STATE OF UTAH

Utah Division of Real Estate Newsletter

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THIRD QUARTER October 2019

Director's Message -

The Role of the Real Estate Commission, Mortgage Commission, and Appraisal Board

The role of the Real Estate Commission, Mortgage Commission, and Appraisal Board are very important to the mission of the Division of Real Estate. Why do they exist? How do they assist the Division? Should licensees interact with them outside of a public meeting? If so, when, and how is it appropriate?

The role of these three bodies is similar, but not exactly the same. All three are created through statute, which also lays out their responsibilities.

Real Estate Commission

According to 61-2f-103, one of the commission's main responsibilities is to, "subject to the concurrence by the division, make rules for the administration of this chapter that are not inconsistent with this chapter." The Utah Legislature grants the Division of Real Estate specific rulemaking authority. With this rulemaking authority, the Division and Commission draft administrative rules that aid in the regulation of the real estate industry. The Commissioners give vital insight into the rules that are drafted and help the Division understand how the rules will affect licensees in the real world.

According to 61-2f-103 (1)(c), the Real Estate Commission also has authority to conduct an administrative hearing relating to:

- the licensing of an applicant;
- the conduct of a licensee; and,
- the certification of a real estate school, course provider, or instructor…

At the conclusion of administrative hearings, the Commission, with concurrence from the director, has the authority to impose a sanction on the respondent in the hearing.

Finally, the Real Estate Commission is to "advise the director on the administration and enforcement of a matter affecting the

Jonathan Stewart

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Role of The Commision and Boards (Cont.)

division and the real estate sales and property management industries." The Division regularly brings issues and questions to the Commission for input, suggestions, and guidance.

Most duties of the Real Estate Commission require concurrence from the Division, but there are two areas the Commissioners do not require concurrence.

1. R162-2f-201 Qualifications for Licensure states:

   (4) Minimum education. An applicant shall have:

   (a) a high school diploma;

   (b) a GED; or

   (c) equivalent education as approved by the commission.

If an applicant for licensure does not have a high school diploma or GED, the commissioners have the authority to approve equivalent education. In this circumstance, the commissioners do not need concurrence from the Division.

2. 61-2f-203(1)(b)(i) states: "If the commission delegates to the division the authority to approve or deny an application without concurrence by the commission and the division denies an application for licensure, the applicant who is denied licensure may petition the commission for de novo review of the application." At the conclusion of the hearing, the commissioners, without concurrence from the division, can decide how to handle the application.

Residential Mortgage Regulatory Commission

The authority granted to the Mortgage Commission is similar to that of the Real Estate Commission. 61-2c-104 (7) states that the Mortgage Commission shall "concur in the licensure or denial of licensure of a person under this chapter…[and] take disciplinary action with the concurrence of the director." Similar to the Real Estate Commission, the Mortgage Commission exercises this authority when they approve or reject stipulations and when they make decisions following licensing and enforcement hearings.

In addition, and like the Real Estate Commission, the Commission has been formed to "advise the division concerning matters related to the administration and enforcement of [the mortgage industry]." Once again, this is incredibly important to the success of the Division. Division staff members are very knowledgeable about the statutes and rules, and many of them were licensed prior to working for the Division. Even still, input from those currently licensed and working in the industry is invaluable and helps the Division fulfill their mission.

Similar to the Real Estate Commission, 61-2c-202(3)(b) states: "If the commission delegates to the division the authority to approve or deny an application without concurrence by the commission and the division denies an application for licensure, the applicant who is denied licensure may petition the commission for a de novo review of the application." In this case, the commission, without concurrence from the division may decide how to handle the application.

Real Estate Appraiser Licensing and Certification Board

The Appraiser Board is given many more responsibilities as found in 61-2g-205. This is mainly due to the many federal requirements appraisal regulation requires. Similar to the Real Estate Commission and Mortgage Commission, the Appraiser Board "shall provide technical assistance to the division relating to real estate appraisal standards and real estate appraiser qualifications" as well as conduct administrative hearings.

In addition, the Board also:

- Determines the experi-

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ence and education requirements appropriate for a person licensed under this chapter;

- Determines the experience and education requirements appropriate for a person certified under this chapter;

- Determines the appraisal related acts that may be performed by:

  * A trainee on the basis of the trainee's education and experience;

  * Clerical staff; and

  * A person who:

    - Does not hold a license or certification; and

    - Assists an appraiser licensed or certified under this chapter in providing appraisal services or consultation services.

- Determines the procedures for a trainee to register and renew a registration with the division;

- Determines the continuing education requirements appropriate for the renewal of a license, certification, or registration issued under this chapter that meet or exceed minimum criteria established by the Appraisal Qualifications Board;

- Considers the proper interpretation or explanation of the Uniform Standards of Professional Appraisal Practice when:

  * An interpretation or explanation is necessary in the enforcement of this chapter; and

  * The Appraisal Standards Board of the Appraisal Foundation has not issued an interpretation or explanation.

The Board also has authority to make and pass administrative rules with the concurrence from the division.

The one area in which the Board has authority without concurrence from the Division is during an Experience Review Hearing. When an applicant for licensure or certification submits experience to the division, their experience is reviewed by a volunteer appraiser on our experience review committee. In the event that a committee member denies their experience, the applicant can appeal that decision to the Board. Under this circumstance, the Board can make a decision about the applicant's experience without concurrence from the division.

Word of Caution

Licensees can and should interact with commission members. It is reasonable and appropriate for industry members to share relevant areas of concern or to discuss issues that are impacting their profession with commissioners or board members. One thing applicants and licensees need to be careful about is contacting commissioners and board members directly if they have a matter pending before the commission or board. Applicants with a pending licensing hearing or licensees with a pending disciplinary hearing should not call commissioners or board members to discuss the pending hearing. If a commissioner or board member hears too much about a case, they could be forced to recuse themselves from participating in the hearing.

We appreciate all the service commissioners and board members give to the division and the industries we regulate. Commissioners and board members give countless hours of their time each month. We sincerely thank them for their dedication, professionalism, and service.

KAGIE'S KORNER

WRITTEN AGENCY AGREEMENTS ARE REQUIRED

The Division receives questions on agency agreements on a consistent basis and would like to take this opportunity to remind all licensees about the requirement of obtaining written agency prior to representing a real estate client.

All Licensee's, who represent a client in a **Residential** or **Commercial real estate sale**, or **Property Management** or **Lease Transaction** are required to have a written agency agreement prior to representing the client as defined in the following Administrative Rules and Statute.

R162-2f-401a (2)
(2)for the purpose of defining the scope of the individual's agency, execute a written agency agreement between the individual and the individual's principal, including:

(a) seller(s) the individual represents;
(b) buyer(s) the individual represents;
(c) buyer(s) and seller(s) the individual represents as a limited agent in the same transaction…
(d) the owner of a property for which the individual will provide property management services; and
(e) a tenant whom the individual represents

R162-2f-401a (6)
(6)prior to the execution of a binding purchase or lease agreement, disclose in writing to clients, agents for other parties, and unrepresented parties:

(c) the licensee's agency relationship(s).

61-2f-308 (1)
(a) "Brokerage agreement" means a written agreement between a client and a principal broker;
(i) (A) to list for sale, lease, or exchange, real estate, an option on real estate, or an improvement on real estate; or for representation in the purchase, lease, or exchange of real estate, an option on real estate, or an improvement on real estate; and
(ii) that gives the principal broker the expectation of receiving valuable consideration in exchange for the principal broker's services.

