

# Newsletters

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## 1st Quarter 2020 Real Estate Newsletter

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## Impact of COVID-19 on Division of Real Estate Operations

by Director Jonathan Stewart

As directed by the Governor's Office, the Division of Real Estate is attempting to practice social distancing. This has affected many aspects of how the Division has operated and continues to operate.



### What does this mean for you?

#### Fingerprinting and License Renewal

On March 16th, the Division discontinued performing fingerprinting. We are also aware that many other locations around the state have discontinued this service as well. On March 30th, the Bureau of Criminal Identification announced they are discontinuing fingerprinting services until at least April 14th. Please check our website for additional information.

Until further notice, we will not be requiring enrollment in RAP Back fingerprinting to renew your real estate and appraisal licenses. This will be in effect until fingerprinting resumes. Please keep in mind, those who do not submit to a background check and enroll in RAP Back during this renewal cycle will be required to enroll at a later date. Please note that delaying the RAP Back fingerprinting requirement does not affect the requirement to disclose criminal history that occurred during the prior licensing period, if any.

We have extended renewal dates for those who would have expired in March until April 30, 2020. Remember, this does not change the requirement to complete your CE. There are many online CE options, and multiple live class instructors have worked with the Division to get innovative class formats approved.

#### Testing

On March 16th, Pearson Vue, our testing provider, notified us that their testing centers would be closed until at least mid-April. Those seeking to take a broker, sales agent, or principal lending manager exam will not be able to test until further notice. Those whose education expires while testing centers are closed will be evaluated on a case-by-case basis to determine if extensions to test will be granted.

#### Commission Meetings

The Division has also decided to close Commission or Board Meetings to those wishing to attend in person. Commission and Board Meetings are still public meetings and we want those who are interested to attend remotely. In March, we held both an Appraisal Board Meeting and Real Estate Commission Meeting remotely. The Division will post meeting information on our website, including how to attend remotely for those who are interested. Recordings of these meetings are also available on the [Utah Public Meetings website](#).

#### Public Access to the Division

On March 24th, the Executive Director of the Department of Commerce announced that the Heber Wells Building is closed to the public until further notice. All services offered by the Division of Real Estate are available through email, telephone, RELMS, and instant chat. We hope to open back up to the public soon, but are taking necessary precautions to prevent the spread of coronavirus.

#### CARAVAN Canceled

Due to the virus outbreak and the uncertainty surrounding the next few months, we made the difficult and unfortunate decision to cancel CARAVAN this year.

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## Real Estate Services during a Stay-at-Home Order

Recently Summit and Salt Lake Counties have both issued stay-at-home orders. Many have asked how this affects real estate and related activities. The US Department of Homeland Security issued guidance stating that residential real estate is an essential

business. The National Association of Realtors® has also issued the following:

[Coronavirus: A Guide for REALTORS®.](#)

## Summit County

Recently, Summit County issued a stay at home order. The Park City Board of Realtors® appealed the decision to not include certain real estate services as essential activities.

Summit County agreed to amend their Public Health Order to include the following amendments:

- xxii. Real estate-related services, including: (i) the showing of commercial and residential real property by licensed real estate agents, (ii) the visitation of properties by licensed appraisers for purposes of appraising the value of said property; (iii) the inspection of real property by licensed home inspectors; (iv) the surveying of property by licensed surveyors; (v) the cleaning of residences, if performed in connection with the sale of real property; and (vi) the services of licensed and bonded moving companies if performed in connection with the sale of real property. All services performed under this subsection shall be subject to the Social Distancing Requirements set forth in this Order.

As you can see, this amendment applies to brokers, sales agents, and appraisers, among other professions.

For this amendment to take effect, the Park City Board had to agree to the following conditions:

1. No open houses will be held while Public Health Order 2020-03 and the "Stay at Home" order is active;
2. Realtors®, clients, or other related real estate services are to travel in separate vehicles to any real estate related service or transaction;
3. Real estate transactions should be conducted electronically whenever possible. In person transactions should be limited to property showings or activities that cannot otherwise be accomplished electronically. When in person meetings are necessary, such as showing a home, social distancing shall be observed; and,
4. Real estate offices shall be closed to the general public. Staff are allowed to work from the place of business, but must practice social distancing and comply with CDC recommendations for handwashing, hand sanitizer, and disinfection of workplaces.

