

# Newsletters

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## 3rd Quarter 2020 Real Estate Newsletter

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## Director's Message

Heber Wells Building

The Heber Wells building is still closed to the public, but we continue working hard to serve licensees and the public. We will be adding a drop box in our lobby if you need to leave something for the Division. If you prefer to meet someone from the Division in person, please arrange for a time with the staff member



directly to ensure they are available. Because many staff members are working from home, we encourage you to communicate with the Division through email or telephone. All email addresses and telephone numbers can be found on the Division's Website: <https://realestate.utah.gov/contacts.html>.

#### Renewals and Fingerprinting for Real Estate and Appraisal

Fingerprinting for renewals is still suspended at least through the end of October. Please continue to check the home page of the Division's website for the most up-to-date information about fingerprinting and license renewals. Licensees seeking to renew their license should complete their required CE by the 15th of their renewal month and renew prior to their license expiration date. If you are a real estate licensee, please remember to complete a Mandatory Course, which is a new requirement as of January 1, 2020. We continue to have real estate licensees attempt to renew without the Mandatory Course. To find a Mandatory Course, please check our website for [current providers](#).

#### Renewal for Mortgage

Renewal for all Mortgage licensees runs from November 1st through December 31st. Renewals this year require a credit check and background check. For additional information about mortgage license renewal [please read the following article](#).

#### Conditional Licenses

Any real estate or appraisal licensee licensed while fingerprinting was suspended was issued a conditional license. For additional information about conditional licenses, [please refer to the following article](#).

#### Commission and Board Meeting Attendance

The Division has been holding all commission and board meetings electronically. Because of this, we have seen increased attendance and participation in these meetings. We appreciate those who have been attending and the suggestions we have received. The decisions these bodies make are important and we encourage you to attend. The commission and board meeting schedule can be found on our website: <https://realestate.utah.gov/calendar.html>. If you would like to join a meeting, please contact Maelynn Valentine for meeting info: [mvalentine@utah.gov](mailto:mvalentine@utah.gov)



#### Facebook Page

The Division of Real Estate now has a Facebook Page: <https://www.facebook.com/Utah-Division-of-Real-Estate-101708201699621>. Our Facebook Page will be another location for licensees to get up-to-date information. We will also be holding a monthly Facebook Live, which will give current information as well as answer questions licensees may have. Please follow our page so you will be notified about future posts.



#### Real Estate Commission

The Real Estate Commission has been very busy. Here are some of the issues being addressed:

- **FHA/VA Addendum:**  
Several months ago an industry member contacted a Commissioner asking if the FHA/VA Addendum could be revised. The Commission formed a committee and several revisions have been made. On September 16 th , The Real Estate Commission voted to approve the proposed changes and the form has been sent to the Attorney General for final approval. I would like to thank those who were on the committee and especially Kreg Wagner and Justin Barney for their assistance in drafting the changes.
- **State Approved Forms:**  
Having just revised the FHA/VA Addendum, the Division and Real Estate

Commission are looking at revising other State-Approved Forms. We are currently in the evaluation stage, but will be selecting a new form to update in the near future.

- Trust Account Rules Committee

In the last several months, the Division has brought three significant trust account cases to the Real Estate Commission. Because of these cases, the Commission decided to form a committee to review the Trust Account Rules. The goal of the Committee is to ensure the rules are clear to brokers and educators who teach about trust accounts. The Committee had a very productive first meeting. I would like to thank all of the Committee Members for their time and input into the rulemaking process. The Committee should have a recommendation for the Real Estate Commission within the next few months.

- Virtual Live CE Rule Amendments

As many of you are aware, the Division has allowed for CE classes to be taught virtually since March of this year. The Division and the Real Estate Commission have been working on administrative rules to address the use of virtual-live CE. On September 16, the Real Estate Commission voted on these new administrative rules. The public comment period for the voted-on proposal should begin in the next few weeks.

A lot has happened in the past six months: we have experienced earthquakes, wind storms, and of course, the ongoing COVID-19 pandemic. We wish you peace and safety, and we appreciate your patience as we continue to react to our changing world.

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## Rule Developments Since July 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

There are no recently adopted or proposed rule amendments under consideration for the Appraisal Management Company rules.

### Appraisal

The Real Estate Appraiser Licensing and Certification Administrative Rules, R162-2g, were amended on June 30, 2020. The sections amended 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(2)(c) – an appraiser who performs an evaluation is exempt from complying with Standard 4 of the USPAP.

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.

\*On September 23, 2020, the Board voted to remove the amended language in Subsection 502(8).

### Mortgage

The Utah Residential Mortgage Practices and Licensing Rules, R162-2c, were amended on July 8, 2020. The sections amended include:

Section 102 – deleted outdated language from the definitions of subsections (3) "Certification" and (10) "Instructor applicant."

Section 203 – eliminated 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 National Mortgage Licensing System. This amendment clarifies the rule by eliminating the outdated requirement of certification of instructors for non-existent CE courses.

