

Newsletters

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2nd Quarter 2020 Real Estate Newsletter

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Should You File A Complaint?

by Director Jonathan Stewart

Last fall I had the opportunity to participate in a [podcast](#) at the invitation of the Salt Lake Board of Realtors®. One of the topics we discussed was when to file a complaint with the Division of Real Estate versus when to file an ethics complaint with a Realtor® Association. As this is a common question, I'd like to address when to file a complaint, the types of complaints we receive, identifying statute and rule violations, and other options you have when witnessing violations. Occasionally the Division will receive a complaint

that is not a statute or rule violation, but may be an ethics violation. When we receive these types of complaints, we forward them to the appropriate Realtor® Association. Of course, there may be overlap between a statute or rule violation and an ethics violation.



Should you file a complaint?

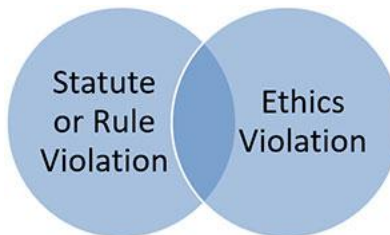
A frequent question I receive is, "Should I file a complaint with the Division?" Depending on the fact scenario given to me, I usually tell people to file a complaint if there is a reasonable chance there has been a statute or rule violation. One year ago we were able to hire two additional real estate investigators, which has helped us reduce our open cases from 595 to 470. Ideally I would like us to have closer to 400 real estate cases, but we are moving in the right direction. If a licensee's conduct appears to be a violation of state law, I encourage the filing of a complaint so the Division can investigate.

Types of complaints we receive

Occasionally the complaints the Division receives are too vague for us to investigate. It is especially problematic if a vague complaint is filed anonymously. If there is not enough information provided in the complaint and we have no one to contact for additional information, we may be forced not to open the complaint at all, or to close it due to insufficient evidence. We have received complaints as vague as: "Agent Jon Doe is dishonest." While we certainly care if Jon Doe is dishonest in real estate transactions, if this is all the information given and it is filed anonymously, we can't move forward based on that information alone. When filing a complaint, please give specific examples of violations, not generalized comments about how "bad" of an agent or broker someone is. For additional information about what documents to include with your complaint, please refer to Kagie's Korner.

Is it a statute or rule violation?

The first thing to do when deciding whether to file a complaint with the Division is to determine if there has been a statute or rule violation. As I have mentioned in previous newsletter articles, a great place to start identifying possible violations is in [Utah Code](#)



[Ann. §61-2f-401](#) Grounds for Disciplinary Action, [R162-2f-401a](#) Affirmative Duties Required of All Licensed Individuals, [R162-2f-401b](#) Prohibited Conduct As Applicable to All Licensed Individuals, and [R162-2f-401c](#) Additional Provisions Applicable to Brokers. If you believe someone has violated the law, take some time to review the statute and rules above.

Although this is not a requirement for filing a complaint, it will help you evaluate whether your complaint is actually based on a statute or rule violation, and it can serve as a useful reminder of the rules and laws you are striving to follow as well. If what you observed is a statute or rule violation, fill out our complaint form with as much detail as possible and reference the statute or rule you think was violated. If you don't know which statute or rule was violated, submit the complaint form anyway, and we will still investigate if there is enough information included.

For potential mortgage violations, refer to: [61-2c-301](#) Prohibited Conduct – Violations of this Chapter and [R162-2c-301a](#) Unprofessional Conduct.

For potential appraisal violations, refer to: [61-2g-403](#) Professional Conduct – Uniform Standards, [R162-2g-502a](#) Standards of Conduct and Practice, and [R162-2g-502b](#) Prohibited Conduct.

Other Options

Filing a complaint is not your only option. Several years ago a former Real Estate Commissioner told me that every time he sees an advertising violation, he calls the agent or broker to let them know of the violation and recommends they fix the ad. When you see a minor violation you can do as this former commissioner did, and inform the agent or broker of the violation directly. Don't get me wrong, I am not trying to convince anyone to not file a complaint. If you see a violation that needs Division attention, please file a complaint so we can determine if a violation has occurred.

Division Updates

Fingerprinting Requirement for FBI RAPBACK Enrollment by Current Licensees

Fingerprinting will not be required for July license renewals. As mentioned previously, those currently renewing without a background check will be required to get fingerprinted at a later date. This will most likely occur in conjunction with your 2022 license renewal. A decision will be made for August renewals no later than July 15th.

License Renewal

For July renewals, please complete your CE by the 15th of the month and you will be able to renew your license without a background check in your RELMS Account. For renewals after July, please continue to check the Home Page of the Division's website for the most current information.

New Applicants for Real Estate and Appraisal Licenses

Testing

Testing for real estate and appraisal licenses has resumed at many Pearson Vue testing locations. Until July 15th, Pearson Vue testing centers will be operating at 50% capacity due to social distancing requirements, but Pearson Vue has opened up several third-party locations to help with demand. Tests should be scheduled through [Pearson Vue's website](#).

Fingerprinting

Fingerprinting is currently not available at many testing centers. Therefore fingerprinting is temporarily not required for new licensees. Applicants who meet all licensing requirements (except fingerprinting) will be issued a "Conditional License," which requires them to complete the fingerprinting process and review before September 30, 2020.

Those holding "Conditional Licenses" who do not complete the fingerprinting requirement by September 30, 2020 will have their license applications denied.

