2g-502a(1)(g). Case numbers AP-10-51114 and AP-11-55604.

### APPRAISAL MANAGEMENT

A-1 CLOSING SERVICES, AMC registration applicant, Dallas, TX. In a May 2, 2012 order, registration granted on probation due to failure of the company's president and control person to accurately disclose his criminal history as part of the application process. Case number AP-12-59805.

TRANSCONTINENTAL VALUATIONS, INC., Appraisal management company applicant, San Diego, CA. In an April 2, 2011 order following a hearing before the Board, registration approved and a civil penalty of \$67,500 assessed on a finding that the company engaged in the appraisal management business without being properly registered; made misrepresentations to an appraiser by engaging the appraiser to complete assignments, but failing to timely pay for the completed work; and failed to respond in a timely manner to Division requests that the company complete the registration process. These actions constitute violations of Utah Code § 61-2e-402(1)(b) and (e) and Utah Code § 61-2e-201(1)(a), (b), and (c). The order allows a portion of the total civil penalty to be suspended pursuant to specified circumstances. Case number AP-11-53941.

VALUE TREND SOLUTIONS, AMC registration renewal applicant, Phoenix, AZ. In a May 23, 2012 order, registration granted on probation pending resolution of a regulatory action pending before the Arizona Board of Appraisal. Case number AP-12-60093.

### MORTGAGE

GARZON, FREDDY, Unlicensed individual, Sandy, UT. In a March 7, 2012 stipulation, Mr. Garzon agreed to pay a \$500 civil penalty. In violation of Utah Code § 61-2c-301, Mr. Garzon accepted a fee for working on a loan modification without being licensed as a mortgage loan originator. Case number MG-12-58296.

HUGHES, RICHARD GARDNER, Associate lending manager license, Sandy, UT. In a March 7, 2012 stipulation, Mr. Hughes agreed to pay a \$500 civil penalty. In violation of Utah Code § 61-2c-301, Mr. Hughes initialed an FHA/VA addendum on behalf of sellers and borrowers in a transaction without holding power of attorney for either party. Case number MG-10-51654.

SET2GO LOANS, INC., Mortgage entity renewal applicant, Newport Beach, CA. In an April 12, 2012 order following an application hearing before the Commission, license denied on a finding that the company has suffered numerous regulatory actions in other states, including license revocations and cease and desist orders, due to its failure to address violations and work with regulators to resolve licensing deficiencies. Case number MG-12-58697.

**REAL ESTATE**

BEDOLLA, HUGO, Sales agent license, West Jordan, UT. In a March 21, 2012 stipulation, Mr. Bedolla agreed to pay a civil penalty of \$750. In violation of Utah Code § 61-2f-301(1)(a)(i), Mr. Bedolla failed to notify the Division within ten business days of a misdemeanor conviction. In violation of Utah Administrative Code § R162-3.6.2.3, now recodified as § R162-2f-401-b(3), Mr. Bedolla failed to disclose his conviction on his renewal application. Case number RE-12-58167.

BLODGETT, JEFF, Sales agent applicant, Salt Lake City, UT. In a May 4, 2012 order, license granted on probation following a 30-day period of suspension due to criminal history, which Mr. Blodgett failed to fully disclose in response to the license application questionnaire. Case number RE-12-59791.

BUSHI, DAIMON, Sales agent license, Sandy, UT. In a March 21, 2012 stipulation, Mr. Bushi agreed to pay a civil penalty of \$750. In violation of Utah Code § 61-2f-301(1)(a)(i), Mr. Bushi failed to notify the Division within ten business days of a misdemeanor conviction. In violation of Utah Administrative Code § R162-2f-401b(3), Mr. Bushi failed to disclose his conviction on his renewal application. Case number RE-12-58489.

CARPENTER, CAMRON, Sales agent applicant, Salt Lake City, UT. In a March 14, 2012 order, license granted on probation due to criminal history, which Mr. Carpenter failed to fully disclose in response to the license application questionnaire. Case number RE-12-58978.

CARROLL, JAMES A., Real estate continuing education instructor applicant, Heber City, UT. In a March 14, 2012 order, certification granted on probation following a 30-day period of suspension due to criminal history, which Mr. Carroll failed to fully disclose in response to the license application questionnaire. Case number RE-12-58981.