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

## Real Estate

The Division of Real Estate and the Real Estate Commission have filed a proposed rule amendment to the Real Estate Licensing and Practices Rules, R162-2f. The proposed amendments include:

Section 201 – would eliminate the mandatory denial of an application for licensure from a person who has entered into a felony plea agreement within five years of the date of application.

Section 202b – would allow the term "escrow account" as an alternative name for a trust account.

Sections 203 and 204 – would clarify that only an actively licensed person must complete the mandatory 3-hour continuing education. The mandatory 3-hour course does not add additional hours of required continuing education but satisfies three hours of the nine core class hours currently required.

Sections 205, 207, 401a, 401b, 401h, and 401j – would establish a four-year time limit for the enforcement of a violation of certain provisions of these sections.

Section 401c – would resolve overlap and inconsistencies between Utah law and other Administrative Rules relative to the obligation of a real estate broker to supervise affiliated sales agents and unlicensed staff.

Section 403a – would amend the rule to require a principal broker to remit unclaimed funds to the State Treasurer's Office within three years as required by Utah law.

Section 403b – would increase the amount of a broker's own funds that can be held in a real estate trust account from \$500 to \$1,000 consistent with current banking practices and account fee schedules.

Public comment for this proposed rule amendment runs through October 15.

## Timeshare and Camp Resort

There are no recently adopted or proposed rule amendments under consideration.

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# Fingerprinting—License Renewals— Conditional Licensing

Wow...could anyone ever have imagined the strange and difficult year that we are all experiencing. With all that has occurred and is still going on, we thought that you may need a refresher course on the status of fingerprinting requirements, license renewals, and conditional licensing for licensees (both experienced and new real estate and appraisal licensees).

Current Experienced Real Estate and Appraisal Licensees (those who have or will be renewing their licenses in 2020)

**Individuals with renewal deadlines of January, February, and March who renewed by March 15th, 2020:**

Renewing licensees were required by statute to be fingerprinted and enrolled in the FBI RAP Back program in order to have their licenses renewed.

In spite of some renewal programming "hiccups," occurring between 01/01/20 and 03/15/20, licensees who successfully renewed their licenses during that time period after submitting fingerprints and enrolling in the RAP Back program will not need to be subsequently fingerprinted for their license as long as they continue to renew the license on a timely basis.

**Individuals with renewal deadlines from March 15th through October 31, 2020:**

After 03/15/20, due to Covid-19 public pandemic issues and general business shutdowns, the fingerprinting of existing licensees at the time of license renewal was temporarily suspended (postponed) and remains temporarily suspended (postponed) at least until 10/31/20. Real Estate and Appraisal licensees who complete their required continuing education (CE) have been and are able to renew their licenses online without being enrolled in the FBI RAP Back Fingerprint System.

Please go to the home page of the Division website for current fingerprinting and licensing updates (<https://realestate.utah.gov>)

**Individuals with renewal deadlines after October 31, 2020:**

Eventually all Real Estate and Appraisal Licensees who have not already done so will be required to be enrolled in the FBI RAP Back Fingerprinting system.

The date when fingerprinting and RAP Back enrollment will resume is not known at the time of this newsletter.

Refer to the Division website for current fingerprinting and licensing updates (<https://realestate.utah.gov>).

New (Conditionally Licensed) Real Estate and Appraisal Licensees:

**Conditional Licenses (Phase I) – [Real Estate & Appraisal applicants who were conditionally licensed without being fingerprinted between 03/15/20 and 08/31/20]**

New Real Estate & Appraisal Licensees who were unable to be fingerprinted, and who were licensed between 03/15/20 and 08/31/20 were issued "CONDITIONAL LICENSES." **Conditional Licensees (Phase I) have/had until September 30, 2020 to be fingerprinted or their licenses will be denied.**

Conditionally licensed individuals who completed the fingerprinting process and successful review were converted by the Division from being "conditionally licensed" to being "unconditionally licensed."

**Conditional Licenses (Phase II) – [Real Estate & Appraisal applicants who were conditionally licensed without being fingerprinted between 09/01/20 and 10/31/20]**

New Real Estate & Appraisal Licensees who were/are unable to be fingerprinted, and who were/are licensed between 09/01/20 and 10/31/20 will be issued "CONDITIONAL LICENSES." Conditional Licensees (Phase II) will have until December 31, 2020 to be fingerprinted or their licenses will be denied.

Conditionally licensed individuals who complete the fingerprinting process and review will be converted by the Division from being "conditionally licensed" to being "unconditionally licensed."

New Real Estate and Appraisal Licensing Applicants Who Pass Their Licensing Exams After 10/31/20

Real Estate and Appraisal licensees who pass their licensing exams AFTER 10/31/20 should not need to be conditionally licensed. After October, the Division does not anticipate any future need to conditionally license Real Estate and/or Appraisal applicants.

We wish to thank each of you for your patience and cooperation during these difficult and challenging times.

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## 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 required items 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**. 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.