Commission and Board Meetings

Commission and Board Meetings are still being held virtually. Because of this, we have seen an increase in attendance, which is fantastic. If you are interested in attending and participating in a meeting, please email Maelynn Valentine, mvalentine@utah.gov for the meeting information.

Public Access to the Division

The Division is still closed to the public until further notice. All services offered by the Division of Real Estate are available through email, telephone, RELMS, and Live Chat. If you need to contact a specific employee of the Division, all contact information is on the [Division's website](#). We hope to open back up to the public soon, but are taking necessary precautions to prevent the spread of coronavirus.

Rule Developments Since January 1, 2020

To view and comment on any proposed or amended rules during the public comment period, please visit the Utah State Bulletin at <https://rules.utah.gov/publications/utah-state-bull/>

Appraisal Management Company Rules

On February 1, 2020, the five-year review of the Appraisal Management Company Administrative Rules ("AMC Rules") was published for the proposed continuation of the AMC Rules. The AMC Rules were again published May 6, 2020.

Appraisal

A proposed rule amendment of the Real Estate Appraiser Licensing and Certification Administrative Rules was approved for filing by the Real Estate Appraiser Licensing and Certification Board and has been published by the Utah Office of Administrative Rules. The proposed amendments include:

Section 311 – clarifies that a licensed or certified residential appraiser is not to appraise commercial property.

Subsection 502a(1)(i) – updates the rule to require that immediately following the signature on a report, state either the credential type or the license or certification number assigned by the division.

Subsection 502(4) – allows an appraiser trainee to sign an appraisal report if the trainee performs significant appraisal assistance and the trainee's supervisory appraiser also signs the report.

Subsection 502(8) – clarifies that only a registered appraiser trainee or a licensed or certified appraiser may include in a property inspection report appraisal assignment results including appraiser analyses, opinions, or conclusions, and may also report on the physical characteristics of the property. An unlicensed person may only report on the physical characteristics of the property in a property inspection report.

This proposed rule amendment was open for public comment through June 15.

Mortgage

On March 3, 2020, the five-year review of the Utah Residential Mortgage Practices and Licensing Rules were continued.

On May 15, 2020, a proposed amendment to the Utah Residential Mortgage Practices and Licensing Rules was published by the Utah Office of Administrative Rules. The proposed amendments include:

Section R162-2c-102 – deletes outdated language from the definitions of subsections (3) "Certification" and (10) "Instructor applicant."

Section R162-2c-203 – eliminates the requirement that instructors of division-approved continuing education ("CE") courses be certified by the division. In 2017, the division discontinued approving CE courses. Since 2017, all CE courses are approved through the Nationwide Multistate Licensing System & Registry. This proposed rule amendment will clarify the rule by eliminating the outdated requirement of certification of instructors for non-existent CE courses.

Section R162-2c-301a. – eliminate the requirement that a lending manager review each complaint relating to conduct by a sponsored mortgage loan originator or unlicensed staff member.

This proposed rule amendment is open for public comment through July 1.

Real Estate

The Real Estate Commission is considering the possible amendment of the Real Estate Licensing and Practices Rules. More information on the details of any proposal to amend the Rules will be available in the next quarterly newsletter.

Timeshare and Camp Resort

On February 1, 2020, the five-year review of the Timeshare and Camp Resort Rules ("Timeshare Rules") was published. The Timeshare Rules were continued.

Mortgage License Renewal Requirements for 2021

Background Checks and Credit Reports Required This Year

Five years have passed since licensees last submitted a Criminal Background Check (CBC) and credit report with their Utah license renewal. In 2013, The Utah Residential Mortgage Commission along with the Utah Division of Real Estate approved Rule R162-2c-204 which requires submission of a CBC and credit report every 5 years beginning with the renewal period of November 1, 2015. All Utah licensees with an approved Utah license as of October 31, 2020 will be required to authorize and submit a new CBC and credit report starting November 1, 2020 in order to renew their license for 2021. To avoid problems with your renewal, please do not submit these prior to November 1, 2020.

To prepare for this year's CBC renewal requirement individuals are encouraged to review and verify whether their fingerprints are **expired or pending expiration within the next 4 months**. You can [review the status of your fingerprint record](#) by logging on to your individual filing on the NMLS and review the Criminal Background Check Requests section under the Composite View tab. A new CBC will be required at renewal regardless of when you were last fingerprinted. Thank you.

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Broker Brush-Up Series

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Part II of IV: Transaction Files & Trust Accounts

Let's jump right into the topics for part II of this series – broker responsibilities concerning Transaction Files and Trust Accounts. Please click on the provided links to read detailed requirements of my general statements.

Transaction Files – [R162-2f-401c\(1\)\(k\)](#).

As an investigator at the division, one of the first things I ask for once a complaint has been received is a transaction file. I ask the parties involved for their personal transaction file. I ask for the brokerage transaction file and if needed, I'll request the property transaction file from the title company. As you can imagine, not all transaction files have the same documentation, but they should be very similar and they should all tell the same story. Encourage your agents to be systematic in recording and keeping accurate transaction files to ensure that they will be protected against unsubstantiated complaints.

As a matter of state rule, a broker is responsible for keeping and maintaining orderly records of each transaction at the location where the brokerage records are kept. Each real estate transaction needs to be assigned a consecutive, sequential number for each offer and placed in a transaction file. Please remember that ALL transactions, including rejected offers, must be maintained in a transaction file. Rejected offers include offers that were submitted to a seller and left unanswered as well as offers formally rejected in writing.

