

Utah! DIVISION of REAL ESTATE NEWS

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

Jon M. Huntsman, Jr., Governor • Francine A. Gian, Executive Director • Mark B. Steinagel, Division Director

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S. A. F. E. MORTGAGE LICENSING ACT OF 2008

In July, Congress passed H.R. 3221, the "Housing and Economic Recovery Act of 2008," in response to the challenges facing the real estate market, along with the more publicized portions of the Act that provide tax benefits for selected home purchases and authorization for a takeover of Fannie Mae and Freddie Mac, the Act also significantly alters mortgage licensee regulation in the United States.

Title V of the Act is the S.A.F.E Mortgage Licensing Act of 2008 (SAFE). SAFE was developed by policy makers as they searched for the cause of the challenges facing the United States economy, particularly the housing market. Among the many causes identified by policy makers, S.A.F.E. targets oversight of mortgage loan originators.

Utah already regulates mortgage loan originators with background checks, prelicensing education, testing, and enforcement actions against bad actors, but few other states protected the public as well. SAFE requires licensing according to minimum federal standards and calls for a more coordinated effort among the states in regulating mortgage loan originators.

All mortgage licensees need to understand that SAFE will impact your license or license renewal process over the next couple of years.

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NEW REAL ESTATE PURCHASE CONTRACT

The Real Estate Commission and Attorney General's Office approved a new Real Estate Purchase Contract (REPC) effective August 27, 2008. In order to assist real estate brokers and agents in preparing for use of the new forms, the Real Estate Commission and Attorney General's Office have agreed to permit use of EITHER FORM from August 27, 2008 until December 31, 2008. Beginning January 1, 2009, the new REPC must be used. The FHA/VA Loan Addendum and Seller Financing Addendum were also modified to make the addenda compatible with the new REPC. The old addendum must only be used when the old REPC is used and the new addendum must only be used when the new REPC is used.

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From the Director's Desk



Mark B. Steinagel

Challenges, Opportunities, and Changes

Recently I spoke before the Utah Legislature's Commerce and Workforce Services Appropriation Subcommittee. The Committee requested an update on the mortgage market.

The presentation I prepared was focused on challenges the real estate industry faces due to both changes in the market and increased regulation of the industry, but the presentation also emphasized the opportunities facing the industry. It is true there are challenges facing the industry, but there are also many opportunities.

Challenges

Are you tired of the following headlines?

- Sales of existing homes have decreased
- Median home values are declining
- Utah's foreclosure rate is skyrocketing

These and other messages about the real estate market are constantly discussed and repackaged in the media as "news," though they are probably more "old" than "new."

Whether new news or old news, those messages matter to society. Everyone I have spoken with in the industry believes the media's overemphasis on the housing market's negative messages is real and it unnecessarily affects consumer sentiment.

Not only do journalists discuss these messages frequently, but elected officials regularly hear from their constituents about the challenges they are facing in the housing market. I was reminded of this during my presentation before the committee when one legislator asked, "When will it recover? Is the American dream of homeownership over?"

Opportunities

The American dream of homeownership is not over! Along with the challenge of foreclosures and declining values, are increased opportunities for buying and moving, increased affordability, and additional market selection.

The supply of housing will come into balance with the demand for housing, as we all learned it would in Economics 101. Utahans have jobs and our population continues to grow. Humans need a place to live, no matter the market conditions. And when I speak with industry representatives, you tell me that though lending standards have increased, money is still available. In some areas of the state, sales activity has picked up.

Now is not only a good time to buy, it is also a great time to build! My wife and I are building a home. We have contractors begging us to allow them to bid our project.

I concluded my presentation before the legislative committee by explaining the housing market will emerge healthy and strong. Real estate is a strong industry that makes possible the American dream for millions of people. Please keep doing what you are doing, even if it takes a little more work now to make the deal happen. My family just sold our family cabin. It took 16 addenda to the REPC to complete the deal, but the deal finally closed in early September. Our broker and sales agent earned their money.

Changes

With the challenges facing your industries, regulatory changes are also coming to each of your regulated industries.