Additionally, as proposed in the appeal, the approval is conditional upon compliance with the following items:

- In working with clients REALTORS® will take every precaution by providing hand sanitizer, or soap and water for clients when meeting with them;
- When doing a walk-through of a property, REALTORS® will encourage social distancing as well as no touching of items in the property such as doorknobs, light switches, bathrooms, kitchen appliances, etc.;
- The number of people in a residence being shown to a buyer will always be limited to potential buyer/buyer's family and buyer's agent;
- Prior to meeting in person with any potential client, REALTORS® will ask clients prior to meeting if they have: (i) tested positive for COVID-19; (ii) had any in-person contact with a person who has tested positive for COVID-19; or (iii) had any symptoms of COVID-19. If any of these questions are answered in the affirmative, the REALTOR® will not meet with the client;
- Washing hands frequently with soap and water for at least 20 seconds. If soap and water aren't available, use an alcohol-based hand sanitizer;
- Avoid touching your eyes, nose, and mouth with unwashed hands;
- Practice social distancing by staying out of crowded places, avoiding group gatherings, and maintaining distance (approximately 6 feet) from others when possible;
- Avoid close contact with anyone who is sick;
- Stay home if you have a fever, cough, shortness of breath or any other cold or flu-like symptom; and,
- Clean and disinfect frequently touched objects and surfaces.

Whether you are a real estate broker, agent, or appraiser, please take the appropriate precautions to keep yourself and others safe.

# 2020 Legislative Update

In the 2020 Legislative Session, Representative Cal Musselman and Senator Kirk Cullimore assisted the Division by running H.B. 147, 1st Substitute, Division of Real Estate Amendments. The changes in this year's bill affect real estate, mortgage, appraisal, appraisal management, and subdivisions. All changes were discussed with the Real Estate Commission, Mortgage Commission, and Appraisal Board.

The Division appreciates the support we received from Representative Musselman, Senator Cullimore, and the Utah Association of Realtors during the legislative process.

The changes made in H.B. 147S01 will go into effect on **May 12, 2020**. This article only provides highlights of the changes made; if you have questions, please read the exact language found in the bill or contact the Division.

H.B. 147 – <https://le.utah.gov/~2020/bills/hbillamd/HB0147S01.pdf>

## H.B. 147S01 – Summary of Changes

### Changes Affecting Real Estate, Mortgage, and Appraisal

- Removed reference to crimes of moral turpitude.

The term moral turpitude is subjective. H.B. 147S01 replaced this term with specific types of crimes the division and commission care about: Felonies and Class A and B Misdemeanors involving fraud, misrepresentation, theft, or dishonesty.

### Residential Mortgage Practices and Licensing Act

- **61-2c-102. Definitions, 61-2c-204.1. Education providers -- Education requirements – Examination requirements.**
  - Removed references to Utah approved continuing education.

All continuing education is now approved through the Nationwide Multistate Licensing System (NMLS).

- **61-2c-202. Licensure procedures.**
  - Removed requirement to submit to a periodic background check with the Bureau of Criminal Identification.

Mortgage licensees receive their background check through the NMLS, which is an FBI background check. Leaving this unchanged would require all mortgage licensees to submit to two background checks.

### Real Estate Licensing and Practices Act

- **61-2f-205. Form of license – Display of license.**
  - Removed the requirement for a broker to keep a license copy for all licensees affiliated with their brokerage.

With technology today, a broker can easily pull up evidence of licensure through RELMS or the division's website.

- **61-2f-401. Grounds for disciplinary action.**
  - Removed reference to unprofessional conduct as defined by state or rule.

Unprofessional conduct has never been defined in statute or rule.

- **61-2f-402. Investigations.**
  - Clarified that the division can only commence a disciplinary action within four years for failing to register a branch office (61-2f-206), failure to voluntarily furnish a copy of a document (61-2f-401(8)), and failure to respond to a request from the division (61-2f-401(18)).

### Real Estate Appraiser Licensing & Certification Act

- **61-2g-401. State-certified and state-licensed appraisers – Restrictions on use of terms – Conduct prohibited or required – Trainee.**
  - Rulemaking authority for the signing of an appraisal report and the disclosure and use on an appraiser or an appraiser trainee's division-assigned credential, registration, license, or certification number.

Appraisal Management Company Registration & Regulation Act

- **61-2e-306. Removal of appraiser from appraisal panel.**
  - Clarified that an Appraisal Management Company can remove an appraiser from a panel even within the first 30 days of adding them to the panel.

If you have any questions about these statutory changes, please contact the Division for additional information. We appreciate all those who provided feedback and suggestions that resulted in these changes.