Property Management clients will each be assigned a unique identification for orderly reference as well.

Transaction numbers and client identifiers must be included on trust account deposit records, trust account checks, or any records that evidence a transfer of trust funds and of course, placed in the transaction file.

I think it's a great idea for your agents to include all communications, emails, and texts with their clients in the transaction file. This isn't a division requirement, but we always ask for all communications between sales agents and their clients if a complaint is filed against them. Keep in mind we also receive complaints about brokers, so when I say encourage your agents to have complete transaction files that goes for you too.

I've broken down Trust Accounts into 3 categories, **General**, for all brokers with a subsection on **Trust Account Reconciliation**, **Real Estate**, for property sales & **Property Management**.

I'm not going to share any specific division stories about trust account violations, but please, please, as a broker, supervise and personally reconcile your own records at least monthly. You are ultimately responsible if anything goes awry with your trust account. It's great if you have employees and accountants that you trust to "take care of things" but well-meaning brokers get tagged with violations when trust accounts are compromised by both dishonest and careless workers.

Real Estate Trust Accounts - General – [R162-2f-403a](#)

Once you establish your trust account, notify the Division of the Utah bank or credit union where the trust account is located, their address, and your trust account number. Most trust accounts are non-interest bearing, but there are a few options for having an interest-bearing account. Please check out [R162-2f-403a\(2\)](#), to read the rules on maintaining an interest bearing account.

A principal broker may not deposit into the trust account funds received in connection with rental accommodations where the rental period is less than 30 consecutive days. Records of deposits into a trust account must include the transaction number or client identifier with identification of the payee and payor and the amount of the deposit.

Any disbursements made from a real estate or property management trust account shall include the business name and address, the account number, transaction number or client identifier, date of disbursement, clear identification of the payee and payor, amount disbursed, note on why the funds were disbursed along with the check number, wire transfer number, or equivalent bank or credit union instrument identification. If this transfer of funds is voided, place VOID on the check/instrument and retain this in the transaction file.

If the trust account holds funds that are disputed by the parties to the transaction, the broker can interplead the funds into court, get a signature of release from the party that will not receive the funds, or disburse by order of the court.

If you receive notice that both parties claim the trust monies, you have 15 days to refer the parties to mediation if they have agreed to mediation as a resolution.

If the principle broker is unable to disburse trust funds within 3 years after the failure of a transaction, the broker will turn over the funds to the State Treasurer's Office as unclaimed property.

Trust Account Reconciliation

For each trust account operated by a registered entity it is necessary to maintain a date-sequential record of all deposits to, and disbursements from the account, including sufficient detailing of the disposition of all funds associated with each transaction. Each closed transaction must balance to zero and the trust account must be reconciled monthly (at minimum).

You are required to make all trust account records available to the division for auditing or investigation. You are also required to notify the division within 30 days if the bank notifies you that your trust account is out of balance and can't be cured within the 30 days.

Real Estate Trust Accounts – [R162-2f-403b](#)

A real estate trust account is used for the purpose of securing client funds and can't be comingled with any other brokerage funds. A broker may deposit up to \$500 of their own money without violating any trust account rules. There is a current discussion of

increasing this limit to allow for fewer fees charged in keeping a trust account. So, stay tuned for any further developments.

A principal broker who regularly engages in property management on behalf of seven or more individual units shall establish a separate Property Management Trust Account, separate from the Real Estate Trust Account. A principle broker who collects rents or otherwise manages property for six units or fewer may use the real estate trust account to secure client funds.

A principal broker can't pay a commission from a trust account without:

- obtaining written authorization from the buyer and seller;
- closing or terminating the transaction;
- delivering the settlement statement to the buyer and seller ensuring that the correct amount has been paid as determined by the settlement statement;
- making a record of each disbursement; and,
- depositing funds withdrawn as the principal broker's commission into the principal broker's operating account prior to the further disbursing the money.

A principal broker may disburse funds from a real estate trust account in accordance with specific language in the Real Estate Purchase Contract authorizing disbursement or having properly written authorization from the parties with an interest in the funds or a court order.

A principal broker can't release funds for construction purposes held as deposit monies unless the purchaser authorizes a disbursement in writing.

A principle broker can't disburse money in a failed transaction unless it meets a condition in the Real Estate Purchase Contract or the parties execute a separate signed agreement containing instructions and authorization for disbursement.

Property Management Trust Accounts — [R162-2f-403c](#)

A property management trust account may be used to secure tenant security deposits, rents and money tendered by a property owner as a reserve fund or for payment of unexpected expenses.

If the principal broker deposits any money belonging to the principal broker, they must maintain records to clearly identify the total amount belonging to the principal broker or perform a monthly line-item reconciliation of all deposits and withdrawals of funds belonging to the principal broker.

A principal broker may disburse funds from a property management trust account only if it follows specific language in the property management contract or tenant lease agreement or a properly written authorization from the parties having an interest in the funds. Funds may also be disbursed by a court order.

A principal broker that transfers funds from a property management trust account for any purpose shall maintain records to clearly evidence that prior to the transfer, the principal broker verified the money as belonging to the property owner for whose benefit, or on whose instruction, the funds are transferred.

Any money transferred into an operating account as the principal broker's property management fee is earned according to the terms of the principle broker's contract with the property owner.