Although fingerprinting may be done ahead of time and new CBC request will be required at the time the renewal is requested on the NMLS.

Thank you!

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## Mortgage Loan Originators

### 5-Hour MLO Course Reminder

Mortgage loan originators newly licensed in 2019 and 2020 are required to complete the 5-Hour Utah MLO CE Course by October 21, 2020, to renew for their 2021 License when the license renewal period opens. A license item requirement has been placed on licenses of those who are required to take the course. Those that have not completed the course by Oct 21st, 2020 will be prevented from renewing when the renewal period opens on November 1st. Course hours will be banked through the NMLS and MLOs can verify course completion through their education record on the NMLS. If you have completed the course and the license item is still showing on your license please email [realestate@utah.gov](mailto:realestate@utah.gov) with your name and NMLS number and we will remove the requirement.

Thank you!

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## Broker Brush Up Series

II. Transaction Files & Trust Accounts	Q2 Newsletter
<b>III. Record Retention – 401K – Invest</b>	<b>Q3 Newsletter</b>
IV. Supervision – Safe Harbor – Duties to Agents	Q4 Newsletter

## Part III of IV: Investigations & Record Retention

We received 407 complaints at the Division in 2019 of which 17% resulted in a determination that a violation had been committed. Recently the Division disciplined two licensees for trust account violations, a rising concern. One case involved a Principal Broker who commingled and diverted funds from the trust account which resulted in revocation of his license and a civil penalty of \$405,000. The other case involved a Sales Agent who stole trust account funds resulting on a ban from applying for a license again for the next five years and a civil penalty of \$140,000.

### Investigations – Disciplinary Actions

During an investigation, the investigator will ask the Respondent for their transaction file, if they cannot produce a complete file, the investigator will request the documents from the Respondent's broker. Two areas Respondents and/or Brokers find themselves in violation during an investigation are:

- Failing to keep and make available for inspection by the division a record of each transaction, [61-2f-401\(9\)](#).
- and
- Failing to respond to a request by the division in an investigation, [61-2f-401\(18\)](#).

Please encourage the agents affiliated with you to timely respond to Division requests and ensure you are maintaining records as required.

The Division has four years to investigate a complaint once it is reported to the Division or ten years from the date of the violation, whichever is earlier, [61-2f-402\(6\)](#).

Due to the number of pending cases the Division has, it is critical each licensee cooperate during the investigation and timely produce requested documents. The Division has issued citations including a \$1000 civil penalty to licensees who fail to respond timely to a Division request. Protect your affiliates and encourage cooperation.

### Record Retention

The following records must be maintained for at least three years following the year in which the offer is rejected, closed, or failed:

- all trust account records
- any document submitted to a lender or underwriter
- any document signed by a seller or buyer
- any document created or executed by a licensee

If you have the ability to keep them longer, do it. I've had sales agents and brokers produce integral documents that clear their actions exceeding that timeframe.

You are also responsible for keeping trust account records including monthly, quarterly, and yearly reconciliations. Records need to be physically or electronically maintained at the principal business location or branch office. If you decide to close your business, let us know where the business records will be maintained. If you file a brokerage bankruptcy, notify the division within 10 business days. [R162-2f-401k](#). Recordkeeping Requirements

Review the statute and rules by clicking on the link, they are short, read up on them and I welcome your phone calls if you'd like to share your thoughts with me.

**P.S.** Join us for a Virtual Commission Meeting. Check out our [Division of Real Estate website](#) for monthly meeting dates and times and grab a front row seat to disciplinary sanctions in action.

# Division Staff Spotlight

Maelynn Valentine joined the Division of Real Estate in November 2019. She grew up in American Fork, UT. Soon after graduating from high school she moved away from home. Maelynn has called Salt Lake City her home for the past 20 years.



Maelynn has had an interest in the real estate and mortgage industries since she purchased her home. Maelynn began her career in real estate as a mortgage loan processor. She enjoyed helping people get into their homes. When asked how she came to be the Division Board Secretary, Maelynn stated, "Due to my interests in the mortgage and real estate industries, I pursued a position with the Division and am very happy to be functioning as the Division Board Secretary."

Maelynn also enjoys her life away from work and loves hosting BBQ's at her home for family and friends. She also loves dogs and has been involved with fostering them for the past 8 years. She says, "I am what they call a 'foster fail' because the dogs I foster, I end up adopting." She recently rescued seven puppies and was set to foster two of them. She ended up adopting one of them and her sister adopted the other. The other five puppies were also fostered and adopted.

Maelynn has been a wonderful asset to the Division and we appreciate her hard work and dedication to her job!