When a licensee represents both the buyer and seller in a (**Commercial** or **Residential**) transaction, the following three written agency agreements would be required:

1) Agency Agreement with the Seller;
2) Agency Agreement with the Buyer; and,
3) Limited Agency Disclosure with both the Buyer and Seller

Administrative Rule R162-2f-401a (3) states that in order to represent both principals in a transaction as a limited agent, the licensee must obtain prior informed consent by:

(a) clearly explaining in writing to both parties:
(i) that each is entitled to be represented by a separate agent;
(ii) the type(s) of information that will be held confidential;
(iii) the type(s) of information that will be disclosed; and
(iv) the circumstances under which the withholding of information would constitute a material misrepresentation regarding the property or regarding the abilities of the parties to fulfill their obligations.

(b) Obtaining a written acknowledgement from each party affirming that the party waives the right to:
(i) Undivided loyalty;
(ii) Absolute confidentiality; and
(iii) Full disclosure from the licensee; and

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(c) Obtaining a written acknowledgment from each party affirming that the party understands that the licensee will act in a neutral capacity to advance the interests of each party;

The Division is concerned when a licensee does not obtain written agency, or has an agency agreement that is signed *after* the transaction closes. Such a licensee would be in violation of the statute and rules referenced above and subject to disciplinary action.

The Division enforces these agency creation and disclosure requirements because clients clearly have a legal and ethical right to know who is representing them, and also who is *not* representing them in a real estate matter, and what they can expect the licensee to do on their behalf in the transaction.

The Division would like to remind Principal Brokers and Branch Brokers that they have a supervisory duty to review transaction agency documents and educate their affiliated licensees and unlicensed staff that written agency agreements (and disclosures) are required in order to represent clients and protect their interests in real estate transactions.

New Mortgage Loan Originator -
5-Hour Course Completion Reminder

Mortgage loan originators (MLOs) who became licensed from 1/01/2018 to 12/31/2018 are required to complete the 5-Hour Utah MLO continuing education course by October 21, 2019, to renew their license at the beginning of the license renewal period (11/01/19) for their 2020 License.

Who are considered to be "New Mortgage Loan Originators?"

* Individuals who applied for a Utah MLO license in 2018 (and who were NOT licensed as an MLO in another state);

* Individuals who are or were licensed and practicing as an MLO in another state, who in 2018 applied for an MLO license in Utah; and,

* Individuals who had been previously licensed in Utah as an MLO and who allowed their licenses to expire without reinstatement, and were licensed in Utah in 2018 as an MLO.

There are 834 MLOs licensed in Utah who received their MLO licenses between 01/01/2018 and 12/31/18. Each of these 834 MLOs are required to complete the 5-hour Utah MLO Course by October 21, 2019 before they can request to renew their mortgage license this November. Course hours will be banked through the NMLS.

Rule Developments Since June 1, 2019

To view and comment on any proposed rule amendments during the public comment period, please visit the Utah State Bulletin at http://www.rules.utah.gov/publicat/bulletin.htm

Appraisal Management Company Rules

There are no recently adopted or proposed rule amendments under consideration for the appraisal management company rules.

Appraisal

On August 28, 2019, the Division filed a proposal to amend the Real Estate Appraiser Licensing and Certification Rules. The proposal would allow for the performance of evaluations by an appraiser under certain conditions. The proposal would exempt an appraiser from complying with Standards 1 through 3 of USPAP when performing an evaluation. The proposal would not affect other USPAP requirements for an appraiser performing an evaluation. An appraiser would not receive experience hours for the performance of an evaluation.

The proposed rule amendment would also clarify the requirement that a school or continuing education provider upload course completion information within 10 days after a course is completed to the database specified by the Division for each student who completes the course.

The public comment period for this proposed rule amendment runs through October 15, 2019. The earliest possible date that the proposed amendment could become effective is October 22, 2019.

Mortgage

On August 22, 2019, the Division filed a proposal to amend the Utah Residential Mortgage Practices and Licensing Rules. The proposed rule amendment would clarify that a new MLO would be required to complete the New MLO Course I"n the year the MLO becomes licensed in Utah," rather than the current language which states "at the end of the first full calendar year of licensure." Adjusting the timing, among other things, will allow the nationwide licensing system (NMLS) to automatically track the course completion for each new loan originator who is required to take the course. Without this proposed rule amendment, Division staff must manually track each new loan originator to verify that the course was completed. Manually tracking the course is time consuming and increases the possibility of errors. This proposed rule amendment does not create a new continuing education requirement for mortgage licensees.

The proposed rule amendment would also require that an applicant for reinstatement of their recently expired mortgage license complete the mandatory CE course for new mortgage loan originators, similar to the current requirement for licensed applicants applying to renew their license.

The public comment period for the proposed rule amendment runs through October 15, 2019. The earliest possible date that the proposed amendment could become effective is October 22, 2019.

Real Estate

On April 11, 2019, the Division filed a proposal to amend the Real Estate Licensing and Practice Rules by adding a mandatory three-hour CE course for an applicant seeking to renew a real estate license after January 1, 2020. The mandatory course does not add additional hours of continuing education for renewal and the required course satisfies three hours of core course hours required under the prior existing rule. This amendment became effective June 19, 2019.

Timeshare and Camp Resort

On August 22, 2019, the Division filed a proposal to amend the Timeshare and Camp Resort Rules. The proposed amendment would extend the window of opportunity for a timeshare developer to reinstate an expired project registration from 30 calendar days to 90 calendar days. The public comment period for this proposed rule amendment runs through October 15, 2019. The earliest possible date that the proposed amendment could become effective is October 22, 2019.

Third Quarter Licensing and 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

There were no licensing or disciplinary actions involving appraisers during the third quarter.

MORTGAGE

BLACKBURN, CORWIN, mortgage loan originator, South Jordan, Utah. In an order dated June 19, 2019, Mr. Blackburn'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 MG-19-110817

GUARANTEED RATE, Inc., mortgage entity, Midvale, Utah. In a stipulated order dated June 5, 2019, Guaranteed Rate acknowledged that it had in its employ an unlicensed individual who transacted the business of residential mortgage loans in violation of Utah law and administrative rules. Guaranteed Rate agreed to pay a civil penalty of $7,500. Case numbers MG-18-103345 (Docket No. MG-2019-002), MG-18-103346 (Docket No. MG-2019-003), MG-15-76250 (Docket No. MG-2019-004), and MG-18-103347 (Docket No. MG-2019-005)

KOTT, DAVID JOSEPH, mortgage loan originator, Ferndale, Michigan. In an order dated July 16, 2019, Mr. Kott's application for licensure was denied due to criminal history. Case number MG-19-111425

SANTANA, ALEXANDER, mortgage loan originator, Aliso, Viejo, California. In an order dated July 3, 2019, Mr. Santana's license was granted and placed on probation for the initial licensing period due to criminal history. Case number MG-19-111116

REAL ESTATE

ARMSTRONG, BRIAN J., sales agent, Herriman, Utah. In a stipulated order dated July 17, 2019, Mr. Armstrong acknowledged that his criminal history of misdemeanors and non-compliance with court orders reflects negatively on his reputation and integrity. In mitigation, the Division noted that Mr. Armstrong disclosed his criminal history in his application and he has not been charged with a crime for more than five years. Mr. Armstrong agreed that his license would be on probation for the initial licensing period and that if he is convicted of, or enters into a plea in abeyance agreement with regard to certain crimes, he shall notify the Division within ten business days and his real estate sales agent license will then be revoked. Case number RE-19-111358

AYERS, RICHARD SCOTT, sales agent, Draper, Utah. In a stipulated order dated August 21, 2019, Mr. Ayers admitted that he failed to disclose a criminal matter in his application for licensure, in violation of Utah law and administrative rules. Mr. Ayers agreed to pay a civil penalty of $500 and that his license would be on probation during the initial licensing period. Case number RE-19-111718

BAQUE, JOHN, sales agent, Lehi, Utah. In a stipulated order dated August 21, 2019, Mr. Baque admitted that without notice to or authorization from his buyer, he electronically signed buyer's name to an agency disclosure agreement and to a buyer due diligence checklist. Mr. Baque's actions are in violation of Utah law and administrative rules. He agreed that his license would be suspended for 60 days and then be placed on probation until his subsequent renewal. In addition, he agreed to pay a civil penalty of $15,000