Mortgage. Real estate and appraiser licensees, be glad your licenses aren't changing as are mortgage licenses. The Housing and Economic Recovery Act of 2008 included the S.A.F.E. Mortgage Licensing Act, which dramatically changes the way states license mortgage loan originators in the United States of America. Please read the article

2008 Instructor Development Workshop Recently Held In Park City

included in this newsletter on the S.A.F.E. Act if you are a mortgage licensee. Your license WILL be impacted by the new federal laws.

Appraisal. Appraisers will soon have all the functionality in the Real Estate License Management System (RELMS) that real estate and mortgage licensees have. The Appraiser Licensing and Certification Board recently approved rules that will allow appraisers to simplify their license renewal and track education online. Please read the related update included in this newsletter. (Online RELMS for Appraisers Article)

Real Estate. Real estate brokers and sales agents should be aware that the Real Estate Commission and Attorney General's Office recently approved a revised Real Estate Purchase Contract (REPC) and two new addenda. Please read the REPC Update in this newsletter for information regarding how to access the revised forms and when you must use them. You should consider taking a class on the new REPC. Most of our real estate licensees have never been through a significant revision of the REPC: the last one occurred in the mid-1990s.

Real Estate and the Economy

Americans have been reminded recently of the important role the housing market has in our economy. It is the engine that powers the American economy. When the engine needs a tune-up, it doesn't matter how well the rest of the car functions.

The real estate market is getting a tune-up. Please commit yourself to improving your skills and knowledge as you serve the public. You have my commitment that the Division will continue to make things easier for the good guys and harder for the bad guys during this time of challenges, change, and great opportunity. ❁

The 2008 instructor Development Workshop (IDW) recently concluded in Park City. Featured presenters to this annual event included attorneys Oliver E. Frasca and Curtis Bullock. Frasca provided a challenging day of instructor technique training. He evaluated and provided constructive criticism to sixteen volunteer instructors who were willing to be spontaneously called upon from the audience to teach approximately 100 of their peers with no props, notes or advanced preparation. This informative session helped not only the brave volunteers but many observers, who also were able to learn and sharpen their instructional skills.

Curtis Bullock, Legal Counsel for the Utah Association of Realtors engaged instructors regarding the new REPC and how technical contract provisions should be taught to licensees. During the second day there were break out sessions conducted by various industry leaders. New mortgage licensing requirements imposed by federal regulation was presented by Division Director Mark Steinagel. Marti Stringham and Paul Naylor taught a session on the revised real estate broker curriculum and exam and possible changes to the mortgage officer licensing curriculum. Darrin Liddell discussed appraiser licensing changes that have recently occurred in our state. A Commission/Board panel including Rodney "Butch" Dailey, H. Blaine Walker, and Lynn N. Christensen discussed what many licensees seem to forget when they leave the confines of their prelicense training and begin practicing their respective professions. Division Licensing and Education Director Mark Fagergren discussed new rules that have gone into effect over this past year.

This year's IDW was a tremendous success. Thanks to those who participated and attended. The Division looks forward to next year's IDW. ❁

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S.A.F.E. MORTGAGE LICENSING ACT OF 2008

The Division of Real Estate is actively working to implement the mandates in SAFE with as little impact on you as possible.

This article summarizes some of the key provisions of the Act.

Basics

SAFE prohibits any individual from engaging in the business of a mortgage loan originator without:

1. Registration with the Nationwide Mortgage Licensing System (NMLS); and
2. Licensure as a state-licensed loan originator with a state license that meets federal standards.

License. SAFE requires licensing whether or not a state previously licensed loan originators. Since mortgage loan originators are already licensed in Utah, the impact on Utah's mortgage loan origination industry will be lower than the impact in many states. However, because SAFE contains new federal requirements that a state license must meet, Utah still has to make significant changes to its licensing process for mortgage licensees.

Registration. Mortgage licensees will ALSO be required at licensure or license renewal to register with the NMLS. The NMLS is a nationwide database of individuals who are originating mortgage loans in ANY of the states, whether under a financial institution or not.

Advantages and Challenges

Advantages. Among the advantages included in the system are the following:

1. People who register with the NMLS can perform a registration that will apply to all 50 states. Though states will still have state-specific laws and requirements for licensure, the uniform registration will simplify licensure

for those individuals licensing in more than one state.