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## Third 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.*

To view a copy of an order referenced in this article please visit the Utah Division of Real Estate Website under the Enforcement Menu, Disciplinary Actions  
<https://realestate.utah.gov/realestate/index.html>

### APPRAISAL/AMC

COESTER, BRIAN, AMC controlling person, Rockville, Maryland. In a stipulated order dated June 24, 2020, Mr. Coester admitted that the surety bond for CoesterVMS.com Inc was cancelled and not reinstated and that CoesterVMS Inc had issued engagement letters to numerous appraisers who completed the appraisal assignments but CoesterVMS Inc failed to pay the appraiser fees, in violation of Utah law. Mr. Coester and CoesterVMS Inc agreed that any residual registration rights of registration for CoesterVMS Inc and for Mr. Coester to act as a controlling person to act as a controlling to an appraisal management company registered in Utah are revoked. Docket Number AP-2020-01 and Case numbers AP-19-106903, AP-19-107454, AP-18-105303, AP-18-105974, AP-19-107328, and AP-19-110629

COESTERVMS.COM INC, Appraisal Management Company, Rockville Maryland. In a stipulated order dated June 24, 2020, Mr. Coester admitted that the surety bond for CoesterVMS.com Inc was cancelled and not reinstated and that CoesterVMS Inc had issued engagement letters to numerous appraisers who completed the appraisal assignments but CoesterVMS Inc failed to pay the appraiser fees in violation of Utah law. Mr. Coester and CoesterVMS Inc agreed that any residual registration rights of registration for CoesterVMS Inc and for Mr. Coester to act as a controlling person to an appraisal management company registered in Utah are revoked. Docket Number AP-2020-01 and Case numbers AP-19-106903, AP-19-107454, AP-18-105303, AP-18-105974, AP-19-107328, and AP-19-110629



CONSOLIDATED ANALYTICS, INC., BRIAN GEHL, Owner/Manager, Appraisal Management Company, Anaheim, California. In a stipulated order dated June 24, 2020, Consolidated Analytics, Inc. admitted that it broadcast an appraisal assignment to 58 independent contractor appraisers and then awarded the assignment to an appraiser without waiting the required 120 minutes or until each appraiser had responded to the offering. These actions are contrary to the Utah Administrative Rules. Consolidated Analytics, Inc. agreed to pay a civil penalty of \$3,000. Case number AP-19-106583

#### MORTGAGE

HEATH, TODD D., lending manager, Kaysville, Utah. In a stipulated order dated July 1, 2020, Mr. Heath admitted that he charged a fee in connection with a residential mortgage loan without disclosing to the borrower in writing that he would be charging the fee and without disclosing to the lender that he would be seeking additional compensation from the borrower. These actions are a violation of Utah law. Mr. Heath agreed to pay a civil penalty of \$10,000, to have his lending manager license placed on probation through December 31, 2021, and to update his answers to the disclosure questions in the NMLS. Case number MG-16-87179

PARKER, JOHN THOMAS, mortgage loan originator, Organ, New Mexico. In an order dated August 7, 2020, Mr. Parker's license was granted and placed on probation until December 31, 2021 due to criminal history. Case number MG-20-120563

RESPINI, RHONDA SUE, mortgage loan originator, San Diego, California. Ms. Respini applied for licensure under the temporary authority provisions but failed to provide the Division with evidence that she had completed required Utah specific prelicensing education within 120 days of her application, as required by Utah law. In an order dated August 24, 2020, her application for licensure was denied. Case number MG-20-120962

SEVERIN, AMY CHRISTINE, mortgage loan originator, Gibbsboro, New Jersey. Ms. Severin applied for licensure under the temporary authority provisions but failed to provide the Division with evidence that she had completed required Utah specific prelicensing education within 120 days of her application, as required by Utah law. In an order dated August 24, 2020, her application for licensure was denied. Case number MG-20-120965

SMITH, CHERRIE ABELEDA, mortgage loan originator, Elmhurst, Illinois. Ms. Smith applied for licensure under the temporary authority provisions but failed to provide the Division with evidence that she had completed required Utah specific prelicensing education within 120 days of her application, as required by Utah law. In an order dated August 24, 2020, her application for licensure was denied. Case number MG-20-120963

TIGNER, JULIAN THOMAS, mortgage loan originator, Denver, Colorado. Mr. Tigner applied for licensure under the temporary authority provisions but failed to provide the Division with evidence that he had completed required Utah specific prelicensing education within 120 days of his application, as required by Utah law. In an order dated August 24, 2020, his application for licensure was denied. Case number MG-20-120975

TOMLIN, BRANDON CHRISTIAN, mortgage loan originator, Perkiomenville, Pennsylvania. Mr. Tomlin applied for licensure under the temporary authority provisions but failed to provide the Division with evidence that he had completed required Utah specific prelicensing education within 120 days of his application, as required by Utah law. In an order dated August 24, 2020, his application for licensure was denied. Case number MG-20-120957

WILSON, CHRISTOPHER HAROLD, mortgage loan originator, Fairfax, Virginia. Mr. Wilson applied for licensure under the temporary authority provisions but failed to provide the Division with evidence that he had completed required Utah specific prelicensing education within 120 days of his application, as required by Utah law. In an order dated August 24, 2020, his application for licensure was denied. Case number MG-20-120976