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and to complete nine hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-17-94919 and Docket number RE-2018-058

BEAMAN, CHARLES, unlicensed, Weber County, Utah. In a stipulated order dated July 17, 2019, Mr. Beaman admitted that he managed a large campground property and received a percentage of the camping fees that he collected for the owner despite not being licensed as a real estate broker or sales agent. Mr. Beaman's activities as property manager require that he be licensed by the Division. In mitigation, Mr. Beaman and the owner were not aware that a license was required in these circumstances. Mr. Beaman admits that his actions were in violation of Utah law and administrative rules. He agreed to pay a civil penalty of $5,000. Case number RE-18-102234

BERGSTEDT, DAVID W., principal broker, Salt Lake City, Utah. In a stipulated order dated June 19, 2019, Mr. Bergstedt admitted that he placed or caused to be placed an advertisement for the sale of a property. He continued to advertise the property for sale for four months after the listing expired, in violation of Utah law and administrative rules. Mr. Bergstedt agreed to pay a civil penalty of $1,000 and to complete three hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-18-97937

BOWEN, SKY REID, sales agent, Cedar City, Utah. In an order dated August 12, 2019, Mr. Bowen's license was granted, immediately suspended for 30 days, and then placed on probation for the remainder of the initial licensing period due to his failure to disclose a criminal matter in his application for licensure. Case number RE-19-112032

BRIGGS, NICOLE M., sales agent, Washington, Utah. In a stipulated order dated June 19, 2019, Ms. Briggs admitted that she entered into an exclusive buyer-broker agreement with prospective buyers after she had been contacted by another agent and had met the agent and the prospective buyers at a property listed by Ms. Briggs. The prospective buyers had previously entered into an exclusive buyer-broker agreement with the other agent. According to Ms. Briggs, the prospective buyers told her that they had not signed an agreement with the other sales agent. Ms. Briggs did not contact the other agent to verify this information. Her actions are in violation of Utah administrative rules. Ms. Briggs agreed to pay a civil penalty of $1,000 and to complete three hours of continuing education in addition to the continuing education required for her next license renewal. Case number RE-16-RE-84856 and Docket Number RE-2019-007

BUSTOS, WILLIAM, associate broker, Midvale, Utah. On July 9, 2019, the Division issued a citation to Mr. Bustos for advertising without identifying his brokerage affiliation. The citation assessed a fine in the amount of $150. Citation # DREC-19-15, case number RE-18-105511

CARWELL, ANGELA R., sales agent, South Jordan, Utah. In an order dated July 26, 2019, Ms. Carwell's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-19-111617

CHRISTENSEN, JONATHAN L., associate broker, Vineyard, Utah. In an order dated July 11, 2019, Mr. Christensen's license was renewed and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-19-111302

COBB, MELANIE A., sales agent, St. George, Utah. In a stipulated order dated July 17, 2019, Ms. Cobb admitted that on May 9, 2017, she pleaded guilty to theft of property or services valued at less than $1,000, a class 1 misdemeanor in Arizona. Ms. Cobb failed to report this conviction within ten business days to the Division, as required by law. Ms. Cobb

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agreed to pay a civil penalty of $500 and to complete three hours of continuing education in addition to the continuing education required for her next license renewal. Case number RE-17-92072

DASTRUP, DAMON MCKAY, sales agent, Cedar City, Utah. In an order dated July 30, 2019, Mr. Dastrup's license was granted and placed on probation for one year due to criminal history. Case number RE-19-111705

DELPOZO, DEBORAH SHAW, sales agent, Ogden, Utah. In an order dated August 14, 2019, Ms. Delpozo's license was renewed and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-19-112050

DICKINSON, MARK, sales agent, West Jordan, Utah. In a stipulated order dated July 17, 2019, Mr. Dickinson admitted that he altered receipts for tenants who were behind in their rent so that the tenants appeared to have paid their rent on time. Altering the receipts helped the tenants to obtain a subsequent lease agreement with another property owner and was an incentive for the tenants to voluntarily move out of the property managed by Mr. Dickinson, saving the expense of an eviction. Mr. Dickinson's actions are intentional misrepresentations and a violation of Utah law. Mr. Dickinson agreed to pay a civil penalty of $2,500 and to complete six hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-15-78920

EASTMAN, JOHN KELLY, principal broker, Highland, Utah. In a stipulated order dated August 16, 2019, Mr. Eastman admitted that he failed to exercise reasonable supervision over the activities of his unlicensed staff and had made a misrepresentation to the Division in an investigation, in violation of Utah law and administrative rules. These violations occurred when Mr. Eastman allowed his wife to conduct unlicensed and prohibited real estate activities under his name and when he made false statements and provided altered bank statements to the Division in the investigation. Mr. Eastman agreed to have his principal broker and dual broker licenses revoked effective 45 days after the date of the Order and he agreed to pay a civil penalty of $10,000. Case number RE-17-92737 and Docket number RE-2019-002

EASTMAN, CHARLETTE, unlicensed, Highland Utah. In a stipulated order dated August 9, 2019, Ms. Eastman admitted that she continued to engage in real estate activities after her license had been revoked and had disregarded the order of the Real Estate Commission revoking her license, which actions are a violation of Utah law and administrative rules. Ms. Eastman agreed to pay a civil penalty of $25,710. She also agreed to the suspension of the registrations of her brokerages, CTR Homes, LLC and CTR Homes Property Management, LLC, effective 60 days after the date of the Order. Case numbers RE -17-92704 and RE-18-97642, and Docket number RE-2019-001

FREEMAN, BRANDON LOUIS, sales agent, Holladay, Utah. In an order dated July 1, 2019, Mr. Freeman'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-19-111040

HANDLEY, JAMES WYATT, sales agent, West Bountiful, Utah. In an order dated July 30, 2019, Mr. Handley'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-19-111690

HANSEEN, PAUL D., sales agent, Salt Lake City, Utah. In an order dated August 7, 2019, Mr. Hanseen's license was reinstated and placed on probation for the renewal period due to a plea in abeyance agreement in a criminal matter. Case number RE-19-111908

HARR, JOHN B., Jr., principal broker, Cedar Hills, Utah. In a stipulated order dated June 19,

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2019, Mr. Harr admitted that he paid commissions to and failed to supervise an agent who had been affiliated with him but who continued to assist buyers and sellers for more than two years after his license expired, in violation of Utah law. Mr. Harr agreed to pay a civil penalty of $2,000 and to complete six hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-18-103106

HARTMAN, SKYLER, sales agent, Ogden, Utah. On June 6, 2019, the Division issued a citation to Mr. Hartman for advertising without identifying his brokerage affiliation. The citation assessed a fine in the amount of $150. Citation # DREC-19-9, Case number RE-19-107990

HAWKINS, JASON, associate broker, South Jordan, Utah. In an order dated July 19, 2019, Mr. Hawkins's license was renewed and placed on probation due to a pending criminal matter. Case number RE-17-93242

HESLOP, ANDREW, sales agent, Layton, Utah. In an order dated July 25, 2019, the Real Estate Commission found that Mr. Heslop failed to furnish a copy of the escrow instructions to his clients, the buyers in a transaction, and he proposed, prepared, or caused to be prepared a document that he knew or should have known did not reflect the true terms of the transaction. In doing so, he failed to uphold his fiduciary duties of full disclosure and reasonable care and diligence to his clients. Mr. Heslop was ordered to pay a civil penalty of $3,500 and his license was placed on probation until August 31, 2021. Case number RE-15-76778 and Docket number RE-2018-041

HONE, SHANICE SZALKOWSKI, sales agent, Elk Ridge, Utah. In an order dated June 11, 2019, Ms. Hone's license was granted, immediately suspended for 30 days, and then placed on probation for one year for failing to disclose a criminal matter in her application for licensure. Case number RE-19-110568