Any transfer for maintenance, repair, or similar purpose is authorized according to the terms of the applicable property management contract, tenant lease agreement, or other instruction of the property owner and is used strictly for the purpose for which the transfer is authorized, with any excess returned to the trust account.

Those are the basics for keeping and maintaining well organized transaction files and trust accounts. Please don't hesitate to call us at the division with any specific questions. I always enjoy a good real estate mystery and would love to help you unravel anything out of the ordinary. We are here to support your efforts as great business owners and licensees. Join us next quarter for Part III of this series — Record Retention & Investigations.

Laurel North – Broker Licensee & Investigator – Division of Real Estate

Farewell

The Division wishes to extend a fond farewell to several Real Estate Commissioners and Appraisal Board members who have served with great distinction and commitment. We would like to thank them for their years of dedicated service to better our industries. Their wisdom has led us through difficult times and relatively calm waters over the years. It will be a hard task to fill their shoes.



Thank you to Real Estate Commissioners Lerron Little and Russell Booth whose terms ended in June. They have been a part of the Commission since 2012. Commissioner Booth served as Chair multiple times during his tenure as commissioner. Commissioner Little served as Chair and Vice-Chair several times over the years.

A similar "thank you" to Appraiser Board members John Ulibarri II and James (Jim) Bringhurst, whose terms ended in June. They have also been part of the Appraiser Board since 2012. Board Member Ulibarri served as Chair and vice chair multiple times over the years.

Thanks for the many years of excellent service to the division and to your industries.

You will be greatly missed.

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2nd Quarter Licensing & Disciplinary Actions

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

APPRAISAL

WRIGHT, CAMERON C., certified residential appraiser, Providence, Utah. In a stipulated order dated May 27, 2020, Mr. Wright admitted to having violated Utah law and the Uniform Standards of Professional Appraisal Practice ("USPAP"), in that he appraised real property which included both residential and commercial acreage despite his appraisal credential limiting him to appraising only residential property. Mr. Wright agreed to pay a civil penalty of \$1,000 and to complete three hours of continuing education pertaining to land and site valuation and the 15-hour National USPAP course in addition to the continuing education required for his next license renewal. Case number AP-19-112647

MORTGAGE

BALDRIDGE, JOHN RICHARD, mortgage loan originator, Ladera Ranch, California. In an order dated June 1, 2020, Mr. Baldridge's license was granted and placed on probation for the initial licensing period due to criminal history. Case number MG-20-119028

MATKIN, GARY MICHAEL, mortgage loan originator, Salt Lake City, Utah. In an order dated April 16, 2020, Mr. Matkin's license was granted and placed on probation for the initial licensing period due to criminal history. Case number MG-20-118073

MCDANNEL, CHRISTOPHER MICHAEL, mortgage loan originator, San Diego, California. In an order dated June 1, 2020, Mr. McDannel's license was granted and placed on probation for the initial licensing period due to a pending criminal matter. Case number MG-20-119063

REAL ESTATE

ALEXANDER, SCOTT W., sales agent, Salt Lake City, Utah. In a stipulated order dated March 25, 2020, Mr. Alexander admitted to instructing his client to deliver earnest money to his client's title company rather than to the brokerage trust account as required by the purchase agreement, in violation of Utah administrative rules. Mr. Alexander agreed to pay

a civil penalty of \$1,000 and to complete two hours of continuing education on the topic of contract law and agency in addition to the continuing education required for his next license renewal. Case number RE-17-92701

ANDERSON, JARED B., sales agent, Saratoga Springs, Utah. In an order dated January 29, 2020, Mr. Anderson's license was renewed and placed on probation for one year due to a plea in abeyance agreement in a criminal matter. Case number RE-20-115993

ARMSTRONG, BRANDON SCOTT, sales agent, West Jordan, Utah. In an order dated April 1, 2020, Mr. Armstrong's license was renewed and placed on probation for the renewal period due to a plea in abeyance agreement in a criminal matter. Case number RE-20-117706

BASTIAN BLAKE R., sales agent, South Weber, Utah. In a stipulated order dated March 25, 2020, Mr. Bastian admitted that his brokerage received a commission for a transaction for which there was no written buyer-broker agreement and agency disclosure, in violation of Utah administrative rules. Mr. Bastian agreed to pay a civil penalty of \$1,000 and to complete three hours of continuing education on the topic of agency in addition to the continuing education required for his next license renewal. Case number RE-18-106010

BLAS, HENRY, sales agent, Salt Lake City, Utah. In an order dated April 15, 2020, Mr. Blas's license was renewed and placed on probation for the renewal period due to a pending criminal matter. Case number RE-20-117992

BOND, CONNOR, sales agent, Salt Lake City, Utah. In an order dated March 24, 2020, Mr. Bond's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-117432

BOWN, BRIAN C., principal broker, Murray, Utah. In an order dated April 17, 2020, Mr. Bown's license was renewed and placed on probation for one year due to a plea in abeyance in a criminal matter. Case number RE-20-118077

BROWN, ENID FILOI, sales agent, St. George, Utah. In a stipulated order dated May 20, 2020, Ms. Brown admitted that she had knowingly stolen money and otherwise misused hundreds of thousands of dollars from her employer's brokerage trust account and various other brokerage accounts, in violation of Utah law and administrative rules. Ms. Brown agreed to pay a civil penalty of \$75,000 and her license was revoked. Case number RE-19-107493