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## New Targeted Solicitation Law

A new law that goes into effect on May 12, 2020 may affect lenders and those who represent that they are the financial institution of an account holder. H.B. 113, Consumer Sales Practices Amendments prohibits a supplier who is not the financial institution of an account holder from representing, directly or indirectly, that the supplier is the financial institution of the account holder. Over the years, the Division has heard about companies that send direct mailers that misrepresent the source of the mailer. These direct mailers appear as though they are coming from the company where the consumer has an account, when in reality it is coming from a different company. This new law prohibits this practice. If a targeted solicitation is used, the following provisions must be followed:

- A targeted solicitation, if offered in writing, shall include a clear and conspicuous statement in bold type on the front page of the document containing:
  - the name, address, and telephone number of the supplier offering the targeted solicitation; and
  - a statement indicating that the supplier offering the targeted solicitation is not sponsored by or affiliated with the financial institution that holds the account holder's account.
- If the targeted solicitation is offered orally, the supplier offering the targeted solicitation shall verbally communicate the statement described above.

A supplier who violates this section commits a deceptive act or practice under 13-11-4(1). Each violation can come with a fine of up to \$2,500. The Division of Consumer Protection will enforce this new law. If an individual uses your company's name in targeted solicitations after May 12, 2020 without your authorization, please [file a complaint with the Division of Consumer Protection](#).

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## Rule Developments since January 1, 2020

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

Appraisal Management Company Rules

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

#### Appraisal

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

#### Mortgage

On February 1, 2020, the five-year review of the Utah Residential Mortgage Practices and Licensing Rules "Mortgage Rules") was published for the proposed continuation of the Mortgage Rules.

#### Real Estate

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

#### Timeshare and Camp Resort

On February 1, 2020, the five-year review of the Timeshare and Camp Resort Rules ("Timeshare Rules") was published for the proposed continuation of the Timeshare Rules.

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## Mortgage Renewal Wrap-Up

A yearly comparison of licenses renewed 2020 vs 2019

### 2020

Renewable licenses as of 11/1/2019:

7,439

Licenses Renewed or Reinstated by  
02/29/2020:

6,626

Licenses by status, 02/29/2020

Renewal By Status	Number of Licenses	% of Licenses
Renewals Approved	6,606	89.1%
Failed To Renew	696	9.4%
Not Renewing	92	1.2%

### 2019

Renewable licenses as of 11/1/2018:

7,323

Licenses Renewed or Reinstated by  
02/29/2019:

6,205

Licenses by status 02/29/2019

Renewal By Status	Number of Licenses	% of Licenses
Renewals Approved	6,205	84.7%
Failed To Renew	995	13.6%
Not Renewing	120	1.6%

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# Appraisers Beware!

The Division received a complaint regarding an Appraisal Management Company ("AMC") that appears to be fictitious. The solicitation this company mailed out invites appraisers to register with the AMC for a small registration fee. Their website is well put together and looks very professional, however, this entity is not licensed or registered in the state where they claim to be located and they are not licensed in Utah as an AMC.

Appraisers can verify an AMC's registration on the Division's website, [realestate.utah.gov](https://realestate.utah.gov) and by the end of the year you should be able to check the Appraisal Subcommittee's National Registry of AMCs to verify AMC registration. The Division encourages appraisers to be aware of scams and check licensing status before paying an AMC to be added to a panel.

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## AMC National Registry Reporting and Fees

The Appraisal Management Company ("AMC") National Registry is a database maintained by the Appraisal Subcommittee ("ASC") containing certain information about state-licensed or registered AMCs and federally regulated AMCs as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

In the month of April, each AMC registered in Utah will be contacted by the Division to initiate an annual reporting process and pay the associated fees. If you are currently registered as an AMC in Utah, please make certain that your contact information is current, so that all communications will be received. The AMC Annual National Registry Reporting form will be distributed and will also be available on our website:

<https://realestate.utah.gov/amc/>.

The reporting process will include determining if a company meets the federal definition of an appraisal management company and if so, paying the established fee as follows:

In the case of an AMC that has been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the appraisal management company in connection with a covered transaction in Utah during the previous calendar year.

In the case of an AMC that has not been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in Utah from the date the AMC commenced doing business through 12/31/2019.

Each AMC registered in Utah will be required to complete the AMC Annual National Registry Reporting form and return it to the Division with the determined fees by May 31, 2020. Those that meet the requirements will become effective on the AMC National Registry from July 1, 2020 through June 30, 2021, so long as their Utah AMC registration is active.

If your company holds a Utah AMC license, please watch for the communication from the Division in the next couple of weeks.

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## Broker Brush Up Series

I. Duties to Clients in Real Estate and Property Management	Q1 Newsletter
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II. Transaction Files & Trust Accounts	Q2 Newsletter
III. Record Retention – 401K – Invest	Q3 Newsletter
IV. Supervision – Safe Harbor – Duties to Agents	Q4 Newsletter

#### Part I of IV: Duties to Clients

First of all – I want to give a shout-out to the many phenomenal brokers out there running their brokerages with expertise and wisdom. We value the leadership and commitment you show to your clients, sales agents, the industry, and the community.