WITTHUHN, CARRIE SUE, mortgage loan originator, Elizabeth, Colorado. Ms. Witthuhn applied for licensure under the temporary authority provisions but failed to provide the Division with evidence that she had completed required Utah specific prelicensing education within 120 days of her application, as required by Utah law. In an order dated August 24, 2020, her application for licensure was denied. Case number MG-20-120961

#### REAL ESTATE

ACEVEDO, DEMETRICK Z., sales agent, West Valley City, Utah. In an order dated July 2, 2020, Mr. Acevedo's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-119920

ANDERSEN, BRADY M., sales agent, Orem, Utah. In an order dated June 24, 2020, Mr. Andersen's license was renewed and placed on probation due to a pending criminal matter. Case number RE-20-119723

ARMSTRONG, BRUCE, dual broker, Lindon, Utah. In a stipulation and consent order dated August 12, 2020, the Division found that more than \$100,000 was diverted and comingled between the trust accounts of the two brokerages for which Mr. Armstrong was the dual broker. In addition, payments of more than \$75,000 for wages, loans, and gifts were made from a trust account directly to a contract bookkeeper and unlicensed assistant. Mr. Armstrong reported to the Division that these payments were made from his own funds being held in the trust account. However, administrative rules at the time limited a broker's own funds in a trust account to \$500. Mr. Armstrong continued to hold funds belonging to him in the trust accounts and continued to pay personal and business expenses directly from the those accounts. During this time, Mr. Armstrong did not perform required monthly reconciliations of the trust accounts. Between 2011 and 2014, trust account funds in excess of \$100,000 were used to pay property expenses for four hotel properties that he managed and in which he had a financial interest. These expenditures resulted in a trust account shortage which Mr. Armstrong failed to report to the Division. Between 2013 and 2015, Mr. Armstrong transferred funds from tenant-in-common subaccounts to his own subaccount for leasing commissions he was not entitled to and without the property owners' knowledge or consent. These unearned leasing commissions totaled several hundred thousand dollars. Mr. Armstrong later repaid these unearned commissions. Between 2013 and 2016, leasing commissions totaling nearly \$500,000 were transferred from the property reserve accounts. The year-end reports for these years sent to owners did not reflect the payment of the leasing commissions but incorrectly stated the property reserve accounts were greater than they actually were. In 2019, Mr. Armstrong took steps to notify the affected property owners of the leasing commissions paid from their accounts. Mr. Armstrong admits that his actions violated Utah law and Administrative Rules and agreed that: 1) his associate broker and dual broker licenses be revoked; 2) he will immediately cease and desist from any activities requiring a real estate license; 3) he is barred from applying for licensure for a five-year period; and 4) he will pay a civil penalty of \$405,357.72 with a dollar for dollar reduction in the civil penalty for restitution paid to property owners. Docket No. RE-2019-016 and Case numbers RE-16-80578, RE-18-97103, and RE-19-108880

BALLARD, CHERI LEE, sales agent, Ogden, Utah. In an order dated August 7, 2020, Ms. Ballard's license was granted and placed on probation for the initial licensing period due to a plea in abeyance agreement in a criminal matter. Case number RE-20-120576

BLACKHAIR, ANGIE, sales agent, Duchesne, Utah. In an order dated June 5, 2020, Ms. Blackhair's license was renewed and placed on probation due to a pending criminal matter. Case number RE-20-119231

BOEDEKER, STEPHEN REECE, sales agent, South Jordan, Utah. In an order dated June 4, 2020, Mr. Boedeker'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-20-119222

BROWN, BOYD B., associate broker, Sandy, Utah. In a stipulated order dated July 15, 2020, Mr. Brown admitted that he failed to disclose to the seller that the buyer had failed to provide additional earnest money prior to the due diligence deadline and that he, Mr. Brown, had failed to execute a written agency agreement with the buyer prior to signing and submitting the REPC to the seller. These actions are in violation of Utah law and administrative rules. Mr. Brown agreed to pay a civil penalty of \$2,000 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. Mr. Brown was co-agent with Shad J. Selmos in this transaction. Case number RE-20-118601

BURK, BRANDON WESLEY, sales agent, Cedar City, Utah. In an order dated August 21, 2020, Mr. Burk's application for licensure was denied due to criminal history. Case number RE-20-120954

BURKE, KATHRYN E., sales agent, South Jordan, Utah. On June 10, 2020, the Division issued a citation to Ms. Burke for advertising an open house without identifying Ms. Burke's brokerage information, in violation of Utah law and Administrative Rules. The citation assessed a fine in the amount of \$150. Citation # DREC-20-10, Case number RE-19-110805

CHEVEZ, EVELYN BEATRIZ, sales agent, West Jordan, Utah. In an order dated August 20, 2020, Ms. Chevez's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-120937