BUTLER, QUINN E., sales agent, Pleasant Grove, Utah. In an order dated February 27, 2020, Mr. Butler's license was renewed and placed on probation for one year due to a plea in abeyance agreement in a criminal matter. Case number RE-20-116815

CARROLL, JAMES A., continuing education course instructor, Heber City, Utah. In a stipulated order dated May 20, 2020, Mr. Carroll admitted that he failed to disclose a matter of criminal history in his application for licensure, in violation of Utah law. In mitigation, Mr. Carroll did disclose some criminal history in his application and his failure was not intentional. Mr. Carroll agreed to pay a civil penalty of \$500 and his license was placed on probation during the initial licensing period. Case number RE-19-113040

CHILD, DEREK, sales agent, Layton, Utah. In an order dated February 6, 2020, Mr. Child's license was renewed and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-20-116158

FLORES, ARMANDO, sales agent, Cottonwood Heights, Utah. In an order dated January 28, 2020, Mr. Flores's license was renewed and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-20-115954

GOODE, CLINTON, sales agent, Salt Lake City, Utah. In an order dated May 26, 2020, Mr. Goode's license was renewed and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-20-118904

HANSEN, BLAKE F., sales agent, South Jordan, Utah. In a stipulated order dated April 15, 2020, Mr. Hansen admitted that he executed a purchase agreement on behalf of a limited liability company for which he was the managing member but failed to identify himself in the agreement as the buyer's agent. Instead, he identified another person as buyer's agent. In addition, Mr. Hansen did not disclose his status as a licensed real estate sales agent. The seller was a mortgage lender and the property was an REO (real estate owned) transaction. Seller's instructions provided that it would not pay a commission to the buyer or buyer's agent if the buyer was a licensed real estate sales agent. The seller paid a sales commission, \$6,977.50 of which was paid through another company to Mr. Hansen. These

actions are in violation of Utah law and administrative rules. Mr. Hansen agreed to pay a civil penalty of \$6,977.50 and to complete three hours of continuing education on the topic of Utah law in addition to the continuing education required for his next license renewal. His license was placed on probation for one year. Case number RE-16-83479 and Docket No. RE-2020-002

HEDBERG, JOSEPH, sales agent, Woods Cross, Utah. In an order dated April 30, 2020, Mr. Hedberg's license was renewed and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-20-118436

HENINGER, BRANDI, sales agent, Sandy, Utah. In an order dated March 26, 2020, Ms. Henninger's license was renewed and placed on probation due to a pending criminal matter. Case number RE-20-117537

HERBERT, JENNIFER CLAIR, sales agent, Lehi, Utah. In an order dated April 1, 2020, Ms. Herbert's license was renewed and placed on probation for the renewal period and until a pending criminal matter is resolved. Case number RE-20-117860

HILTON, BENJAMIN RIPLEY, sales agent, Vineyard, Utah. In a stipulated order dated May 20, 2020, Mr. Hilton admitted that he listed three properties on the MLS naming himself as the listing agent without first obtaining written listing agreements for the properties. Two of the properties were offered for sale by the property owners and Mr. Hilton listed these properties on the MLS as a favor to the owners. With regard to the third property, Mr. Hilton acted as sales agent for the owner but failed to obtain a written agency agreement until 70 days after listing the property on the MLS. These actions are in violation of Utah law. Mr. Hilton did not receive a sales commission on any of the three sales. He agreed to pay a civil penalty of \$1,000 and to complete three hours of continuing education on the topic of agency in addition to the continuing education required for his next license renewal. Case number RE-19-111881

HINKLEMAN, ILANA LYNN, sales agent, Logan, Utah. In an order dated March 6, 2020, Ms. Hinkleman's license was granted and placed on probation for one year due to a plea in abeyance agreement in a criminal matter. Case number RE-20-117017

ISAACSON, CODY, sales agent, Taylorsville, Utah. In an order dated March 24, 2020, Mr. Isaacson's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-117436

KERNAN, PHILIP A., JR., sales agent, St. George, Utah. In an order dated April 15, 2020, Mr. Kernan's license was renewed and placed on probation due to a pending criminal matter. Case number RE-20-117993

KOWALK, JORDAN MARK, sales agent, South Jordan, Utah. In an order dated May 29, 2020, Mr. Kowalk's license was renewed and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-20-119079

KOZLOWSKI, STANLEY P., SR., principal broker, Park City, Utah. In a stipulated order dated March 25, 2020, Mr. Kozlowski admitted that he failed to pay in full a civil penalty owed to the New Jersey Real Estate Commission for continuing to engage in real estate activity after his New Jersey principal broker's license had expired. In addition, he admitted that he failed to notify the Division within ten business days of filing for bankruptcy in 2017, in violation of Utah law. Mr. Kozlowski agreed to pay a civil penalty of \$1,000 and to complete three hours of continuing education on the topic of Utah law in addition to the continuing education required for his next license renewal. Case number RE-17-94974

LAMOREAUX, DAVID L., sales agent, St. George, Utah. In an order dated March 27, 2020, Mr. Lamoreaux's application for licensure as a real estate sales agent was denied due to his criminal history, past acts related to honesty or truthfulness involving the business of real estate, evidence of non-compliance with court orders or conditions of sentencing, and investigations conducted by a regulatory agency relative to a professional license. Case number RE-20-117547