As you can imagine, there is a substantial difference between a broker running a brokerage with one or two sales agents and a broker supervising hundreds of sales agents. At the Division, all are held to the same standards. You may not have read the broker responsibilities in the Utah Code and Administrative Rules recently, so this year we thought a series of articles aiming to brush up your skills as a broker would be expedient. If you aren't a broker but are thinking about the possibility of upgrading your license, read on as well! Let's start things out with broker duties to clients.

The handling of client funds is paramount, so let's go over a few earnest money rules. The deposit of earnest money from a buyer in a real estate transaction should be deposited into the brokerage trust account within three business days of receipt unless otherwise specified in the contract. If the parties to the transaction agree in writing, the earnest money may also be retained by a title company or another authorized escrow entity.

In a property management transaction, any funds received from a client or a tenant must be deposited into the brokerage trust account within three business days, unless otherwise specified in the contract. A property management broker may also forward or deposit client or tenant money into an account maintained by the property owner within the same time frame.

Let's switch topics to another client duty, keeping clients updated throughout a transaction. Many real estate transactions are completed within 30 days, but did you know that as a principal or branch broker, you are required to provide a detailed statement showing the status of a transaction to your clients every 30 days until closing or failure? It is also a requirement to provide a status update to your client upon request. It might be prudent to track transactions that exceed a 30 day closing window so you can send out a friendly status update to let your clients know you are appreciative and mindful of their business.

Now, moving on to taking care of your clients at settlement. You need to make sure that the client's agent or broker licensee affiliated with your office reviews the closing documents for content and accuracy, before or at closing. If you settle at a title company, it is common that the escrow officer provides your clients with a copy of closing documents, but it is your responsibility to make sure they receive these copies.

If you want to read the Utah Administrative Rule pertaining to the content above, see [R162-2f-401c Additional Provisions Applicable to Brokers](#).

Easy peasy so far, right?! Brief recap, take care of your clients' earnest money, transaction updates and closings. That's all for now, until next time – Part II Transaction Files & Trust Accounts – Q2.

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

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## First Quarter Licensing and Disciplinary Actions 2020

*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

AMR APPRAISALS, INC DBA GOT APPRAISALS, JOE REID III, Owner/Manager, Appraisal Management Company, San Ramon, California. In a stipulated order dated December 11, 2019, Got Appraisals admitted that it failed to pay appraisers' fees within 45 days of completion of appraisal assignments, in violation of Utah Administrative Rules. Got Appraisals agreed to pay a civil penalty of \$5,000. Case number AP-19-107001

U.S. REAL ESTATE SERVICES, INC., KEITH GUENTHER, Owner/Manager, Appraisal Management Company, Lake Forest, California. In a stipulated order dated January 22, 2020, U.S. Real Estate Services admitted that it broadcast an appraisal assignment to two or more 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. U.S. Real Estate Services agreed to pay a civil penalty of \$3,000. Case number AP-19-106732

## MORTGAGE

COMMUNITY LENDING GROUP, INC., mortgage lender company, Riverton, Utah. In a stipulated order dated December 4, 2019, Community Lending Group admitted that it mailed letters to prospective borrowers to solicit their mortgage business. The letters suggested that the recipient needed to act quickly in order to qualify for a reduced FHA Mortgage Insurance Premium even though the premium decrease had been in effect months prior to the mailing. The Division concluded that these acts and practices were false or misleading advertising in violation of Utah law and administrative rule. Community Lending Group has been sanctioned on two prior occasions for misleading advertisements. They agreed to pay a civil penalty of \$5,000 and to update their MU-1 Form. Case number MG-15-79691

JOHNSON, GARY BRIAN, mortgage loan originator, St. George, Utah. In a stipulated order dated December 4, 2019, Mr. Johnson admitted to having failed to disclose criminal history in his application for licensure in violation of Utah law and administrative rules. Mr. Johnson was granted a license to practice as a mortgage loan originator. He agreed to pay a civil penalty of \$1,000 and to have his license placed on probation for the initial licensing period. Case number MG-19-114620

TELLO, ANA MARIA, lending manager, Taylorsville, Utah. In a stipulated order dated December 4, 2019, Ms. Tello agreed to dismiss her petition for judicial review of a 2018 order against her entered by the Commission and Division and the Commission and Director agreed to vacate the 2018 order. Ms. Tello also agreed to pay a civil penalty of \$2,500, to repeat the 40 hour Principal Lending Manager pre-licensing education, and to have her lending manager license suspended for three months with credit for time suspended previous to her appeal. Her license remains suspended until she repeats the 40 hour pre-licensing education course and passes the lending manager exam. Case number MG-14-72214 and docket number MG-2018-008