HOSSEINI, HAMID, principal broker, Holladay, Utah. In a prior order dated April 11, 2018, Mr. Hosseini was found to have committed three violations of Utah real estate law. Mr. Hosseini's license was placed on probation for the licensing period ending August 31, 2019. The case was reviewed to determine what civil penalties, if any should be assessed for the violations. On July 31, 2019, the Commission ordered Mr. Hosseini to pay a civil penalty of $12,500. Case number RE-11-56200 and Docket number RE-2017-027

IACONO, RONALD LEE, sales agent, South Jordan, Utah. In an order dated August 1, 2019, Mr. Iacono's license was reinstated and placed on probation due to a pending criminal matter. Case number RE-19-111810

IRVINE, JUSTIN R., associate broker, Pleasant Grove, Utah. On June 6, 2019, the Division issued a citation to Mr. Irvine for advertising without identifying his brokerage affiliation. The citation assessed a fine in the amount of $150. Citation # DREC-19-8, case number RE-19-106735

IVIE, KATHLEEN ELIZABETH, sales agent, Salt Lake City, Utah. In an order dated July 10, 2019, Ms. Ivie's license was renewed and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-19-111290

IVIE, RYAN, sales agent, Farmington, Utah. On June 10, 2019, the Division issued a citation to Mr. Ivie for advertising without identifying his brokerage affiliation. The citation assessed a fine in the amount of $150. Citation # DREC-19-11, case number RE-18-104811

JENNINGS, LASHAWN ANTOINETTE, sales agent, Provo, Utah. In an order dated August 15, 2019, Ms. Jennings's license was granted, immediately suspended for 30 days, and then placed on probation for the remainder initial licensing period due to her failure to disclose a

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plea in abeyance agreement in her application for licensure. Case number RE-19-112111

JESSOP, BRIDGER, sales agent, South Jordan, Utah. In a stipulated order dated August 21, 2019, Mr. Jessop admitted that he failed to disclose a plea in abeyance agreement in his application for licensure, in violation of Utah law and administrative rules. Mr. Jessop agreed to pay a civil penalty of $500 and that his license would be on probation during the initial licensing period. Case number RE-19-112034

JOHNSON, KIRK ALAN, sales agent, Ogden, Utah. In an order dated July 31, 2019, Mr. Johnson's license was renewed and placed on probation due to a pending criminal matter. Case number RE-19-111774

JONES, JERAMY, principal broker, Ogden, Utah. In a stipulated order dated August 21, 2019, Mr. Jones admitted that he had plead guilty to ten felony charges and that his actions are a violation of Utah law and administrative rules. Mr. Jones agreed to the revocation of his license to practice as a principal broker. Case number RE-19-110328

JORGENSEN, AMANDA, associate broker, Salt Lake City, Utah. In a stipulated order dated July 17, 2019, Ms. Jorgensen admitted that she allowed her client to take possession of a property prior to the agreed possession date specified in the REPC, in violation of Utah law and administrative rules. Ms. Jorgensen agreed to pay a civil penalty of $1,500 and to complete six hours of continuing education in addition to the continuing education required for her next license renewal. Case number RE-16-87433

LEWIS, JOAQUINA ESTELA, sales agent, Layton, Utah. In an order dated June 13, 2019, Ms. Lewis's license was renewed and placed on probation due to a pending criminal matter. Case number RE-19-110672

LUCERO, P ARTURO RIVERA, sales agent, Bountiful, Utah. In an order dated July 19, 2019, Mr. Lucero's license was reinstated and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-19-111511

MAGNESEN, STEVEN T., sales agent, St. George, Utah. In an order dated August 26, 2019, Mr. Magnesen's application for licensure was denied due to an August 19, 2015, order by the Real Estate Commission which provides that Mr. Magnesen is not eligible to obtain a real estate license for five years from the date of the 2015 order. Case number RE-19-112350

NICHOLAUS, ERIC S., sales agent, St. George, Utah. On July 2, 2019, the Division issued a citation to Mr. Nicholaus for advertising without identifying his brokerage affiliation. The citation assessed a fine in the amount of $150. Citation # DREC-19-14, case number RE-18-98528

NIUMEITOLU, ARIANE, sales agent, Sandy, Utah. In an order dated August 14, 2019, Ms. Niumeitolu's license was granted, immediately suspended for 60 days, and then placed on probation for the remainder of the initial licensing period due to her failure to disclose criminal matters in her application for licensure. Case number RE-19-112058

OAKESON, AARON P., principal broker, Salt Lake City, Utah. In a stipulated order dated July 17, 2019, Mr. Oakeson admitted that he failed to obtain the written consent of certain co-trustees prior to offering to sell a property held in trust and also failed to obtain a written limited agency agreement with those certain co-trustees during the negotiations for the sale of the trust property. His actions are in violation of Utah law and administrative rules. Mr. Oakeson agreed to pay a civil penalty of $2,000 and to complete three hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-16-87665 and Docket No. RE-2019-006

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OM, ANANDA MOYA, sales agent, Ogden, Utah. In an order dated July 26, 2019, Ms. Om's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-19-111638

PANCHI, LUZ EVELIA, sales agent, Murray, Utah. In an order dated June 12, 2019, Ms. Panchi's license was granted, immediately suspended for three months, and placed on probation for the remainder of the initial licensing period due her conduct at the licensing test center. Case number RE-19-110585

PARK, RANDY R., sales agent, Orem, Utah. On June 7, 2019, the Division issued a citation to Mr. Park for advertising without identifying his brokerage affiliation. The citation assessed a fine in the amount of $150. Citation # DREC-19-7, case number RE-18-103598

PEAY, AMBER, sales agent, Payson, Utah. In an order dated June 6, 2019, Ms. Peay's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-19-110445

PETERIE, ANDREW N., principal broker, Sandy, Utah. In a stipulated order dated July 17, 2019, Mr. Peterie admitted to having used an addendum for a counteroffer that was not the approved form for an addendum, in violation of Utah administrative rules. Mr. Peterie agreed to pay a civil penalty of $500 and to complete three hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-17-92080

PETERSEN, SCOTT C., sales agent, South Weber, Utah. In a stipulated order dated August 21, 2019, Mr. Petersen admitted that he advertised property for sale without the written consent of the owner and continued to advertise the property for nine months after it sold, in violation of Utah law and administrative rules. Mr. Petersen agreed to pay a civil penalty of $2,500 and to complete six hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-16-83206

PETERSON, BRADLEY DAVID, sales agent, Salt Lake City, Utah. In an order dated June 14, 2019, Mr. Peterson's license was renewed and placed on probation due to a plea in abeyance agreement entered into during the past licensing period. Case number RE-19-110703

PETTY, FERNANDO FRANCO, sales agent, Sandy, Utah. In a stipulated order dated June 19, 2019, Mr. Petty admitted that he failed to disclose a plea in abeyance agreement in his application for licensure as a real estate sales agent, in violation of Utah law. Mr. Petty agreed to pay a civil penalty of $500 and to have his license placed on probation for the initial licensing period. Case number RE-19-110696

PLATT, JOHN A., sales agent, Vineyard, Utah. In an order dated August 7, 2019, Mr. Platt's license was reinstated and placed on probation for the renewal period due to a prior licensing order with regard to his license to practice as a real estate sales agent and due to criminal conduct during the past licensing period. Case number RE-19-111910

ROUNKLES, BLAKE D., sales agent, Roy, Utah. In a stipulated order dated July 17, 2019, Mr. Rounkles admitted that he entered into a listing agreement with a party who was the buyer in a contract for deed. Under the terms of the contract for deed, Mr. Rounkles' client would not obtain title to the property until the terms of the contract for deed were completed. Mr. Rounkles then marketed the property for sale without first obtaining the written consent of the legal title owner, in violation of Utah administrative rules. He agreed to pay a civil penalty of $1,000 and to complete three hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-17-96498