LARKIN, JEREMY L., sales agent, St. George, Utah. In an order dated May 26, 2020, the Commission found that Mr. Larkin advertised his real estate services without identifying his brokerage anywhere in the advertising. The deficient advertisement was the third violation by Mr. Larkin of the administrative rule requiring identification of the brokerage in advertising despite a warning letter to Mr. Larkin on the first violation and a citation issued to him for the second violation. In a separate matter, the Commission found that Mr. Larkin violated Utah law when he made a substantial misrepresentation in an MLS listing. The

Commission assessed a total civil penalty of \$3,500, including \$2,500 for the third advertising violation and \$1,000 for the misrepresentation in the MLS listing. Case numbers RE-18-101462 and RE-18-104312 and docket number RE-2020-009

LENNON, MATTHEW, sales agent, Sandy, Utah. In an order dated May 26, 2020, Mr. Lennon's license was renewed and placed on probation for the renewal period due to pending criminal matters. Case number RE-20-118909

LEWIS, JASON R., sales agent, Pleasant View, Utah. In a stipulated order dated May 20, 2020, Mr. Lewis admitted to violations in two separate transactions. On one transaction, Mr. Lewis failed to execute a written agency agreement to define the scope of his representation of the property owner. In the second transaction, he executed a purchase agreement on behalf of his limited liability company. The seller of the subject property was not represented in the transaction. Mr. Lewis did not use the state-approved real estate purchase contract and did not use a purchase contract that was prepared by legal counsel of either buyer or seller. In addition, he did not disclose in writing his position as a principal in the transaction or, in advertising, his status as a licensee or the name of his brokerage. Rather than closing on the purchase of the property, Mr. Lewis executed an assignment of purchase agreement in exchange for an assignment fee. He did not represent either the seller or the assignee in the transaction. At the closing between the seller and the assignee, Mr. Lewis received an assignment fee. Mr. Lewis admits that his conduct was in violation of Utah law and administrative rules. He agreed to pay a civil penalty of \$4,500 and to complete three hours of continuing education on the topic of Utah law in addition to the continuing education required for his next license renewal. His license was placed on probation for one year. Case numbers RE-18-99075, RE-17-94980, and RE-17-84982

LOSITO, BRYCE A., sales agent, Clearfield, Utah. In an order dated May 29, 2020, Mr. Losito's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-119077

MARTINEAU, BRYAN S., sales agent, Sandy, Utah. In a stipulated order dated May 20, 2020, Mr. Martineau acknowledged that he participated in six transactions as co-owner of a limited liability company. In these transactions, and in advertising for the purchase of the properties, he did not disclose his status as a real estate sales agent licensee or the name of his brokerage. Mr. Martineau admits his actions in each of the six transactions are in violation of Utah law and administrative rules. Mr. Martineau agreed to pay a total civil penalty of \$9,000 and to complete nine hours of continuing education, including three hours each on the topics of contracts, agency, and Utah law, in addition to the continuing education required for his next license renewal. His sales agent license was placed on probation for nine months. Case numbers RE-18-98287, RE-18-100829, and RE-19-107523, and Docket number RE-2019-012

MARTINSON, SHAWN G., sales agent, Ogden, Utah. On April 27, 2020, the Division issued a citation to Mr. Martinson for advertising real estate services without identifying his brokerage information, in violation of Utah law and administrative rules. The citation assessed a fine in the amount of \$150. Citation #DREC-20-8, case number RE-19-110784

MILLS, RILEY JARED, sales agent, Murray, Utah. In an order dated January 24, 2020, Mr. Mills' license was renewed and placed on probation for one year due to a plea in abeyance agreement in a criminal matter. Case number RE-20-115909

RASSENFLOSS, JAMES, unlicensed, Denver, Utah. On February 10, 2020, the Division issued a citation to Mr. Rassenfloss for advertising Utah property for sale without a Utah license. The citation assessed a fine in the amount of \$1,000. Citation # DREC-20-3 and case number RE-19-115135

ROCKWOOD, CLAYTON R., principal broker, Salt Lake City, Utah. In a stipulated order dated May 20, 2020, Mr. Rockwood acknowledged that he participated in six transactions as co-owner of a limited liability company. In these transactions, and in advertising for the purchase of the properties, he did not disclose his status as a licensed principal broker or the name of his brokerage. In addition, Mr. Rockwood admitted that as principal broker, he failed to exercise reasonable supervision of the licensed sales agent with whom he was affiliated and who was the co-owner of the company that purchased the properties. Mr. Rockwood admits his actions in each of the six transactions are in violation of Utah law and administrative rules. Mr. Rockwood agreed to pay a total civil penalty of \$15,000 and to complete nine hours of continuing education, including three hours each on the topics of contracts, ethics, and Utah law, in addition to the continuing education required for his

next license renewal. His principal broker's license was placed on probation for nine months, Case numbers RE-18-98287, RE-18-100829, and RE-19-107523, and Docket number RE-2019-012

SAMEK, CHRISTOPH, sales agent, Coalville, Utah. In an order dated March 3, 2020, Mr. Samek's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-116918

SHAFFER, NATHAN, sales agent, St. George, Utah. On March 25, the Division issued a citation to Mr. Shaffer for advertising real estate services without identifying his brokerage information, in violation of Utah law and administrative rules. The citation assessed a fine in the amount of \$150. Citation #DREC-20-6 and case number RE-19-114663

SNYDER, ASHLEY JO, sales agent, St. George, Utah. In an order dated April 15, 2020, Ms. Snyder's license was renewed and placed on probation for the renewal period due to a plea in abeyance agreement in a criminal matter. Case number RE-20-117896