## REAL ESTATE

ASH, DAVID E., sales agent, Clearfield, Utah. On January 21, 2020, the Division issued a citation to Mr. Ash for failure to disclose criminal history occurring since his prior renewal when he applied for renewal of his license. The citation assessed a fine in the amount of \$500. Citation # DREC- 20-2 and case number RE-19-114085

BALL CHRISTIAN J., sales agent, Salt Lake City, Utah. In an order dated January 21, 2020, Mr. Ball's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-115792

CASTILLO, REYES LEOVANI, sales agent, Midvale, Utah. On December 5, 2019, the Division issued a citation to Mr. Castillo for advertising his real estate services without identifying his brokerage affiliation but instead identified a marketing entity that is not registered with the Division. The citation assessed a fine in the amount of \$500. Citation # DREC-19-26 and case number RE-18-101677

COOPER, BRADEN L., sales agent, Provo, Utah. In an order dated January 21, 2020, Mr. Cooper's application for licensure was denied due to criminal history. Case number RE-19-114137

CRAYK, CAMERON K., sales agent, Cottonwood Heights, Utah. In an order dated January 21, 2020, Mr. Crayk's license was reinstated and placed on probation for the renewal period due to a prior stipulation with the Division related to his sales agent license and due to criminal conduct occurring in the previous licensing period. Case number RE-20-115794

CROWE, IAN T., sales agent, St. George, Utah. In an order dated January 3, 2020, Mr. Crowe's license was renewed and placed on probation for the renewal period due to a pending criminal matter. Case number RE-20-115453

CUNNINGHAM, TYSON ROBERT, sales agent, Syracuse, Utah. In an order dated January 23, 2020, Mr. Cunningham'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-20-115872

CURTIS, WILLIAM H., sales agent, Roy, Utah. In a stipulated order dated December 18, 2019, Mr. Curtis admitted to placing an advertisement for sale of property that did not include his name, his brokerage, the fact that he is a licensed sales agent, or that he was the owner of the property. These disclosures are required under Utah law and administrative rules. Mr. Curtis agreed to pay a civil penalty of \$150. Case number RE-18-101697

HILL, SHELLI LYN, sales agent, Salt Lake City, Utah. In an order dated December 17, 2019, Ms. Hill's license was granted and placed on probation due to a pending criminal matter. Case number RE-19-115094

ISAAC, GEORGE ANDREW, unlicensed, Denver, Colorado. On February 10, 2020, the Division issued a citation to Mr. Isaac for advertising several Utah properties for sale. He is not licensed to practice real estate in Utah. The citation assessed a fine in the amount of \$1,000. Citation # DREC- 20-4, case number RE-19-115129

KNIGHT, PEGGY A., principal broker, Salt Lake City, Utah. In a stipulated order dated December 18, 2019, Ms. Knight admitted to having violated Utah administrative rules which prohibit a licensee from acting or attempting to act as a limited agent in any transaction involving an entity buying or selling property if the licensee is an officer, director, partner, member, employee, or stockholder of that entity. In this case, Ms. Knight was the sole owner of the entity selling the property. Ms. Knight suggested as mitigating factors that the buyer is a licensed sales agent with extensive experience with real estate transactions and the buyer and Ms. Knight have purchased and sold real estate with each other in the past with neither person relying on the other as principal or agent. She 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 her next license renewal. Case number RE-19-107293

KOCH, STEPHEN ADAM, principal broker, Draper, Utah. In a stipulated order dated January 15, 2020, Mr. Koch admitted that he executed a limited agency consent agreement involving a short sale transaction. The local municipality had obtained a lien against the subject property in the amount of \$14,900. The short sale lender approved closing costs in the transaction including payment of the lien. Mr. Koch represented that there were no funds to pay the lien and negotiated a payment to the municipality of \$150 to satisfy the lien. The title company disbursed funds allocated to pay the full amount of the lien with one-half of the amount paid to Mr. Koch and one-half paid to the buyer. After the commencement of an investigation by the Division, Mr. Koch returned the money he had received to the title insurance company and the title insurance company paid the full amount of the lien to the municipality. Mr. Koch's actions in this case were in violation of Utah law and administrative rules. He agreed to the revocation of his broker's license and was granted a sales agent license that would be suspended for one year and then be placed on probation for three additional years. He will not apply for a broker license during the period that his license is on probation. In addition, Mr. Koch agreed to pay a civil penalty of \$7,500 and to complete six hours of continuing education, three hours on the topic of Utah law and three hours on the topic of ethics, in addition to the continuing education required for his next license renewal. Case number RE-15-78579 and docket number RE-2019-018

LAND, NICHOLAS RON, sales agent, West Valley City, Utah. In an order dated December 31, 2019, Mr. Land's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-19-115374