CLAWSON, MARCUS, Principal broker license, Salt Lake City, UT. In a March 21, 2012 stipulation, Mr. Clawson agreed to have his license placed on probation. In violation of Utah Code § 61-2f-301(1)(a)(ii), Mr. Clawson failed to notify the Division within ten business days of entering a plea in abeyance to resolve seven misdemeanor charges. Case number RE-12-58425.

COOK, CURTIS, Sales agent applicant, Stansbury Park, UT. In an April 16, 2012 order, license granted on probation due to criminal history occurring between the years 1988 and 1992, which Mr. Cook failed to accurately disclose in response to the licensing questionnaire. Case number RE-12-59452.

CROFTS, GREY K., Sales agent applicant, Salt Lake City, UT. In an April 17, 2012 order, license granted, but immediately suspended until Mr. Crofts fully resolves a pending criminal case involving underage drinking, an offense for which Mr. Crofts has been repeatedly prosecuted. Case number RE-12-59471.

DAVIS, ERIC ALLEN, Sales agent renewal applicant, Woodland Hills, UT. In a March 26, 2012 order following an application hearing before the Commission, license granted, immediately suspended for the duration of a misdemeanor plea in abeyance agreement, and thereafter placed on probation for the remainder of the licensing period. Case number RE-12-58345.

FIFE, RODERIC D., Associate broker license, Alpine, UT. In an April 18, 2012 stipulation and order, Mr. Fife agreed to pay a \$1,500 civil penalty. In violation of Utah Code § 61-2f-301(1)(a)(i) and (ii), Mr. Fife failed to notify the Division within ten business days of resolving two misdemeanor criminal cases, one through conviction and the other through plea in abeyance. In violation of Utah Administrative Code § R162-2f-401b(3), Mr. Fife failed to disclose his criminal issues when he applied for license renewal. Case number RE-12-58846.

HANSEN, JARED, Sales agent applicant, Sandy, UT. In an April 26, 2012 order, license granted on probation due to criminal history, which Mr. Hansen failed to fully disclose in response to the license application questionnaire. Case number RE-12-59639.

HANSEN, KURT, Sales agent applicant, Salt Lake City, UT. In an April 24, 2012 order, license granted on probation due to criminal history, which Mr. Hansen failed to fully disclose in response to the license application questionnaire. Case number RE-12-59634.

**SECOND QUARTER LICENSING & DISCIPLINARY ACTIONS cont.**

HARMON, BRENT C., Sales agent renewal applicant, West Jordan, UT. In an April 24, 2012 order, license granted on probation due to a criminal plea in abeyance occurring during the prior term of licensure, which Mr. Harmon failed to report to the Division within ten business days as required by Utah Code § 61-2f-301(1)(a)(ii). Case number RE-12-59631.

HUBBARD, SHERRI O., Sales agent license, Smithfield, UT. In an April 18, 2012 stipulation and order, Ms. Hubbard agreed to have her license placed on probation. In violation of Utah Code § 61-2f-301(1)(a)(ii), Ms. Hubbard failed to report to the Division within ten business days of entering into a plea in abeyance agreement to resolve a misdemeanor charge. Case number RE-12-59057.

KEITZ, MAUREEN, Sales agent license, Parowan, UT. In an April 18, 2012 stipulation and order, Ms. Keitz agreed to have her license placed on probation. In violation of Utah Code § 61-2f-301(1)(a)(ii), Ms. Keitz failed to notify the Division within ten business days of entering into a plea in abeyance agreement to resolve a misdemeanor charge. Case number RE-12-58423.

LENNON, MATTHEW, Sales agent applicant, Midvale, UT. In an April 17, 2012 order, conditional license revoked on a finding that Mr. Lennon failed to disclose extensive misdemeanor criminal history in response to the licensing questionnaire and, additionally, that he violated the Division's January 27, 2012 order and engaged in unlicensed activity by advertising at least two properties for sale while his license was suspended. Case number RE-12-59436.

MICHAELIS, DARRIN J., Sales agent reinstatement applicant, Garland, UT. In an April 16, 2012 order, license granted, but immediately suspended until Mr. Michaelis reimburses the Division of Occupational and Professional Licensing lien recovery fund in full for payment(s) made on behalf of him or Majestic Construction and Development, Inc. Case number RE-12-59443.

MOATES, JARED, Sales agent license, Ogden, UT. In a March 21, 2012 stipulation, Mr. Moates agreed to have his license placed on probation. In violation of Utah Code § 61-2f-301(1)(a)(i), Mr. Moates failed to notify the Division within ten business days of a misdemeanor conviction. Case number RE-12-58736.