2. Examination and education requirements will be more similar among the states, thereby facilitating reciprocity.
3. States will more completely share licensing information and disciplinary actions with other states.
4. The public can review whether a person is properly registered with the NMLS and if the person has had any licensing or disciplinary actions.

Challenges. SAFE makes noteworthy changes to the way mortgage licenses are issued in Utah. Some of the challenges the Division of Real Estate and its mortgage licensees face in becoming compliant include the following:

1. The mortgage license will be valid for one year rather than two years. Utah has until the end of 2010 to comply with SAFE, so your license expiration date will not be cut short, but the Division will begin issuing licenses with modified expiration dates.
2. Anyone who has had certain disciplinary actions (such as a license revocation) in any of the 50 states will be prohibited from obtaining a license in ANY state.
3. Convicted felons will be unable to obtain a license if convicted of a felony within the last seven years, or ever if convicted of a felony involving an act of fraud, dishonesty, or a breach of trust, or money laundering.
4. Utah will need to modify its pre-licensing education curriculum to match SAFE.
5. Utah will need to modify its continuing education requirements to match SAFE.
6. Utah is attempting to validate your exam scores so that examinations taken by Utah licensees are counted. However, because the test must match the requirements of SAFE, including a requirement that the licensee achieved at least a 75% pass rate (Utah's pass rate is currently 70%), it is possible mortgage licensees will have to take and pass a new examination.

Unknowns. Because Congress passed SAFE so quickly, there are many unknowns that the states are discussing with the Secretary of HUD. Will Utah's licensees be required to retake an exam or retake education that complies with SAFE? What about background checks? Will Utah be required to revoke the license of individuals who previously met criteria for licensure, but who do not now meet the criteria?

The Division understands the challenges you face with government regulation: it is important to protect the public, but too much regulation unnecessarily harms commerce. Division staff will work to make the transition as smooth as possible.

Thank you for your understanding during this time of transition.

The Division has established a link on its website for information about the SAFE Act and updates regarding the implementation of the Act. It can be found at <http://www.realestate.utah.gov/SAFE>



ON-LINE RELMS FOR APPRAISERS

Nearly three years ago rules authorizing continuing education (CE) banking were approved for both real estate and mortgage licensees. For some time now, real estate and mortgage licensees have been able to renew their licenses on-line. They have also been able to track CE course completion credits for completed courses on their individual on-line Real Estate Management System (RELMS) account. Appraisers were not included in the initial introduction of CE banking on the RELMS system. Recently the Appraiser Licensing and Certification Board advanced rules that will permit appraiser licensees to avail themselves of the same

services offered to the real estate and mortgage community. Once formally adopted, these rules will enable appraisers to utilize the features of the on-line RELMS.

In order to provide these on-line services, appraiser continuing education providers will be required to submit CE courses to the Division for approval thirty days in advance of courses being taught in Utah. Following the completion of a CE course, providers will have ten days to "bank" CE credits into each licensed attendee's individual CE On-line RELMS account.

In addition to CE banking of Division approved CE courses, the Division may also grant continuing education credit to licensees attending non-certified appraiser courses, if the course was taken outside the state of Utah and the Division determines that the course meets overall continuing education objectives.

Appraiser course sponsors are also required by the proposed rules to not advertise or market a continuing education course where Division CE course credit will be offered unless the course is approved by the Division and the CE course certification number is displayed in all advertising materials. Course sponsors may not advertise or promote a CE course with language which indicates Division CE course approval is "pending" or otherwise forthcoming.

The Appraiser Board and Division are pleased that these rules will soon allow appraiser licensees access to additional services currently offered to real estate and mortgage licensees via the on-line RELMS system. The proposed rules are scheduled to take effect January 1, 2008.