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SMITH, V. WAYNE, sales agent, South Jordan, Utah. In a stipulated order dated July 17, 2019, Mr. Smith admitted that he conducted real estate activities while his license was on inactive status, in violation of Utah law and administrative rules. Mr. Smith's license remained inactive for two consecutive licensing cycles. In mitigation, Mr. Smith's license was inactivated automatically when the broker with whom he was affiliated failed to timely renew his broker's license. Mr. Smith had renewed his license each renewal cycle but did not request to have his license activated. He agreed to pay a civil penalty of $1,000 and to complete three hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-16-80409

SOBENES, MARTHA N., sales agent, Sandy, Utah. In a stipulated order dated July 17, 2019, Ms. Sobenes admitted that she managed a rental property in Utah for an out of state owner without a written agency agreement. She managed the property through an unregistered entity owned by her and not through the brokerage firm with which she was affiliated. Her actions are in violation of Utah law and administrative rules. Ms. Sobenes agreed to pay a civil penalty of $2,500 and to complete three hours of continuing education in addition to the continuing education required for her next license renewal. Case number RE-15-79957

WATERFALL, CHARLES COLE, sales agent, Draper, Utah. In an order dated June 11, 2019, Mr. Waterfall's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-19-110587

WATHEN, ROBERT, sales agent, Park City, Utah. In an order dated August 7, 2019, Mr. Wathen's license was renewed and placed on probation due to a pending criminal matter. Case number RE-19-111912

WELLARD, DANA, sales agent, Duchesne, Utah. In an order dated June 13, 2019, Ms. Wellard's application for licensure was denied due to criminal history. Case number RE-19-110659

WHEELOCK, JASON, sales agent, Draper, Utah. In an order dated June 18, 2019, Mr. Wheelock's license was granted and placed on probation for one year due to a plea agreement in a criminal matter. Case number RE-19-110751

WILLIAMS, TREVOR R., associate broker, Park City, Utah. In an order dated July 25, 2019, Mr. Williams's license was reinstated and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-19-111601

ZORENS, KEGAN, sales agent, Salt Lake City, Utah. In an order dated June 17, 2019, Mr. Zorens's license was renewed and placed on probation due to a pending criminal matter. Case number RE-19-110706

TIMESHARE

KOWITZ,JORDAN P., timeshare salesperson, Midvale, Utah. In a stipulated order dated July 30, 2019, Mr. Kowitz admitted that he failed to disclose a plea in abeyance agreement in his application for registration, in violation of Utah law. Mr. Kowitz agreed to pay a civil penalty of $500. Case number TS-19-111679

PADRON, DANIEL A., timeshare salesperson, Sandy, Utah. In a stipulated order dated August 8, 2019, Mr. Padron admitted that he failed to disclose a criminal matter in his application for registration, in violation of Utah law. Mr. Padron agreed to pay a civil penalty of $500. Case number TS-19-111925

2020 Mortgage License Renewal

All Mortgage licenses are renewable on an annual basis. Renewal requests can be made on your NMLS filing between November 1st and December 31st. You can prepare now so that your renewal will go smoothly by following the checklists, one for **individuals** (loan originators and lending managers), and one for **entities** (companies, branches, dbas).

Individual Renewal Checklist: (Loan Originators and Lending Managers) ***Prior to November 1, 2019***

1. Review your filing in the NMLS to make sure your information is current and correct. This includes mailing address, email, phone numbers, name, and employment history.

2. Review your NMLS filing to make sure there are no license items placed on your filing. License items can be deficiencies or requirements that are pending on your license and must be cleared prior to requesting renewal. When a license item is placed on your filing, you receive an email through the NMLS notifying you of the deficiency or requirement. Some common deficiencies include Employment History Updates, ACH Payments that may have been returned unpaid, requests for information about Disclosure Questions or Credit Reports**. Satisfy all pending license items prior to renewal.** You may call the Division of Real Estate licensing section at 801-530-6747 if you do not understand a noted deficiency or need help in getting it cleared. For assistance in navigating the NMLS system please contact the NMLS Call Center at (855)-665-7123. NMLS Support staff will assist you in NMLS system use issues and for help requesting your license renewal online.

****REFER TO YOUR INDIVIDUAL NMLS DASHBOARD TO REVIEW ANY OUTSTANDING REQUIREMENTS AND/OR DEFICIENCIES****

3. If your driver's license number has changed, be sure to indicate this update on your filing, as well as your US citizenship status. This is found under the Identifying Information section on your MU4 form. If this information is incorrect or incomplete, we may place a deficiency on your license requiring you to provide the Division with a copy of the Certificate of Legal Presence found HERE: If your information is recorded accurately on your filing, you *will not* need to submit this form (Certificate of Legal Presence) to us as you may have done in prior years.

4. NMLS-approved continuing education (8 hours), the Utah Law Course (2 hours), and MLO's licensed between 01/01/18 and 12/31/18 must have completed the new Utah MLO Course (5 hours) by 10/21/19 if they desire to renew their mortgage license at the beginning of the 2019 renewal period on November 1st. Lending Managers are NOT required to complete the new Utah MLO Course. Each of these CE requirements must be completed prior to requesting renewal.

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2020 Mortgage License Renewal

MLO'S LICENSED BETWEEN 01/01/18 AND 12/31/18 MUST HAVE COMPLETED THE *NEW* UTAH MLO COURSE (5 HOURS) BY 10/21/19 IF THEY DESIRE TO RENEW THEIR MORTGAGE LICENSES ON NOVEMBER 1ST

It is recommended that these hours be completed no later than December 15, 2019 in order to ensure an on-time renewal. The NMLS will prevent you from requesting renewal if these hours are not banked in the NMLS.

****TO VERIFY COMPLETION OF THE UTAH LAW COURSE (2 HOUR), OR UTAH MLO COURSE (5 HOUR), LOG INTO THE NMLS AND CLICK ON THE COMPOSITE VIEW TAB, VIEW INDIVIDUAL, VIEW EDUCATION RECORD****

5. If your license is on probation and there are requirements that must be completed at renewal, either to have the probation removed or as terms of the probation, make sure these items are reported to the Division before you request renewal. This will aid in getting your renewal processed in a timely manner.

A credit report and background check are NOT REQUIRED this year.

On or After November 1, 2019:

1. On or after November 1, 2019, you may request renewal of your license. The renewal fee is $78.00 which includes the NMLS processing fee of $30, Renewal fee of $30.00 and Recovery Fund fee of $18.00. You will be required at that time to ATTEST to the accuracy of your filing so make sure, once again, that all is correct.

2. If there is a change in your answers to the Disclosure Questions, you must upload the required documentation explaining the change in your filing.

3. If you request your renewal prior to January 1, 2020, your license will remain in the status that it was prior to your request for renewal. If your status was active, you can continue to work as usual while your request is being reviewed. Approval of your request for renewal is contingent on all requirements being met, in which case the Division will process your request as quickly as possible and email your new license to you.

Entity License Renewal Checklist:

(company, dbas, branches): *Prior to November 1, 2019:*

1. Review MU1 filing and/or MU3 filing to confirm that all the information including company location, mailing address, contact information, etc., is correct.

2. If there is a change to any of your answers to the Disclosure Questions, you must provide a detailed explanation and upload documentation to support your explanation.

3. Review the entity filing to make sure there are no license items placed on the filing. These items could include things like a returned ACH Payment, update qualifying individual, company ownership, missing quarterly MCR reports, etc.

4. Provide a current **Certificate of Existence for all entities & DBAs** from the **Utah Division of Corporations** at https://

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2020 Mortgage License Renewal

secure.utah.gov/bes/ and upload to the Entities NMLS record.