MACKAY, DEVIN, sales agent, Pleasant Grove, Utah. In a stipulated order dated February 19, 2020, Mr. MacKay admitted that he failed to disclose criminal history in his application for licensure, in violation of Utah law and administrative rules. Mr. MacKay's license was granted on probation for the initial licensing term and he agreed to pay a civil penalty of \$1,000. Case number RE-20-116431

MCGREGOR, BENJAMIN KEITH, sales agent, American Fork, Utah. In a stipulated order dated January 15, 2010, Mr. McGregor admitted that he failed to disclose criminal history in his application for licensure, in violation of Utah law and administrative rules. Mr. McGregor's license was granted on probation for the initial licensing term and he agreed to pay a civil penalty of \$1,500. Case number RE-20-115613

MILLER, ROD W., sales agent, Sandy, Utah. In an order dated December 10, 2019, Mr. Miller's license was reinstated and placed on probation for the renewal period due to criminal conduct during the past licensing period. Case number RE-19-114920

MISKO, NICOLAUS, sales agent, Sandy, Utah. In an order dated January 14, 2020, Mr. Misko's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-115697

MURRAY, DEVIN, sales agent, Salt Lake City, Utah. In an order dated December 13, 2019, Mr. Murray's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-19-115013

OSMOND, HEATHER A., sales agent, Alpine, Utah. In a stipulated order dated February 19, 2020, Ms. Osmond admitted that she failed to disclose prior to the execution of a binding purchase agreement her position as a principal in the transaction. She agreed to pay a civil penalty of \$1,500 and to complete three hours of continuing education on the topic of Utah law in addition to the continuing education required for her next license renewal. Case number RE-17-88549

OSTLER, STEPHEN, sales agent, Ogden, Utah. On December 10, 2019, the Division issued a citation to Mr. Ostler for advertising in a false, misleading, or deceptive manner. In addition, Mr. Ostler's advertising identified his prior brokerage affiliation rather than his current brokerage affiliation in the misleading advertisement. The citation assessed a fine in the amount of \$1,000. Citation # DREC-19-28 and case number RE-19-110806

PATTERSON, JAIME LYNN, sales agent, Salt Lake City, Utah. In an order dated December 31, 2019, Ms. Patterson's application for licensure was denied due to criminal history and the previous sanction of Ms. Patterson's occupational license by another state agency. Case number RE-19-115381

RASSENFOSS, JAMES, unlicensed, Denver, Colorado. On February 10, 2020, the Division issued a citation to Mr. Rassenfoss for advertising several Utah properties for sale. He is not licensed to practice real estate in Utah. The citation assessed a fine in the amount of \$1,000. Citation # DREC-20-3, case number RE-19-115135

ROGERS, JOSEPH K., sales agent, Taylorsville, Utah. In an order dated February 26, 2020, Mr. Roger's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-116782

SHORT, RYAN W., sales agent, Smithfield, Utah. On December 3, 2019, the Division issued a citation to Mr. Short for advertising in the name of an entity that is not registered with the Division. The advertisement failed to identify the brokerage with which he is affiliated. The citation assessed a fine in the amount of \$1,000. Citation # DREC-19-25 and case number RE-19-112040

STADIG, TODD, sales agent, Draper, Utah. In an order dated January 24, 2020, Mr. Stadig's application for licensure was denied due to a number of unpaid judgments and tax liens entered against him. Case number RE-20-115885

STAPEL, HEIDI P., principal broker, Sandy, Utah. In a stipulated order dated February 19, 2020, Ms. Stapel admitted that she advertised property available for rent or lease with an option to purchase. At the time, the property was listed on the MLS by another agent not affiliated with Ms. Stapel. Ms. Stapel's advertisement did not identify the name of the listing agent or the listing agent's brokerage affiliation and Ms. Stapel did not have written permission from the property owner to place the advertisement. Ms. Stapel's actions are in

violation of Utah law and administrative rules. She agreed to pay a civil penalty of \$500 and to complete three hours of continuing education on the topic of agency in addition to the continuing education required for her next license renewal. Case number RE-17-93964

TSHITUKA, HAZAEL M., sales agent, Pleasant Grove, Utah. In an order dated January 14, 2020, Mr. Tshituka's license was granted and placed on probation for one year due to a plea in abeyance in a criminal matter. Case number RE-20-115699

WELLARD, DANA, sales agent, Duchesne, Utah. In an order dated February 21, 2020, Ms. Wellard's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-116634

WOLFF, ERIC M., sales agent, Park City, Utah. In an order dated February 21, 2020, Mr. Wolff's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-20-116632

#### TIMESHARE

FINE, LISA D., salesperson, Herriman, Utah. In a stipulated order dated January 28, 2020, Ms. Fine admitted that she failed to disclose criminal history in her application for registration, in violation of Utah law and administrative rules. Ms. Fine agreed to pay a civil penalty of \$500. Case number TS-20-115810

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## Conclusion of Testimony by David S. Bunton

### President, The Appraisal Foundation Conclusion

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

##### Diversity in the Appraisal Profession

Diversity within the appraisal profession does not reflect the racial composition of the U.S. proportionately. A recent survey conducted by The Appraisal Foundation found that 73 percent of respondents identified as male while 23 percent identified as female. 90 percent identified as Caucasian, 4 percent identified as Hispanic or Latino, 2 percent identified as Black or African American, and 1 percent identified as Asian. The findings of this survey were similar to other surveys conducted by various appraisal organizations.