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**BEGINNING MONDAY, AUG. 4, 2008
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**EXTENDED HOURS TO BETTER SERVE YOU:
MONDAY - THURSDAY | 7 am to 6 pm**

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Utah Department of Commerce

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NEW REAL ESTATE PURCHASE CONTRACT

Each of the state approved forms (both "OLD" and "NEW") can be accessed on the Division's website:

OLD Real Estate Purchase Contract: Approved for use through December 31, 2008

http://www.realestate.utah.gov/REForms/New_REPC.pdf

NEW Real Estate Purchase Contract: Approved for use beginning August 27, 2008

http://www.realestate.utah.gov/REForms/REPC_2008.pdf

OLD FHA/VA Loan Addendum: Approved for use through December 31, 2008

http://www.realestate.utah.gov/REForms/New_FHA-VA_addendum.pdf

NEW FHA/VA Loan Addendum: Approved for use beginning August 27, 2008

http://www.realestate.utah.gov/REForms/FHA-VA_ADDENDUM_2008.pdf


OLD Seller Financing Addendum: Approved for use through December 31, 2008

<http://www.realestate.utah.gov/REForms/Sellfinr.PDF>

NEW Seller Financing Addendum: Approved for use beginning August 27, 2008

http://www.realestate.utah.gov/REForms/SF_ADDENDUM_2008.pdf

Training on the proper use of these forms is currently being conducted by a number of real estate education providers. The names and contact information for these education providers is available on the Division's website at www.realestate.utah.gov. Real estate practitioners are encouraged to become educated on the changes and resulting impact these form modifications will have.

Our thanks to the Utah Association of Realtors (UAR), the Utah Real Estate Commission and the Utah Attorney General's office for their leadership in completing this extensive project. 

UTAH RANKED # 1

Utah has earned top honors in the Government Customer Support Excellence Awards for the second straight year. Utah topped the Center for Digital Government's 2008 Digital States Survey after delivering the clearest evidence yet that electronic delivery of government services has matured.

The Top 3

- 1. Utah
- 2. Michigan
- 3. Virginia



Licensing Actions and Disciplinary Sanctions APPRAISER



Please note that there are 30 days after the order date for a licensee or an applicant to file a request for agency review of the order, and that there are 30 days after the issuance of an order

on review for a licensee or an applicant to file a petition for judicial review. Some of the orders listed may be within those appeal periods.

CARLSEN, PAUL KENT, State-Certified Residential Appraiser, Kearns, UT. Agreed to the surrender of his appraiser license and not to reapply for his license for a five year period in an August 27, 2008 Stipulation and Order. Mr. Carlsen violated Uniform Standards of Professional Appraisal Practice (USPAP) standards in at least two appraisals in which he used superior comparables outside the subject's neighborhood, and failed to use comparables that were in the subject's neighborhood in using the comparison approach for his URAR report. Mr. Carlson also failed to list and analyze the subject's sales and listing histories. Case # AP20908, AP35310, AP20883, AP20579, AP33828.

HAYES, JEFFREY, State-Certified Residential Appraiser, Ogden, UT. Agreed to pay a \$4,000.00 civil penalty and take and complete a 14 hour USPAP course in a July 23, 2008 Stipulation and Order. Mr. Hayes violated Utah Administrative Rule R 162-106-7 and USPAP Standard Rule 2-1-(a). In one subject property, he used superior comparables that had extensive remodeling and interior upgrades and failed to make adjustments accurately for these upgrades. In that same subject property, Mr. Hayes failed to report a listing and failed to analyze not only the listing price of both prior listings, but the days on the market without selling. In

another subject property, he inflated the value of the subject property by using improper methods, used comparables from a superior neighborhood, and failed to analyze the subject's marketability as having super adequacy for the area. Case # AP31396, AP36244.

HOLMES, ROBERT J., State-Certified General Appraiser, Draper, UT. Agreed to pay a \$2,500.00 civil penalty and not supervise or sign for any unclassified individuals or trainee for a period of five years in a June 25, 2008 Stipulation and Order. Mr. Holmes violated Utah Administrative Rule 162-105.3.2.1 in which he allowed a trainee to accept assignments. In addition, he allowed engagement letters and invoices to be addressed to the trainee. Case # AP36598, AP37501, AP38862.

HUNTINGTON, ASHLEY, State-Licensed Appraiser, Salt Lake City, UT. Agreed to pay a \$10,000.00 civil penalty, revocation of her state-licensed appraiser license, agreed not to reapply for any appraiser license in the State of Utah for a period of five years, and agreed not to work in any appraisal office or do any type of real estate appraisal work for a five year period in a July 23, 2008 Stipulation and Order. Ms. Huntington broke numerous Utah state rules, statutes, and USPAP violations in which she used superior comparables from superior neighborhoods in obtaining the value on several subject property appraisals. If Ms. Huntington should apply for any appraiser license after a period of five years, a hearing will be scheduled. Case # AP26603, AP33125, AP39273.