5. You may call the Division of Real Estate licensing section at 801-530-6747 if you do not understand a noted deficiency or need help in getting it cleared. For assistance in navigating the NMLS system please contact the NMLS Call Center at (855)-665-7123. NMLS Support staff will assist you in NMLS system use issues and for help requesting your license renewal online.

On or After November 1, 2019:

1. Request and pay renewal fees through NMLS between November 1 and December 31, 2019. **If renewal is requested prior to January 1, 2020, your license will remain in the status that it was prior to your request for renewal.** If the status was active, work can continue as usual while your request is being reviewed. Approval of your request for renewal is contingent on all requirements being met, in which case, the Division will process your request as quickly as possible. A new 2020 license will be emailed to the email address listed in the regulator contact information

Division Staff Spotlight

Meet Amy Goodlett! Amy joined the Division in August of 2018 as our office receptionist. Amy sold residential real estate in the states of Tennessee and Kentucky for ten years prior to moving to Utah with her family in 2018. Amy specialized in new construction real estate and loved building homes with clients. Before her life in real estate Amy worked for the airlines doing every job that goes with airplane arrivals and departures. Fun Facts: Amy has a wonderful husband, two kids, two dogs and a horse. Moving to Utah has been wonderful, Amy loves the snow and taking hikes. She loves riding horses with her daughter and watching her son snowboard. Her favorite activity here is going on many new adventures with her husband. The Division is excited to have Amy as our office receptionist and to utilize her years of experience in the real estate industry. Next time you call the Division, that happy voice on the other end of the line is most likely Amy!

on your MU4 filing.

Journey to Brokerhood–State of Utah

Written by Laurel North, Real Estate Investigator

Arms up, sleeves up, pull the inside of your pockets out of your pants, pat down your mid-section, check your ankles, all personal items must be left in the locker, no time off for bathroom breaks…..airport security? Jail time? No, it's the Broker Exam Security Check!

After 24 years of selling residential real estate, I decided to pursue obtaining my Utah Broker's License and I'm happy to report that I passed both the security check and the exam.

So, since it's fresh in my mind – here's a "How to Guide" on acquiring your broker's license.

For detailed instructions: go to the Division website: https://realestate.utah.gov/ - click the Real Estate Tab and on the left-hand side of the screen you find a handy dandy "How to License" – Broker option.

In the meantime – here's a quickie breakdown of what you'll need to do along with the associated costs.

1. Be sure you have the qualities of honesty, integrity, truthfulness, reputation and competency – see R162-2f-201;

2. Within the past 5 years – you must have 3 years full-time, licensed, active real estate experience or – see R162-2f-202b for other possible ways to qualify;

3. You need to document your "experience points" – see R162-2f-501 Appendices;

4. Complete 120 hours of approved education at a Certified Real Estate Pre-Licensing School – live and online classes available;

5. Take and pass the Brokers Exam; and,

6. Submit your application to the Division! There's a checklist to print off on the Division website to ensure a complete application.

Current pricing:
120 hours of Broker Education = $545-$849
Exam at Pearson VUE = $66
Division Application Fee for Brokers = $158

Easy peasy, right? Truthfully, it takes some time, dedication, and a pretty intense 4 hour exam, but the learning and understanding you gain is well worth the license upgrade.

Laurel North – Principal Broker Licensee 5474480-PB00

Testimony of
David S. Bunton, President
The Appraisal Foundation

What's Your Home Worth? A Review of the Appraisal Industry

U.S. House of Representatives
Committee on Financial Services
Housing, Community Development, and
Insurance Subcommittee

June 20, 2019

This year marks the 30th anniversary of the adoption of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA or Act) in which Congress ushered in groundbreaking reforms to ensure the safety and soundness of the federal financial deposits and heighten consumer protections. Title XI of FIRREA created the appraiser regulatory structure and required appraisers to meet qualifications and follow national uniform standards of practice set by The Appraisal Foundation (Foundation) and its Boards. At the time Title XI was adopted, the intent was that all mortgage transactions backed by the federal government came under the protections of the Act.

In the ensuing three decades, all U.S. jurisdictions set up appraiser licensing and enforcement agencies. They work to ensure that those who hold a real property appraiser credential are qualified and perform appraisals in accordance with professional standards. Currently, there are approximately 75,000 licensed and certified appraisers across the United States who are trained to competently and ethically perform appraisal assignments.

The qualification criteria to become an appraiser is more robust today with structured appraisal-specific education, practical experience, and a uniform, national examination in place to gauge minimum qualifications for those valuing the world's largest economy. Likewise, the Uniform Standards of Professional Appraisal Practice (USPAP) is viewed as the gold standard globally. USPAP has been successfully tested in our legal system by being the cornerstone of numerous regulatory and court decisions regarding valuation. Lenders and consumers have assurance that appraisals performed to the standards are fair, impartial, and objective, and completed without bias.

We applaud the recent bipartisan efforts of Congress to once again allow state licensed appraisers to perform appraisal assignments for Federal Housing Administration (FHA) loans. With similar bills pending in the House and Senate, we encourage your support for swift passage.

But, all is not well. The last thirty years were also witness to federal agencies doing their best to circumvent using these trained professionals. Likewise, the gov-

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TESTIMONY OF DAVID S. BUNTON (CONT.)

ernment sponsored enterprises are taking on riskier practices that leave appraisal protections on the sidelines. Through exemptions, appraisal waivers, promoting evaluations in lieu of appraisals, and encouraging lenders to use unlicensed individuals, the federal financial institutions regulatory agencies estimate that a mere 10 to 15 percent of all mortgage transactions backed by the federal government and U.S. taxpayers are currently subject to the protections Congress enacted through Title XI.

SPECIFIC TOPICS OF DISCUSSION REQUESTED BY THE SUBCOMMITTEE

The De Minimus Threshold and Federally Related Transactions

The De Minimus Threshold

In the summer of 1990, three years after the enactment of FIRREA, the federal financial regulatory agencies developed their appraisal regulations, including setting the de minimus threshold, below which real estate transactions would not have to be appraised by a state licensed or certified appraiser. The initial de minimus threshold was set by the agencies at $50,000, with the exception of the Federal Reserve Board, which set its threshold at $100,000.

In June of 1994, the federal financial regulatory agencies increased the de minimus to $250,000 for residential real estate transactions. Currently, there is a pending proposal to increase the de minimus once again to $400,000.

We strongly oppose an increase because it would further dilute the intent of Title XI of FIRREA. We are far from alone in this belief. The overwhelming majority of comment letters received by the agencies about the proposal were in opposition to the increase, and several commenters requested the agencies to hold a hearing on this topic. Unfortunately, the agencies declined to hold such a hearing. Title XI was put in place to ensure the safety and soundness of our deposit insurance fund. The value of the underlying collateral in a lending transaction needs to be determined by a professionally trained appraiser who adheres to performance standards and is credentialed by a state.

The impact of such an increase is enormous. The median existing-home price for all housing types in April was $267,300, according to the most recent report from the National Association of Realtors. A $400,000 de minimus would exempt most residential mortgage transactions. An individual's primary residence is often their single largest investment and neither lenders nor borrowers would be afforded the protection of having a trained professional determine whether an appropriate price is being paid for a property.

As stated above, when a loan amount is below the established de minimus threshold, financial institutions are not required to obtain an appraisal. In these transactions, lenders utilize alternatives to appraisals, which they call evaluations. Evaluations have many similarities to appraisals, but there are some differences with respect to development and reporting (Attachment 2). In addition, there are some key distinctions between appraisals and evaluations. First, there are no codified requirements addressing the development and reporting for evaluations. The federal financial institutions have developed guidance[1], but a recent ruling underscored that such guidance is simply that, and is not enforceable.[2]

[1] Interagency Appraisal and Evaluation Guidelines, December 2010

[2] Interagency Statement Clarifying the Role of Supervisory Guideance, September 2018

There are also no codified qualification requirements for

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TESTIMONY OF DAVID S. BUNTON (CONT.)

individuals providing evaluations. The guidance does include some very generic references about qualifications, saying the individual should have appropriate education and experience to perform the evaluation. However, as stated above, this guidance is not binding and is unenforceable.