SOUTHWORTH, JACK CONNOR, sales agent, Ogden, Utah. In a stipulated order dated March 25, 2020, Mr. Southworth admitted that his principal, the seller, authorized reducing the list price of the subject property to \$400,000. Without the seller's consent, Mr. Southworth reduced the list price another \$100. His actions were in violation of Utah law and administrative rules. Mr. Southworth agreed to pay a civil penalty of \$500 and to complete three hours of continuing education on the topic of Utah law in addition to the continuing education required for his next license renewal. Case number RE-16-83505

STANGER, BRANDON J., principal broker, Clinton, Utah. After convening a hearing at which Mr. Stanger failed to appear, the Commission issued a default order dated May 28, 2020, ordering that Mr. Stanger's principal broker's license be placed on probation through September 30, 2022, and assessing a total civil penalty of \$7,500 including \$5,000 for failure to uphold a fiduciary duty to a principal and \$2,500 for failure to respond to a request by the Division. Mr. Stanger's actions are in violation of Utah administrative rules. Case number RE-16-86498 and docket number RE-2020-010

TRIPP, TIFFANY JO, sales agent, Lehi, Utah. In an order dated March 13, 2020, Ms. Tripp's license was granted and placed on probation due to a pending criminal matter. Case number RE-20-117225

WILLIAMSON, MARK K., sales agent, Hurricane, Utah. In an order dated January 28, 2020, Mr. Williamson's license was renewed and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-20-115952

WITZEL, TAYLOR WAYNE, sales agent, Salt Lake City, Utah. In an order dated April 30, 2020, Mr. Witzel's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-118422

WRIGHT, JONATHAN D., sales agent, Salt Lake City, Utah. In an order dated March 31, 2020, Mr. Wright's license was renewed and placed on probation for the renewal licensing period due to criminal conduct during the past licensing period. Case number RE-20-117640

ZANGANEH, ZARBOD, unlicensed, Las Vegas, Nevada. In a stipulated order dated May 20, 2020, Mr. Zanganeh admitted that he had marketed a Nevada property located in Utah, despite not being licensed in Utah. His actions are in violation of Utah real estate licensing law. Mr. Zanganeh agreed to pay a civil penalty of \$1,000 and to cease and desist from engaging in real estate activities requiring a license in Utah unless he becomes licensed by the Division. Case number RE-17-96195 and docket number RE-2020-004

ZOIS, DEBBIE, unlicensed, Las Vegas, Nevada. On March 25, 2020, the Division issued a citation to Ms. Zois for advertising Utah property for sale without a Utah license. The citation assessed a fine in the amount of \$1,000. Citation # DREC-20-7 and case number RE-19-115379

TIMESHARE

There were no licensing or disciplinary actions in the Timeshare industry in the second quarter.

ANNOUNCEMENT (tentative) for the 2020 Instructor Development Workshop (IDW)

Wednesday October 21st & Thursday October 22nd
Live Virtual Session

The Division would like to announce this year's presenter: **Jack Marinello, DREI**

Jack is a high performance, market-wise real estate broker and educator with over 40 years of industry experience. A nationally recognized real estate educator, Jack has logged countless hours of platform presentation time in front of real estate licensees, mortgage brokers, bankers, appraisers and attorneys. He is known for communicating complex concepts and skills with clarity and humor.



The national Real Estate Educator's Association awarded Jack the designation of "Distinguished Real Estate Instructor" (DREI).

A former Utah resident and instructor, Jack moved to the Salt Lake Valley to join First American Title as their statewide Training Director. During his 16 year tenure there he authored and taught numerous DRE approved continuing education core and elective courses. The DRE cast him as "Fast Eddie" the fraudulent loan officer in the Division's core course video warning against Double Contracting and Loan Fraud.

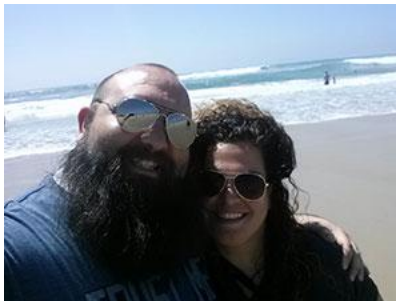
Upon retirement from the title industry, Jack continued his eastward trek to join family in Cary, North Carolina. He was invited to join Len Elder, DREI, at Superior School of Real Estate where he continues to teach today.

Happy to return to the Beehive state and renew friendships with many of you, Jack looks forward to a lively time together on a journey of discovery into the dynamic arena of real estate education.

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Division Staff Spotlight

Shane McFarland joined the Utah Division of Real Estate in August of 2019 as a Real Estate investigator. He previously worked as a Real Estate Agent. He also worked at Macy's as a detective in the Asset Protection (AP) department for the last 6 years. Before that he worked in (AP) for Target for 4 years in both Minnesota and Utah. During his time in AP Shane acquired quite the collection of experiences and stories. Including, helping identify and take down a \$100,000 counterfeit money ring in Minnesota, escorting celebrity shoppers, and being in more fights than he cares to count.



Shane grew up in the beautiful, small town of Fairview, Utah with his amazing parents and two beautiful sisters. He spent most of his time playing night games with friends, camping, riding his bike, shooting hoops in his driveway, and loving the small-town life.