The Foundation realizes there is much to be done to increase diversity in the profession. We are committed to working with our affiliated organizations to ensure that the appraisal profession reflects the broad diversity of consumers reliant on valuation services.

The Foundation is pleased to report increased gender diversity on our Board of Trustees (BOT) and our two independent boards, the Appraiser Qualifications Board (AQB) and the Appraisal Standards Board (ASB). For the first time in the 32-year history of the Foundation, the ASB is majority female. The BOT is 33 percent female. Both of these boards exceed the percentage of women in the appraisal profession.

The Foundation actively participated in International Women's Month in March by profiling our women leaders in industry trade publications and highlighting why a career in appraising is a good choice for women. The Foundation understands that when creating gender and racial diversity, it must be an intentional effort. The Foundation committed to greater gender diversity several years ago, and we are seeing the fruits of those efforts now.

Another Foundation project that may help to increase racial diversity within the appraisal profession is our Veterans Outreach Initiative. This past May, we developed a resource webpage that provides veterans with information about a career in appraising and a network of Appraisers who are veterans. Brad Swinney, U.S. Army Veteran and member of the AQB, recently noted, "We firmly believe that warriors who protected the greatest nation make for proud guardians of the public trust through valuation, which helps protect the

greatest economy in the world." Since the page has launched, the response from appraisers who are veterans wanting serve on the network and veterans looking to speak with appraisers has surpassed our expectations.

Pew Research recently found that as the United States of America has become more racially and ethnically diverse, so too has the U.S. military. The research found that racial and ethnic minority groups made up 40 percent of Defense Department active-duty military in 2015; up from 25 percent in 1990. As the most racially and ethnically diverse class of veterans are returning home and transitioning to a new career, we want them to consider the benefits of becoming an appraiser.<sup>6</sup>

While our veterans' outreach activities will help reach a racially and ethnically diverse audience, we continue to explore additional avenues. The AQB established a review program for college degrees in real estate. Under this program, the AQB analyzes real estate-related degrees, at no cost to the school, to determine how the education required to obtain a degree can be applied to the *Required Core Curriculum in the Real Property Appraiser Qualification Criteria*. State appraiser regulatory agencies use this information when reviewing the educational qualifications of applicants that hold such degrees. To date, the AQB has analyzed 20 undergraduate and graduate programs.

The AQB is working to expand its real estate degree review program to colleges with large student populations of veterans as well as to historically black colleges and universities.

The Foundation is also engaged in activities to reach first-time and low-income homebuyers. To help demystify the appraisal process, the Foundation created a homebuyer educational module titled, "What Every Homebuyer Should Know About an Appraisal." The Foundation developed this program to assist presenters of first-time homebuyer education classes around the country. It includes vital information and resources for consumers on what an appraisal entails, how an appraiser determines value, and how to interpret an appraisal report. This information and our other consumer resources should help homebuyers not fall victim to predatory lending schemes – schemes that disproportionately targeted racial and ethnic minorities during the years leading up to the financial crash in 2008. We are pleased that these modules are being used by national affordable housing organizations.

Much of these efforts are due to our long-standing relationship with the National Society of Real Estate Appraisers (NSREA), the largest trade organization representing African American real estate appraisers. NSREA is a member of The Appraisal Foundation Advisory Council (TAFAC). TAFAC member organizations represent various professions and occupations with an interest in valuation including appraisers, home builders, real estate brokers, financial institution regulators, federal land acquisition agencies, the secondary mortgage market, and the private mortgage insurance industry.

While these programs have seen some successes, the valuation profession must do more to increase diversity among appraisers. **The Foundation is committed to working jointly with the professional appraisal organizations to continue efforts to increase minority participation in the valuation profession and to enhance protections for minority homebuyers, and to identify more ways to achieve those goals.**

#### Performing Appraisals without Bias

To comply with the Uniform Standards of Professional Appraisal Practice (USPAP), appraisers are required to be independent, impartial, and objective, and to perform assignments without bias. An appraiser failing to comply with these basic tenets of fairness and equality would be in violation of the ETHICS RULE in USPAP, which is the most significant breach an appraiser could commit. Such a violation would likely result in the revocation or required surrender of an appraiser's credential.