CRAWFORD, GERALD, principal broker, Washington, Utah. In a stipulated order dated June 17, 2020, Mr. Crawford admitted that he had not personally reconciled the brokerage trust account and that he failed to exercise reasonable supervision over the brokerage's licensed and unlicensed staff, in violation of Utah law and administrative rules. During a three year period during which time Mr. Crawford did not personally reconcile the trust account, the brokerage's office manager stole approximately \$329,000 from the brokerage. The majority of these funds were stolen from the trust account. In mitigation, the Division notes that the trust account was reconciled by two of the brokerage's owners who are certified public accountants and the owners replaced the stolen trust funds so that none of the brokerage's clients suffered a financial loss. Mr. Crawford agreed to pay a civil penalty of \$5,000 and to complete three hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-19-107494

CRITCHLOW, SANDY K., sales agent, Tooele, Utah. In a stipulated order dated June 17, 2020, Ms. Critchlow admitted that she had removed the only copy of many of her brokerage's client files from the brokerage and then notified her broker that she had terminated her work for the brokerage and would be working for a different property management company. The next day, Ms. Critchlow began contacting the brokerage's clients to solicit their ongoing property management business. On the following day, her new broker accepted Ms. Critchlow's transfer request and she moved into her new office with the files removed from the prior brokerage. Ms. Critchlow's actions are in violation of Utah law and administrative rules including the violation of her fiduciary duty of loyalty in the course of representing a principal, reasonable care and diligence, and holding safe and accounting for all money or property entrusted to the agent, making a substantial misrepresentation, and incompetence. Ms. Critchlow agreed to pay a civil penalty of \$7,500 and to complete six hours of continuing education in addition to the continuing education required for her next license renewal. Docket No. RE-2020-05 and Case number RE-16-81133

ELKINGTON, JOSHUA S., sales agent, Salt Lake City, Utah. On May 28, 2020, the Division issued a citation to Mr. Elkington for: 1) continuing to market property for sale after the listing agreement was cancelled; 2) advertising the availability of real estate in a false, misleading, or deceptive manner; and 3) advertising property for sale without the written consent of the property owners; actions which are in violation of Utah law and administrative rules. The citation assessed a fine in the amount of \$1,000. Citation # DREC-20-9, Case number RE-19-113578

ETTER, PHILIP MARK, sales agent, Layton, Utah. In an order dated August 18, 2020, Mr. Etter's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-120799

FRANDSEN, DUSTIN J., sales agent, Moab, Utah. In a stipulated order dated July 15, 2020, Mr. Frandsen admitted that after a property owner had terminated a property management agreement with Mr. Frandsen's property management company, Mr. Frandsen had returned a security deposit of \$1700 in full to the owner's tenant including the non-refundable portion of the deposit. Later, it was determined that the tenant had caused thousands of dollars of damage to the property. Mr. Frandsen breached his fiduciary duty of loyalty to his principal in violation of Utah law and administrative rules. He agreed to pay a civil penalty of \$1700 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-19-109023

GRAHM, ALEX PETER, sales agent, Salt Lake City, Utah. In an order dated June 26, 2020, Mr. Graham's license was granted and placed on probation due to a pending criminal matter. Case number RE-20-119803

HARDMAN, ANNA NICOLE, sales agent, Vernal, Utah. In an order dated July 29, 2020, Ms. Hardman's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-120356

HARTER, GRAHAM, sales agent, Park City, Utah. In an order dated August 6, 2020, Mr. Harter's license was granted and placed on probation for the initial licensing period due to a plea in abeyance agreement in a criminal matter. Case number RE-20-120531

HAWS, JOSEPH DARRELL, sales agent, Provo, Utah. In an order dated July 2, 2020, Mr. Haws's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-119916

HELM, DAVID C., associate broker, Cottonwood Heights, Utah. In a stipulated order dated August 19, 2020, Mr. Helm submitted an offer to purchase a property on behalf a prospective buyer. The offer was accepted but the buyer later cancelled the REPC when she determined that the property was not zoned as a horse property. Mr. Helm admitted that he had not executed a written agency agreement with the buyer because she was a personal friend and the sale had failed. Mr. Helms's actions are a violation of Utah administrative rules which require a written agency agreement prior to representing a client. Mr. Helm 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-17-95065

HYMAS, LAURIE KRECHELLE, sales agent, Saratoga Springs, Utah. In an order dated June 29, 2020, Ms. Hymas's application for licensure was denied due to criminal history. Case number RE-20-119811

INGRAM, G. DEAN, principal broker, Elk Ridge, Utah. In a stipulated order dated June 17, 2020, Mr. Ingram was identified as the listing broker of nine lots. He advertised the properties as ready to be built. The advertisement was placed even though the municipality had placed a building moratorium on the nine lots. The lots were also advertised as "Owner/Agent." Although Mr. Ingram is co-owner of a homebuilder, the nine lots were owned by an independent homebuilder/seller. Mr. Ingram admitted that his actions were in violation of Utah law and administrative rules which require that: 1) a principal broker exercise reasonable supervision of the brokerage's licensees and staff; 2) a licensee refrain from making a false or misleading representation; 3) a licensee make reasonable efforts to verify the accuracy and content of information used in marketing a property, and other violations. Mr. Ingram agreed to pay a civil penalty of \$2,500 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-19-113459