MONTOYA, ASHLEY R., Sales agent applicant, Ogden, UT. In a May 15, 2012 order, license granted on probation following a 30-day period of suspension due to criminal history, which Ms. Montoya failed to fully disclose in response to the license application questionnaire. Case number RE-12-59967.

OLAYAN, TEMPLE F., Sales agent license, Cedar Hills, UT. In a March 21, 2012 stipulation, Ms. Olayan agreed to pay a \$2,500 civil penalty. In violation of Utah Code § 61-2f-401(4)(a), Ms. Olayan wrongly released earnest money trust funds to the seller in a transaction. Case number RE-11-55838.

PASIN, MATT, Sales agent applicant, Murray, UT. In a March 26, 2012 order following an application hearing before the Commission, license granted and Mr. Pasin is assessed a \$250 civil penalty for failure to accurately disclose his criminal history as part of his application. Case number RE-12-58726.

RADOVAN, MICHAEL, Sales agent applicant, Park City, UT. In a March 26, 2012 order following an application hearing before the Commission, license granted and Mr. Radovan is assessed a \$250 civil penalty for failure to accurately disclose his criminal history as part of his application. Case number RE-12-58728.

SMITH, RANDAL M., Branch broker license, Highland, UT. In a March 21, 2012 stipulation, Mr. Smith agreed to pay a \$250 civil penalty. In violation of Utah Code § 61-2f-301(1)(a)(i), Mr. Smith failed to notify the Division within ten business days of a misdemeanor conviction. Case number RE-12-58718.

TEW, BRAD, Principal broker license, Springville, UT. In a March 21, 2012 stipulation, Mr. Tew agreed to the revocation of his principal broker license and the issuance of a sales agent license. He further agreed to pay a \$5,000 civil penalty and take seven hours of continuing education in specified subjects. Finally, Mr. Tew agreed not to reapply for a principal broker license for a period of five years. In violation of Utah Code § 61-2f-401(12), Mr. Tew failed to adequately supervise unlicensed staff, who engaged in activities that require licensure. Case number RE-11-56753.

TUIONO, DAVID VAOPAKO, Sales agent applicant, Salt Lake City, UT. In a May 30, 2012 order, license granted on probation following a 30-day period of suspension due to criminal history, which Mr. Tuiono failed to fully disclose in response to the license application questionnaire. Case number RE-12-60199.

TURLEY, BRENDA S., Sales agent license, Holladay, UT. In a March 21, 2012 stipulation, Ms. Turley agreed to pay a \$250 civil penalty. In violation of Utah Code § 61-2f-301(1)(a)(i), Ms. Turley failed to notify the Division within ten business days of a misdemeanor conviction. Case number RE-12-58424.

WADSWORTH, KARIN, Sales agent license, Salt Lake City, UT. In an April 18, 2012 stipulation, Ms. Wadsworth agreed to pay a \$2,500 civil penalty. In violation of Utah Code § 61-2-11(15), now recodified as § 61-2f-401(13) and Utah Administrative Code § R162-6.1.8, now recodified as § R162-2f-401b(1), Ms. Wadsworth provided to a lender in a short sale transaction a proposed back-up offer that had not been accepted by the seller, thus putting the primary offer in jeopardy of being declined for approval. Case number RE-46644.

WALSH, DAVID J., Principal broker applicant, Lehi, UT. In a May 15, 2012 order, license granted on probation following a 30-day period of suspension due to criminal history, which Mr. Walsh failed to disclose in response to the license application questionnaire. Case number RE-12-59969.

WHITE, JASON BRADLEY, Sales agent applicant, Salt Lake City, UT. In an April 26, 2012 order, license granted on probation due to criminal history involving misdemeanor convictions between 2002 and 2009. Case number RE-12-59691.

WOLCOTT, CHRISTOPHER J., Sales agent reinstatement applicant, Salt Lake City, UT. In a May 17, 2012 order, license granted on probation due to a misdemeanor conviction (October 12, 2011). Case number RE-12-60000.

YOUNG, HEATHER C., Sales agent license, Draper, UT. In a March 21, 2012 stipulation, Ms. Young agreed to pay a \$2,500 civil penalty and to take four hours of continuing education in Utah law. In violation of Utah Administrative Code § R162-2f-401a(20), Ms. Young signed and initialed a real estate purchase contract on behalf of her client without holding power of attorney. Case number RE-11-53067.