Being the middle child made him tough, (he has the scars to prove it!). At 19 he left home and went to Accra Ghana in West Africa as a missionary for two years, gaining more stories and experiences. Once he returned home he attended UVSC (UVU) for a short time

before marrying the love of his life and moving to Minnesota where they lived for four years. After having enough of the brutal and harsh Midwest winters, they returned home to Utah.

Shane loves basketball, football, rugby and MMA. He also loves music. Having been an Elvis fan since he was five, his love for music grew and lead him to learn to play the drums. Throughout middle school, high school, and college he played in several bands, playing venues like the school auditorium, liberty park, BBQ's, block parties, and even one paying gig playing at a birthday party.



Shane loved being a real estate agent. He loved meeting new people and sharing in their joy of finding their perfect new home, or in the sentiment filled process of leaving an old one. Shane believes that there is so much good that can come from the industry, for our state, our families, and our future.

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Kagie's Korner

Complaints and Documentation

A majority of the complaints the Division receives are submitted from other licensees. I would therefore like to take some time and discuss what the Division needs to properly, fairly, and accurately investigate the issues brought forth when a complaint is submitted. There are two "whethers" to consider before submitting a complaint to the Division:

1. whether you have and/or can provide supporting evidence from reliable sources to document any potential wrong doing, and
2. whether you are willing to allow the information that you have provided to potentially become publically available.

When requested, the Division will attempt to keep a complainant's identity confidential, although in a legal setting this may not be possible.

First, in order to submit a complaint the Division needs to have a [complaint form](#) filled out completely and signed by the complainant. The Division also needs the contact information of the complainant.

Recently the Division received a complaint that contained the following information:

Complainant's First Name: Samantha (Name changed to protect identity)

Summary of Complaint: Is this advertisement on Facebook allowed for Real Estate Agents? Can an agent offer \$\$\$ for Referrals?

The complainant did not include any documentation with her complaint and she failed to provide enough information in order to adequately identify the Facebook page she was referencing or who the licensee even was. The Division will not open an investigation based on this kind of marginal or unsubstantiated information and will turn down such a complaint.

Second, the Division needs the name of the individual you are complaining about, their contact information, and other identifying information, such as their brokerage affiliation.

If the complainant submits only the first and last name of the person they are complaining about and it's a common name, the Division may have fifteen individuals to choose from.

We will need sufficient information to allow us to properly identify the individual referenced in the complaint.

Third, the complaint needs to have a clear and detailed description as to what the complaint is about and it is helpful to explain why you believe it is a violation of the statute and rules. I cannot tell you how many complaints I have read three or four times, and I still do not know what the complaint is about, or what the violation might be. Please provide a clear description of the complaint, while focusing on the facts, and how or why you believe this to be a violation of a rule or statute.

Fourth, a complaint needs to have good, legible documentation or supporting evidence.

For example, if the complaint is about a website, the Division would need a link, and a printout of a computer screenshot showing the https: address with a date stamp.

Unfortunately a screenshot from a cell phone of a website does not include this information and is not useful. The Division must authenticate the information being provided in order for it to be used as evidence. The Division needs to verify, when the violation took place, where it took place, and by whom.

Using the example complaint mentioned above, when a link documenting the wrong doing is provided with the complaint, the Division is able to verify when and where the information came from. Remember, the complaint should indicate a possible violation of one of the licensing statutes or administrative rules and not only an ethical violation.

The investigator must be able to support the allegations outlined in the complaint with supporting evidence. Please provide supporting documents with your complaint. Additionally, it is not necessary to submit the same complaint more than once.

With 470 currently open real estate investigations, the Division needs to focus its efforts on investigating, settling, or holding hearings on well documented and substantiated cases. These cases need to be supported by evidence that can be used to prove violations occurred. Submitting well-documented complaints will assist enforcement in utilizing time wisely and efficiently and to minimize the investigative completion time which benefits us all.

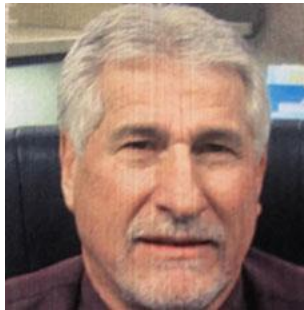
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Happy Retirement, Craig!

For the last fifteen years Craig Livingston has worked for the Division of Real Estate. Craig started his career with the Division as a Real Estate Investigator and is retiring as the Division's sole Appraisal Investigator.

Although Craig says he will miss all the good people he has worked with over the years, he is looking forward to the newest chapter in his life.

Craig is starting his retirement off right and plans on using his newly found free time to spend with his wife of 53 years, 4 kids, 16 grandkids and 4.5 (one on the way) great-grandkids. Craig is wasting no time enjoying retirement and will be heading to their family house boat at Lake Powell shortly after his last day at the Division. Craig also has plans to use his retirement to get in endless rounds of golf as well as hit the outfield again with his softball team later this summer.



The Division wants to wish Craig all the best for his retirement as well as his newest chapter in life. Craig, thank you for all your hard work and fifteen years of dedication to the Division of Real Estate.

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Credits

Director: Jonathan Stewart

Editor/Contributor: Mark Fagergren

Contributor/Layout: Mary Martinez

Contributor/Layout: Lark Martinez

Contributor: Kadee Wright

Contributor: Justin Barney

Contributor: Van Kagie

Contributor: Laurel North

Webmaster: Jason Back

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160 E 300 S (84111)
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SLC UT 84114
(801) 530-6747

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