MAURER, DAKOTA MACKLIN, sales agent, Draper, Utah. In an order dated June 24, 2020, Mr. Maurer's license was granted and placed on probation due to a pending criminal matter. Case number RE-20-119727

NOALL, JEFFREY, sales agent, Bountiful, Utah. In an order dated August 19, 2020, Mr. Noall's license was renewed and placed on probation due to a pending criminal conduct matter. Case number RE-20-120868

POPE, GREGORY S., sales agent, Murray, Utah. In an order dated June 1, 2020, Mr. Pope's license was reinstated and placed on probation for one year due to criminal conduct during the past licensing period. Case number RE-20-119113

PRICE, LANE, sales agent, Syracuse, Utah. In an order dated August 6, 2020, Mr. Price's license was renewed and placed on probation for the renewal period due a plea in abeyance agreement in a criminal matter during the past licensing period. Case number RE-20-120528

SAPERS, ADAM, sales agent, Salt Lake City, Utah. In an order dated August 18, 2020, Mr. Sapers's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-120802

SELMOS, SHAD J., sales agent, Saratoga Springs, Utah. In a stipulated order dated July 15, 2020, Mr. Selmos admitted that he failed to disclose to the seller that the buyer had failed to provide additional earnest money prior to the due diligence deadline and that he, Mr. Selmos, had failed to execute a written agency agreement with the buyer prior to signing and submitting the REPC to the seller. These actions are in violation of Utah law and administrative rules. Mr. Selmos agreed to pay a civil penalty of \$2,000 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. Mr. Selmos was co-agent with Boyd B. Brown in this transaction. Case number RE-17-95315

SKIDMORE, GARRETT JOHN, sales agent, Syracuse, Utah. In an order dated June 29, 2020, Mr. Skidmore'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-20-119810

SMITH, CIMMARON, sales agent, Leeds, Utah. In an order dated June 19, 2020, Mr. Smith's license was renewed and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-20-119584

WILLIAMS, RACHEL LYNN, sales agent, South Jordan, Utah. In an order dated July 29, 2020, Ms. Williams's license was renewed and placed on probation for the renewal period due to a criminal matter in a prior license period and a plea in abeyance agreement during the past licensing period. Case number RE-20-120354

YATES, RANDY S., sales agent, Pleasant Grove, Utah. In an order dated July 17, 2020, Mr. Yates's license was renewed and placed on probation for the renewal period due to a plea agreement in a prior licensing period and a pending criminal matter based on conduct during the past licensing period. Case number RE-20-120178

#### TIMESHARE

RAMIREZ, CHRISTOPHER MANUEL, timeshare salesperson, West Valley City, Utah. In a stipulated order dated June 25, 2020, Mr. Ramirez admitted that he failed to disclose criminal history in his application for registration, in violation of Utah law and administrative rules. Mr. Ramirez agreed to pay a civil penalty of \$500. Case number TS-20-119728

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## Kagie's Korner

What happens when a licensee changes brokerages when transactions are pending?

When an agent or associate broker wants to change brokerages, first, they should communicate with their current broker, and then initiate the brokerage change process by accessing their RELMS account on the Division website at [www.realestate.utah.gov](http://www.realestate.utah.gov). Once a request for affiliation change has been entered by the departing licensee, both brokers (current and future) will each receive an email and they both will have to acknowledge the transfer. Remember, both brokers must acknowledge the change within ten days of the notification or the change of license affiliation will not be completed. It is the responsibility of the transferring licensee to follow up and verify that both brokers have acknowledged the change before they can begin working under the new brokerage. If for some reason one or both brokers fail to acknowledge the requested change of affiliation within the ten days, then the departing licensee will need to terminate their initial failed request in RELMS, and enter a subsequent affiliation change request.

Let's say Agent Freedom is representing a buyer and the property went under contract on May 31st. Agent Freedom transfers his license from ABC Realty to XYZ Real Estate on June 3rd. The following are options for how this transaction can proceed:

First, the Buyer Agency belongs to ABC Realty's Principal Broker. Agent Freedom can speak with the Principal Broker of ABC Realty to see if they will allow Agent Freedom to take the client with him to XYZ Real Estate. If the broker agrees, the broker would terminate the buyer agency contract entered into on May 31st. If the buyer agency agreement with ABC Realty is terminated by the departing broker, Agent Freedom could then draft a new agency agreement with the new brokerage and proceed to represent the buyer.

If ABC Realty's Principal Broker will not allow Agent Freedom to take the client with him, then after June 3rd, Agent Freedom can no longer service the client as his license is no longer affiliated with ABC Realty. If an addendum needs to be drafted on June 7th the Principal Broker or other affiliated licensees designated by the broker of ABC Realty will be assigned to step in and assist the client in drafting the addendum on the client's behalf.