STRANGE, LESLIE, State-Certified Residential Appraiser, Clearfield, UT. Agreed to pay a \$4,000.00 civil penalty and take and complete a 14 hour USPAP course in a July 23, 2008 Stipulation and Order. Mr. Strange violated Utah Administrative Rule R162-106-7 and USPAP by signing the certification page certifying an appraisal which was completed by a licensed appraiser under his supervision. The appraisal inflated the value of the subject by using improper methods. In another subject property, Mr. Strange violated USPAP Ethics Rule and Standard Rule 1-1(a) for using comparables outside the subject's immediate neighborhood that inflated the value of the appraisal. He used comparables based on price and size. Case # AP38878, AP27700.

SAGERS, JENNIFER, State-Certified Residential Appraiser, Orem, UT. Ordered to pay a \$25,000.00 civil penalty, revocation of her certified residential appraiser license, and not reapply for any type of real estate license for a minimum period of five years in a July 31, 2008 Order. In a single appraisal, Ms. Sagers made the following errors and omissions: In the subject section of the appraisal report the property was described as having two assignment types: a) a refinance transaction; and b) "other" to find market value for evaluation purposes. The engagement letter was marked as a purchase, but the appraisal was marked as a refinance. Further the engagement letter was not signed by any party or lender. The marketing time for the property was reported as three to six months; MLS data indicated a marketing time of three to eighteen months. The marketing time submitted for the five comparables were not provided. No report for the days the subject property had been on the market was provided in the report. Ms. Sagers reported comparable one as selling for \$4.6 million on 7/3/2006. The same property was reported in the MLS as having sold on 4/5/2006 for \$1.756 million. The report failed to analyze or address the 162 percent increase in property value from April to July of 2006. Ms. Sagers reported comparable two as selling for \$4.3 million on 7/3/2006. The same property was reported on the MLS as having sold on 4/11/2006 for \$2.9 million. The report failed to analyze the nearly 48 percent increase in property value within three months. Ms. Sagers reported comparable three as selling for \$4.1 million on 7/3/2006. The same property was reported in the MLS as having sold on 4/7/2006 for \$1.465 million. The report failed to analyze the nearly 180 percent increase in property value for comparable three over a three month period. She reported comparable five as selling for \$4.3 million on 7/3/2006. The same property was reported on the MLS as having sold on 3/17/2006 for \$1.005 million. The report failed to analyze the nearly 328 percent increase in property value for comparable five within four months. Ms. Sagers reported that all comparables were within one mile of the subject neighborhood. This statement conflicts with the mileage stated in the proximity to the subject section of the sales grid, which lists the mileage as follows: comparable one-13.29 miles, comparable two-13.32 miles, comparable three-13.29

miles, and comparable five-14.3 miles. Ms. Sagers failed to analyze the significant property value increases of four of the comparable sales. She further failed to include in her work file all of the necessary data, information, and documentation to support her conclusions and in compliance with USPAP. Ms. Sagers failed to perform this assignment ethically, competently, and she demonstrated a lack of honesty and integrity.

After meeting the conditions of the Order, Ms. Sagers may apply to become an Appraiser Trainee. At that time, the Board reserves the right to hold a hearing before granting formal Appraiser Trainee status. Case # AP33206.

MORTGAGE



Please note that there are 30 days after the order date for a licensee or an applicant to file a request for agency review of the order, and that there are 30 days after the issuance of an order on review for a licensee or an applicant to file a petition for judicial review. Some of the orders listed may be within those appeal periods.

MORTGAGE CORRECTION

WHYTOCK, KELLY, Principal Lending Manager Renewal Applicant, Bluffdale, UT. In the July newsletter it was reported that Mr. Whytock's conditional license was revoked for failing to disclose a past criminal history. Mr. Whytock correctly answered the application question that asks if the applicant has ever been convicted of a felony or misdemeanor in any jurisdiction in the past ten years. The Division incorrectly applied the statute in automatically revoking Mr. Whytock's license when he correctly answered the question. The Division staff is sorry for the trouble caused to Mr. Whytock, who has helped the Division identify and correct an error in its criminal history screening process for license renewals. Mr. Whytock's license was reinstated in a Division order dated April 14, 2008.