Due to the importance of this issue, the Appraisal Standards Board (ASB) of The Appraisal Foundation has developed strict prohibitions in USPAP to which appraisers must adhere.

The ASB has also developed guidance designed to ensure appraisers understand how to comply with these fundamental obligations. Addressing this point, the Conduct section of the ETHICS RULE in USPAP states:

**An appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an**



unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.

To ensure appraisers clearly understand this prohibition, the ASB published Advisory Opinion 16, Fair Housing Laws and Appraisal Report Content. This guidance, which can be found in the USPAP publication, states, in part:

Fair housing law(s) preclude the use of certain specific information or supported conclusions related to protected group(s) in some assignments. Accordingly, an appraiser should be knowledgeable about the laws that affect the subject property of an assignment. Laws and regulations on fair lending and fair housing (such as the Fair Housing Act; the Equal Credit

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<sup>6</sup> Parker, K, Cilluffo, A., & Stepler, R., (2017, April 13) 6 Facts about the U.S. military and its changing demographics. Pew Research Center, Fact Tank. Retrieved June 17, 2019 from <https://www.pewresearch.org/fact-tank/2017/04/13/6-facts-about-the-u-s-military-and-its-changing-demographics/>

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## Announcing the 2020 Instructor Development Workshop (IDW)

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

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

Jack is a high performance, market-wise real estate broker and educator with over 40 years of industry experience. A nationally recognized real estate educator, Jack has logged countless hours of platform presentation time in front of real estate licensees, mortgage brokers, bankers, appraisers and attorneys. He is known for communicating complex concepts and skills with clarity and humor. The national Real Estate Educator's Association awarded Jack the designation of "Distinguished Real Estate Instructor" (DREI).



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

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

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

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## Division Staff Spotlight

**Meet Jenni Myers.** She joined the Utah Division of Real Estate in July 2019 as an Investigator. She previously worked for the Department of Child & Family Services. Jenni has also been a Real Estate agent for a short time. When she is not at work, she enjoys spending time with her family, doing yoga, and hiking. She has three boys who have

"grown & flown," although they are still a big part of her life. While in college, she began making and selling weighted blankets. She has enjoyed the people who came into her life because of the blankets she made.



Jenni grew up in Santa Barbara & Simi Valley, California. She loves the California area, especially going to the beach. Who wouldn't? She has lived in Utah, Idaho, Florida, Tennessee, Kentucky, and California, moving 34 times. She loves to travel, with her favorite vacation being to Costa Rica. She was there for 2 weeks, and stayed in 5 different areas of Costa Rica to absorb the different lifestyles and cultural amenities the area afforded.

Jenni has visited more states in the US than not. One of the most fascinating trips she recalls was a Military science tour of Virginia and Washington DC with Utah State University. She is fascinated by U.S. History. Being able to visit these historical sites with her family was an amazing opportunity.

Jenni loved being a real estate agent. It was such a great experience for her. She enjoyed the relationships developed during that time period and the fortitude of the people she was able to interact with. When she had an opportunity to come to the Division of Real Estate, she jumped at the opportunity.

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## Kagie's Korner

### Sanctions for Advertising Violations

In the year 2013, the percentage of complaints received by the Division that dealt with an advertising violation was approximately 36%. At that time, the Division issued warnings to the offending licensee for their first offense. Upon direction from the Real Estate Commission, the Division started holding licensees in violation on their first offense and discontinued issuing warnings. If you recall, the fourth quarter newsletter in 2013 included an article, "Notice: New Sanctions for Advertising Violations."

Today, the number of advertising complaints has fallen to approximately 17%. The Division appreciates the efforts of licensees to comply with the advertising laws, thus decreasing the number of advertising complaints received. With that being said, we believe that as an industry we can do better. The 2014 guidelines established and introduced by the Real Estate Commission and Division, are as follows:

- First-time advertising violation: \$150 civil penalty, usually in the form of a citation.
- Second advertising violation: \$500 civil penalty, through either a citation or stipulation.
- Third advertising violation: a hearing in front of the Real Estate Commission in which they will determine the appropriate penalty.

As stated in the 2013 article "As with any complaint, the Division will seek to obtain supporting evidence before deciding whether a penalty would be appropriate." Any alleged violation made by the Division may be challenged by the licensee who will then have the option to present their case at a hearing with the Real Estate Commission or with an Administrative Law Judge. If the licensee disagrees with the allegations outlined in a citation, they have 20 days to appeal that citation.

Please be aware, any sanction by the Division will appear in the Division's quarterly newsletter.

The Division recommends that each licensee familiarize themselves with [R162-2f-401h](#), Requirements and Restrictions in Advertising.

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