If the transaction does not close for weeks or months later, how does Agent Freedom get compensated after the transaction closes? Does the commission have to go through the new XYZ Broker or can the old broker at ABC pay Agent Freedom directly? These are questions that the Division receives often. If ABC Realty retained the client, ABC Realty can pay Agent Freedom directly, after closing for work that Agent Freedom performed before he changed brokerages. The Broker at ABC would need to determine the work that Agent Freedom did, and the work that other affiliated licensees did in order to determine the fair amount of compensation that was earned by each licensee.

Let's review the corresponding statutes:

61-2f-305 (1) Except as provided in Subsection (2), an associate broker or sales agent may not accept valuable consideration for the performance of an act specified in this chapter from a person except the principal broker with whom the associate broker or sales agent is affiliated.

61-2f-401 (6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not affiliated with the principal broker at the time the sales agent or associate broker earned the compensation;

Agent Freedom's license was affiliated with the broker at ABC Realty at the time the commission was earned on May 31st; therefore, the broker at ABC Realty can pay Agent Freedom directly for the work performed while at ABC. The commission does not have to run through XYZ Real Estate, the new brokerage.

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## 2020 Instructor Development Workshop (IDW)

The Division is pleased to announce that Cheryl Knowlton, our homegrown, and nationally recognized and distinguished real estate instructor, has accepted the challenge of being our virtual-live presenter/instructor for the 2020 Instructor Development Workshop which will be held on October 19-20th.

As a real estate educator, broker, and 20-year veteran of the real estate and mortgage industry, Cheryl Knowlton is obsessed with helping real estate agents become more relevant in today's marketplace through harnessing the power of engaging education. As a record breaking recruiter, licensed broker, national speaker, coach, author, and real estate compliance expert, Cheryl specializes in enthusiastically empowering real estate excellence by consistently delivering highly engaging and relevant content. As the CEO of Dynamite Productions, a global real estate training company, Cheryl's programming ensures that real estate educators, licensees, designated brokers, and mortgage professionals leave with the practical tools they need to hit the ground running and experience explosive growth and success in their careers.



When she is not scanning her Annual Pass at a Disney theme park, Cheryl is traveling the country to speak in 26 different states for state and local associations and for The National Association of REALTORS Annual Convention in 2019. She is now enthusiastically bringing Instructor Development and mandatory content development to states all across the country to assist other educators in raising the bar in their own backyards.

In addition to holding the highly coveted Certified Speaking Professional Designation (CSP) and the Distinguished Real Estate Instructor Designation (DREI), she also holds 16 NAR Designations and Certifications and teaches 12 of them. Cheryl also designed and built a Utah real estate pre-licensing school from the ground up in 2017.

Enthusiastically dedicated to raising the bar of professionalism in real estate, as well as personal development, Cheryl carries this high-octane vibe into the classroom and all of her online video content. She loves teaching the many courses she has authored

nationally, as well as NAR designation courses, incorporating fun into the programming to ensure students participate in learning through a variety of modalities. Cheryl genuinely loves the real estate industry and gets completely "lit up" about the moving the needle and taking the real estate industry to the next level through professional real estate education.

Cheryl has been a proud member of the National Speakers Association (NSA) since 2010, where she serves as the Vice President on the NSA Mountain West Chapter Board of Directors. She has also been a member of The Real Estate Educators Association (REEA) since 2010, where she earned her Distinguished Real Estate Instructor (DREI) designation in 2014. Dedicated to keeping in touch with the pulse of real estate, she has been actively involved in the Women's Council of REALTORS® locally and regionally since 2000.

Cheryl is also author of the books, "Burning the Hamster Wheel: 20 Stress Management Strategies for Today's Real Estate Professional," and "I'm Only Half Crazy: Life Lessons Learned While Running 20 Half Marathons." (She has run 22 half marathons to date.)

Cheryl is the joyful wife of Rick, the proud mother of 4 beautiful adult married daughters, and is having the time of her life enjoying her 7 perfect grandchildren.

**Registration for this event will be based on a "first come, first served very limited basis." Only current instructors, registered with the Division, have been invited to attend this year's IDW event. If you are an instructor that did not receive an email invitation, and wish to attend, please contact Kendelle at 801-530-6751.**

**NOTE: Attendance at the two-day IDW is REQUIRED once every two years for all real estate, mortgage, and appraiser pre-licensing instructors and Real Estate Mandatory 3-Hour Course Instructors.**

Mortgage and appraisal instructors are invited to attend this course, although no CE credit can be given. Only Real Estate instructors (pre-license and continuing education) will receive 12 hours of core continuing education credit for attendance at this outstanding training event. Please keep in mind that CE credits are only awarded in full-day segments.

This year's schedule will be as follows:

Monday and Tuesday, October 19th and 20th

Monday (10/19)	Division Update	10:00am – 12:00pm
		One hour break for lunch
	Cheryl Knowlton	1:00pm – 5:00pm
Tuesday (10/20)	Cheryl Knowlton	9:00am - 12:00pm
		One hour break for lunch
	Cheryl Knowlton	1:00pm - 4:00pm

**(Attendees must have a functioning computer camera and microphone. Please...no exceptions)**

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