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Disciplinary Sanctions Continued from page 9

ANTHONY, PATRICIA REA, Mortgage Officer License, St. George, UT. Agreed to pay a \$600.00 civil penalty and take three hours of Core Law, in a July 2, 2008 Stipulation and Order. On February 12, 2008, Ms. Anthony renewed her license and affirmed she had the required continuing education. She was later audited by the Division and it was determined that she was short three hours of Core Law. Case # MG38951.

APESSOS, JAMES, Mortgage Officer License Applicant, Chula Vista, CA. Application for mortgage officer license granted but placed on probation for the entire initial licensing period, in a June 2, 2008 Order for the revocation of his California Real Estate Broker's license due to misdemeanor convictions that were subsequently expunged.

BAXTER, ASHLEY (RYBAL), Mortgage Officer License, Riverton, UT. Agreed to pay a \$5,000.00 civil penalty, not have any ownership or management interest in any mortgage company, or apply for a mortgage, real estate, or appraiser license for a five year period, in a June 4, 2008 Stipulation and Order. Ms. Baxter, an unlicensed lending officer, originated a mortgage loan in which she indicated on the loan application the incorrect status of both borrowers' marital status, indicated under the "Schedule of Real Estate Owned" that where one of the borrowers was living was to be rented, when in fact it was their primary residence. Ms. Baxter prepared a fraudulent Lease Agreement to support the rental property by using the name of an acquaintance that had no knowledge of this agreement. She also signed the lessee's name on the same document without the knowledge of the lessor. At a later time, she identified herself as a Loan Officer & Processor in an e-mail document. If Ms. Baxter applies for any type of license with the Division, a hearing will be held. Case # MG37426.

BLACKER, KIM, Mortgage Officer License Renewal Applicant, Roy, UT. Renewal application for mortgage lending officer granted but placed on probation the entire term of renewal in a August 18, 2008 Order due to a recent alcohol-related conviction.

BYRON, HEATHER L., Principal Lending Manager, Layton, UT. Agreed to pay a \$2,500.00 civil penalty in a July 2, 2008 Stipulation and Order, for submitting an earnest money check to the broker knowing that there were not sufficient funds in the account. Case # MG38331.

CHURCH, CHAD, Mortgage Officer License Applicant, Brea, CA. Conditional license issued on February 13, 2007 was revoked for failing to disclose a past conviction. In a June 10, 2008 Order on Appeal, the Division reaffirmed its decision and the revocation was upheld.

COTA, JASON, Mortgage Officer License Applicant, San Diego, CA. Conditional license issued on December 6, 2006 was revoked for failing to disclose a reckless driving charge. In an August 18, 2008 Order on Appeal, the Division reaffirmed its decision and the revocation was upheld.

DAVIDGE, LORI, Mortgage Officer License Applicant, Las Vegas, NV. Conditional license issued on December 17, 2006, was revoked for failing to disclose a past criminal conviction. In a June 16, 2008 Order on Appeal, the Division reaffirmed its decision and the revocation was upheld.

EKSTROM, GAVIN, Mortgage Officer License Applicant, Denver, CO. Application for mortgage lending officer was denied in a July 17, 2008 Order for Mr. Ekstrom's overall dishonest and unethical conduct, including his involvement with Park Capital's use of false business licenses and falsified bank account record. Mr. Ekstrom personally facilitated the closing of a loan by dishonestly providing the necessary funds to the loan applicant. Mr. Ekstrom must wait ten years before reapplying for a license.

ESTRADA, DANIELLE, Mortgage Officer License Applicant, St. George, UT. Application for mortgage lending officer granted but placed on probation for the entire initial licensing period in a July 16, 2008 Order, due to numerous driving-related convictions.

GALE, BENJAMIN L., Mortgage Lending Officer, Provo, UT. Agreed to the revocation of his mortgage officer license,

his “full and timely cooperation” in other ongoing investigation(s), and not reapply for a new license for a five year period, in a June 4, 2008 Stipulation and Order. Mr. Gale created a false Real Estate Purchase Contract (REPC) that included forged initials and signature of the seller of the property. This forged REPC did not reflect the terms of the transaction between the seller and the original buyer of the property. Mr. Gale admits to substituting a second buyer for the original buyer of the property and using the false REPC to introduce the new buyer to the transaction. Mr. Gale caused the false REPC to be submitted to the closing title company. If Mr. Gale applies for a new license after five years, a hearing shall be held. Case # MG39676.