Because the guidance on evaluations does not require an individual to possess a credential of any type, there is no public accountability similar to what exists for individuals performing appraisals. If someone performing an evaluation failed to do so ethically and competently, there is nothing that would hold the individual responsible for such actions.

Recommendations:

- Set parameters for the agencies to abide by when setting the threshold amount.
  - o Set a cap on the threshold amount that is well below the median home sales price.
  - o Restrict the use of the threshold exemption to transactions where the loan to value ratio is less than 70 percent.
  - o Require that the threshold exemption may only be used when the lender is going to hold the note for the term of the loan.
- Codify requirements for the agencies' use of evaluations
  - o If lenders continue to utilize alternatives to appraisals (i.e., evaluations), require the use of credentialed appraisers in these transactions.
  - o Require evaluations to be performed in compliance with USPAP.

Federally Related Transactions Related to the de minimus is the issue of what constitutes a federally related transaction. When Congress passed FIRREA, the intent was that most residential mortgage transactions would be considered federally related transactions and thus come under the protections established by the Act.

In the early 1990s, the federal financial regulatory agencies adopted a series of regulations that resulted in 13 instances where a transaction is no longer considered a federally related transaction (Attachment 3). These "carve outs" greatly reduced the number of federally related transactions. Staff of these agencies have estimated that fewer than 15 percent of residential mortgage transactions come under the current definition of federally related transactions.

The agencies recently made their position clear that transactions coming under the term were limited. In a May 17, 2017 letter to the Association of Appraiser Regulatory Officials (AARO), they outlined the numerous exemptions to transactions that come under the definition (Attachment 4). Individuals involved in the appraiser regulatory system were alarmed to learn that they were operating under the false impression that the majority of residential mortgage transactions are federally related.

By raising the de minimus and very narrowly defining what constitutes a federally related transaction, the intent of Title XI of FIRREA has been eviscerated.

Recommendations:

- **Clarify the definition of "federally related transaction" to include all residential mortgage transactions that are backed by the federal government and thus American taxpayer**. While it seemed reasonable to give the agencies the ability to exempt certain transactions, the decimation of the term by agency regulation is clearly an abuse of power

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TESTIMONY OF DAVID S. BUNTON (CONT.)

and disregards the Congressional intent of FIRREA.

- **Require all transactions involving Government Sponsored Enterprises (GSEs) to utilize state licensed or certified appraisers, and require USPAP-compliant appraisals for those transactions**. Because the GSEs are not statutorily mandated to use state credentialed appraisers or comply with USPAP, the lack of a legislative mandate could allow them to change their policies overnight.

To Be Continued In The Next Newsletter

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Division and Commission/Board Information

Director .....Jonathan Stewart
Editor/Contributor.....Mark Fagergren
Contributor/Layout.....Jennica Gruver
Lark Martinez
Contributor.....Kadee Wright
Contributor ..... Justin Barney
Contributor .....Van Kagie
Contributor .....Laurel North

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SLC UT 84114
(801) 530-6747

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The Appraisal Foundation Condemns Final Rule Raising Residential Real Estate Appraisal Threshold

An Article From The Appraisal Foundation

The Appraisal Foundation President David Bunton issued the following statement after the final rule exempting residential real estate transaction of $400,000 or less from appraisal requirements was approved by the Federal Deposit Insurance Corporation.

"When the proposed rule was announced in November 2018, The Appraisal Foundation sent a letter strongly encouraging the FDIC to not adopt any action. Since November, our position has only hardened. The Appraisal Foundation believes that increasing the appraisal threshold level will negatively affect safety and soundness in real estate lending practices. It will likely prompt many financial institutions to significantly reduce attention to collateral risk management. This position is supported by the Government Accountability Office (GAO) report from January 2012, where no support was found to raise the current threshold amount. In fact, that GAO report reflected stakeholder support to reduce or eliminate the current threshold. The past nine months has proven the findings of the GAO report were with merit as the wide spread opposition to the proposed rule significantly outweighed support for the rule.

"It is a sad comment that we are celebrating the 30th anniversary of Title XI of Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) this month, which was created to protect the deposit insurance fund, yet this is also the same month when another major exemption is finalized, which continues to hollow out the teeth of FIRREA.

"The Appraisal Foundation remains steadfast in its belief that an appraisal performed by a licensed or certified appraiser that complies with the Uniform Standards of Professional Appraisal Practice is a lynchpin in the proper evaluation of real estate collateral."

NEW Mandatory 3-Hour CE Course — Soon Required — For All Active Real Estate License Renewals

Beginning in January 2020 all active real estate licensees will be required to have completed a New Mandatory 3-Hour Continuing Education Course to renew their licenses.

Active real estate licensees will continue to require a total of 18 hours of continuing education to renew their license. As is currently required, a minimum of 9 of the 18 hours must be Core Topic Courses. However, commencing in January 2020, 3 of the 9 required Core Topic Course hours must be satisfied by completing the Mandatory 3-Hour Real Estate Commission Approved "Mandatory Course."

The Mandatory Course will be made available in three different versions, or licensing specialties:

Residential	(Course # MR xxxxxx);
Commercial	(Course # MC xxxxxx)
Property Management	(Course # MP xxxxxx)

Licensees may select any of the three versions of the Mandatory Course that best meets their individual area of focus. At least one of the three Mandatory Course versions must be completed when you renew your license beginning in January 2020, and continuing thereafter.

Licensees may elect to complete more than a single mandatory course specialty if they choose to do so, although they may only receive CE credit for one Mandatory "Residential (MR)," "Commercial (MC)," and/or "Property Management (MP)" course in the same renewal cycle. In other words, a licensee could choose to attend more than one Mandatory Course specialty (i.e. Residential, Commercial or Property Management), but NOT take more than one course for continuing education credit ***from the same Mandatory Course Specialty*** in the licensees' same renewal cycle.

The first Mandatory Courses were approved by the Division in July of this year. Currently there are thirteen different course providers offering the Mandatory Residential Course (Course #s MR 190706 – 190907). Contact information for these course providers is listed on the chart found on the next page.

PROVIDER	COURSE	CONTACT
ANNETTE JUDD LICENSE #: CEP6185996	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190820 CREDIT HOURS: 3	(801) 580-4317 annettepjudd@gmail.com
CACHE VALLEY ASSOCIATION OF REALTORS LICENSE #: CEP5628537	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190824 CREDIT HOURS: 3	(435) 753-1044 emily@cachevalleyrealtors.com
CHERYL ACKER LICENSE #: 8781481-CEP0	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190708 CREDIT HOURS: 3	(801) 580-3130 cheryl.utahkey@gmail.com
CURTIS BULLOCK LICENSE #: 6206913-CEP0	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190711 CREDIT HOURS: 3	(801) 542-8844 curtis@slrealtors.com
DYNAMITE PRODUCTIONS LICENSE #: CEP6029513	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190818 CREDIT HOURS: 3	(801) 380-8900 cherylknows@me.com
INSTITUTE OF REAL ESTATE EDUCATION LICENSE #: 7445062-CEP0	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190707 CREDIT HOURS: 3	(801) 797-9870 learn@realestateonlinelearning.com
MICHAEL MORGAN LICENSE #: CEP5857682	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190905 CREDIT HOURS: 3	(801) 209-8398 morgankreekranch@msn.com
PETER J. CHRISTENSEN LICENSE #: 7005197-CEP0	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190819 CREDIT HOURS: 3	(801) 765-1247 peter@utahrealtors.com
RANDY BENOIT LICENSE #: 4584584-CEP0	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190907 CREDIT HOURS: 3	(801) 564-1625
ROBERT F. AUBREY LICENSE #: 7866994-CEP0	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190747 CREDIT HOURS: 3	(801) 999-8209 rob@aubrey.net
SHANE NORRIS LICENSE #: CEP5865435	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190938 CREDIT HOURS: 3	(435) 649-1884 shane.norris@summitsothebysrealty.com
THOMAS M MORGAN LICENSE #: 5515169-CEP0	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190817 CREDIT HOURS: 3	(801) 563-7644
UTAH ASSOCIATION OF REALTORS LICENSE #: 5515039-CEP0	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190706 CREDIT HOURS: 3	(801) 676-5200 kaci@utahrealtors.com
UTAH REAL ESTATE SCHOOL, TSG LICENSE #: 5515237-CEP0	MANDATORY RESIDENTIAL COURSE (CORE) COURSE #: MR190811 CREDIT HOURS: 3	(801) 566-4120 student@utahrealestateschool.com

Outlines for the Mandatory Commercial and Mandatory Property Management courses are being developed but there are currently no approved course providers for these two Mandatory Course Specialties.