GIERSZ, MELISSA, Mortgage Officer License Applicant, Sandy, UT. Application for mortgage officer license granted, but placed on probation for the entire initial licensing period, in a July 16, 2008 Order for failing to disclose a past criminal conviction.

GODFREY, JARED, Mortgage Officer License Applicant, Sandy, UT. Application for mortgage officer license was denied in a July 28, 2008 Order for a past criminal conviction. Mr. Godfrey must wait until May 3, 2010 to reapply for a license.

GORDON, LARRY, Mortgage Officer License Applicant, North Salt Lake City, UT. Application for mortgage officer license was granted but placed on probation for the entire initial licensing period in a July 29, 2008 Order due to the revocation of his principle broker license with the Division in 1990.

HARWARD, TYLER, Mortgage Officer License Applicant, Montpelier, ID. Conditional license issued on February 20, 2007 was revoked for failing to disclose several criminal convictions. In a July 16, 2008 Order on Appeal, the Division reaffirmed its decision and the revocation was upheld. Mr. Harward may reapply for his license on or about April 11, 2009, at which time this issue will be readdressed.

HODGE, HEATHER, Mortgage Officer License Renewal Applicant, Salt Lake City, UT. Renewal

application for mortgage lending officer granted but placed on probation for the entire period of renewal in a August 28, 2008 Order for a recent criminal conviction.

LEWIS, LISA, Mortgage Officer License Applicant, Santaquin, UT. Conditional license issued on August 11, 2007 was revoked for failing to disclose a reckless driving conviction. In a June 5, 2008 Order on Appeal, the Division reaffirmed its decision and the revocation was upheld. Ms. Lewis may reapply for her license on or about April 4, 2009, at which time this issue will be readdressed.

MATYJA, DEBRA, Mortgage Officer License Renewal Applicant, Park City, UT. Renewal application for mortgage officer license granted but placed on probation for the entire period of renewal, in an August 28, 2008 Order due to a recent alcohol-related conviction.

PATTON, JAMES, Principal Lending Manager Renewal Applicant. Santa Ana, CA. Renewal application for principal lending manager granted but placed on probation for the entire term of renewal, in a August 18, 2008 Order, due to a recent criminal conviction.

PIRKL, MARK, Mortgage Officer License Applicant, Englewood, CO. Conditional license issued on October 19, 2007 was revoked for failing to disclose several drug-related charges. In a June 10, 2008 Order on Appeal, the Division reaffirmed its decision and the revocation was upheld. Mr. Pirkel may reapply for his license on or about March 25, 2009.

PULSIPHER, JAMES, Principal Lending Manager Renewal Applicant, Grand Junction, CO. Renewal application for principal lending manager granted but placed on probation for the entire renewal licensing term, in a June 2, 2008 Order due to a past alcohol-related conviction.

RICE, JOHN D., Principal Lending Manager, Syracuse, UT. Agreed to pay a \$2,500.00 civil penalty in an August 6, 2008 Stipulation and Order. Mr. Rice represented himself as a loan officer for a company for which he did not work. He took the application by phone, however the

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Disciplinary Sanctions Continued from page 11

loan application was signed by another loan officer who did work for the company that Mr. Rice represented he worked for. The loan did not close, and no money was exchanged. Case # MG40336.

RIVAS, DAVID, Mortgage Officer License Applicant, Kaysville, UT. Application for mortgage officer license granted, but immediately suspended for 60 days, and then placed on probation for the remainder of the licensing period in a August 28, 2008 Order, for several driving-related convictions.

SOUTTER, ANNE, Mortgage Officer License Applicant, San Diego, CA. Application for mortgage officer license granted but placed on probation for the entire initial licensing period in a July 16, 2008 Order due to two alcohol-related convictions.

STRINGHAM, KYLE, Mortgage Officer License Applicant, Riverdale, UT. Conditional license issued on January 27, 2007, but later revoked for failing to properly disclose all of his criminal convictions. In a July 31, 2008 Order, the revocation was reversed because it was determined that Mr. Stringham had a reasonable good faith belief that there was no criminal history to be disclosed.