To find course providers of the Mandatory Commercial and Mandatory Property Management course specialties (when they become available), please refer to the Division website (www.realestate.utah.gov), then, under the Real Estate tab please click the Qualifying & Continuing Education Search Button that is found in the blue box labeled Education. In Step three of the course search process, in the box labeled Course Title Contains, insert the words "Mandatory Commercial" or "Mandatory Property Management" for approved courses and course providers of these specialties as they become available.

We are again reminding each of our active real estate licensees of this upcoming procedural change now so that you will have advance notice of the new CE course requirement and you can plan and act accordingly.

Remember, all real estate licensees who will be renewing their license on active status after December 31, 2019 will be required to have completed a Mandatory 3-Hour Course as part of their CE renewal requirement.

The Division and Real Estate Commission are excited to introduce this new CE Course that will address current topics of industry concern, areas of confusion, common misconceptions, disciplinary actions (and how to avoid them), etc.

We thank the Real Estate Commission and Kreg Wagner from the Utah Association of Realtors® for their thoughtful involvement and wisdom in supporting and formulating this course. We also thank those individuals who worked on the objectives for this Mandatory Course as well as those who were actively engaged in the course outline preparation.

We are confident that requiring licensees to complete this specific course will not only help to address common areas of concern, but also introduce a universal and consistent training standard as the real estate industry continues to advance and evolve in the years to come.

Utah Division of Real Estate
Instructor Development Workshop
– 2019 –

Name:_____ License #:_____-_____

License #:_____-_____

Phone: _____ E-Mail: _____

REGISTRATION FEE INCLUDES:

- LIGHT BREAKFAST AND LUNCH
- WEDNESDAY 10/23:
  SIGN IN & BREAKFAST 8AM - 8:45AM
  WORKSHOP 9AM - 5PM
- THURSDAY 10/24:
  SIGN IN & BREAKFAST 8AM - 8:45AM
  WORKSHOP 9AM - 4PM

[ ] Check [ ] Visa [ ] MasterCard [ ] American Express

Card #: _____

Exp.: _____ CCV#: _____

Signature: _____

NOTE: For security reasons please submit credit card payments by **FAX ONLY!** (See below for fax #)

MAKE CHECKS PAYABLE TO: UTAH DIVISION OF REAL ESTATE

REGISTRATIONS RECEIVED AFTER OCTOBER 11TH INCLUDE A $20 LATE FEE

Sheraton Park City - 1895 Sidewinder Drive, Park City

**IMPORTANT! The event venue has changed.
IDW will be held at Sheraton Park City, formerly the
Park City Marriott where IDW has been held in the past.**

Len Elder

Please Select One Option:

- ○ Wednesday 10/23 — $50
- ○ Thursday 10/24 — $50
- ○ Both Days — $75

• Division of Real Estate • PO Box 146711 • 160 E 300 S • Salt Lake City, UT 84114 •
Phone: (801) 530-6747 • Fax: (801) 530-6749 •

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
Department of Commerce
Division of Real Estate

FRANCINE A. GIANI
Executive Director

JONATHAN C. STEWART
Real Estate Division Director

INSTRUCTOR DEVELOPMENT WORKSHOP
Wednesday & Thursday, October 23rd and 24th
Sheraton Park City Hotel
1895 Sidewinder Drive, Park City UT, 84060

****IMPORTANT: The location of the 2019 Instructor Development Workshop has changed. The event will now be held at the Sheraton Park City, which was formerly the Park City Marriott. This is the same hotel in which the IDW has been held in previous years.****

The Division of Real Estate will be holding our annual Instructor Development Workshop (IDW), Tuesday and Wednesday October 23rd and 24th at the Sheraton Park City Hotel. We are excited to announce the return of this year's speaker, Len Elder.

Len believes that educational classes and events should leave students excited, energized, inspired and knowledgeable. Combining his background in law, finance, real estate and education Len Elder, DREI, JD, is the Senior Instructor at Superior School of Real Estate in North Carolina. He was a nationally recognized intercollegiate debate award winner and was the Speech Forensics Debate Coach for Capital University. He is the youngest recipient ever of the John J. Getgey Memorial Award for Academic Excellence and Achievement in the practice of law. As an attorney, Len was undefeated in court of appeals proceedings and in arbitration hearings. The National Real Estate Educators Association (REEA) has recognized Len as a Distinguished Real Estate Instructor (DREI). He has been published as the author of law journal articles, cover stories for the National Real Estate Educators Association Journal and his books titled, **"Ovation – How to Present Like a Pro" "UnRandom Thoughts"** and **"A Treasonous Season"** are published on Amazon.com.

He has been a past board member of the National Real Estate Educators Association, the Past President of the North Carolina Real Estate Educators Association and an elected member of the national Distinguished Real Estate Instructors Leadership Council. A regular presenter and keynote speaker across the country Len currently teaches and presents courses nearly 2,000 hours per year.

Len is also the recipient of the Larry Outlaw Award for Excellence in Education, The NC Instructor of the Year Award, REEA's Classroom Program of the Year Award, the Mark Barker Lift Me Up Award and numerous other recognitions in the field of education in the real estate industry.

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) as well as attending real estate licensees, 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.

160 East 300 South, 2nd Floor, PO Box 146711, Salt Lake City, UT 84114-6711
Telephone (801) 530-6747 • Facsimile (801) 530-6749
Email: realestate@utah.gov • Internet: www.realestate.utah.gov

Important RapBack Fingerprinting Information

Not sure what RapBack is? If you hold a Real Estate or Appraisal license this new requirement will effect YOU. Please be sure to read about RapBack on page 4 of the 1st Quarter 2019 Newsletter found HERE.

The Division will be offering fingerprinting services monthly at the Salt Lake Board of Realtors for individuals within 45 days of their license expiration date, starting in January 2020. Please remember that **only** individuals in this renewal window (45 days prior to expiration date) will be printed. You will be charged $45 at renewal ($40 for processing, $5.00 to enroll in RapBack). When fingerprinting is performed **by the Division** here will not be any additional fees.

The Salt Lake Board is located at: 230 West Towne Ridge Parkway #200
Sandy, UT 84070

The Division will be at the Board on the following dates from 10:00am to 2:00pm, plan ahead! Future dates and times are subject to change. Please refer to the Division's website to verify.

January 6 —- Monday
February 3 — Monday
March 2 ——- Monday
April 2 ——— Thursday
May 1 ———- Friday
June 2 ——— Tuesday
July 2 ———- Thursday
August 3 ——- Monday
September 1— Tuesday
October 2 —— Friday
November 2 — Monday
December 3 — Thursday

Stay tuned for additional information in the 4th Quarter Newsletter where additional sites for fingerprinting around the state will be listed. Please note that these additional sites charge their own fees.