STROSSER, LANCE, Principal Lending Manager Renewal Applicant, Provo, UT. Renewal application for principal lending manager granted but placed on probation the entire term of renewal, in a August 18, 2008 Order due to a past plea in abeyance agreement.

SWAINO, LISA, Mortgage Officer License Applicant, Akron, OH. Application for mortgage officer license granted, but immediately suspended for 30 days and then placed on probation for the remainder of the initial licensing period in a June 5, 2008 Order. Ms. Swaino had several alcohol-related convictions and failed to comply with court orders.

VERSTEEG, TONY, Principal Lending Manager Applicant, Sandy, UT. Application for principal lending manager denied in a July 29, 2008 Order. Mr. Versteeg entered into a Stipulation and Consent Order with the

Utah Division of Securities on February 4, 2008. In that stipulation he admitted to making misrepresentations of material fact and omissions of material fact in connection with the offer and sale of a security, to offering and selling unregistered securities in Utah, and to offering and selling securities in Utah without a license. Mr. Versteeg must wait ten years before reapplying for a license.

WALKER, SEAN, Mortgage Officer License Renewal Applicant, Pleasant Grove, UT. Renewal application for mortgage officer license granted, but immediately suspended for 30 days and then placed on probation for the remainder of the initial licensing period in a August 18, 2008 Order. Mr. Walker failed to properly disclose a 2004 conviction to the Division in a timely manner.

WALTERS, CANDICE, Mortgage Officer License, Midvale, UT. Agreed to pay a \$2,500.00 civil penalty in a July 2, 2008 Stipulation and Order. Ms. Walters admits she approached a borrower for \$2,000.00 after the loan had been closed for three months claiming that she had not made enough money on the deal. The borrowers did not pay the additional money she requested and were completely shocked at her request, considering she had made \$4,700.00 on the back end of the deal. Case # MG38929.

WARD, MATT, Mortgage Officer License Applicant, Salem, UT. Conditional license issued on March 28, 2008 was revoked for failing to disclose a criminal trespass conviction. In a June 16, 2008 Order on Appeal, the Division reversed its decision based on Mr. Ward's reasonable good faith belief that he had no criminal history to report. Mr. Ward's application for mortgage officer license was granted.

WHEELER, DAVID, Mortgage Officer License, Hurricane, UT. Agreed to pay a \$3,000.00 civil penalty and the revocation of his mortgage officer license for a two year period, in a July 3, 2008 Stipulation and Order. Mr. Wheeler was a mortgage officer on two mortgage loan applications for a borrower. After reviewing the borrower's application and income information, Mr. Wheeler determined that the loan applicants did not have a high enough income to qualify for the loan amount. He

inflated the income to qualify the applicants for the first and second mortgage on this transaction. If Mr. Wheeler applies for a license after the two year period, he will be required to comply with all education, examination, and other requirements. A hearing may be held at that time. Case # MG38330.

The following is a list of individuals whose mortgage licenses were revoked for failure to accurately disclose their criminal background on their initial applications:

Name	Revocation Date
COPPEDGE, STEVEN	06/16/2008
COTA, JASON	06/16/2008
GEERTMAN, KEVIN	06/16/2008
HARRIS, NICHOLAS	06/16/2008

REAL ESTATE



Please note that there are 30 days after the order date for a licensee or an applicant to file a request for agency review of the order, and that there are

30 days after the issuance of an order on review for a licensee or an applicant to file a petition for judicial review. Some of the orders listed may be within those appeal periods.

ANDERSON, AARON, Principal Broker Renewal Applicant, Orem, UT. Renewal application for principal broker granted but placed on probation for the entire term of renewal in an August 18, 2008 Order due to two recent criminal convictions.

ANDERSON, CASEY, Sales Agent Renewal Applicant, Vernal, UT. Renewal application for sales agent granted but placed on probation for the entire term of renewal in an August 18, 2008 Order due to a recent criminal conviction.

BOEGLER, JAMES, Sales Agent Renewal Applicant, Tooele, UT. Renewal application for sales agent granted but placed on probation for the entire term of renewal and fined \$1,000.00 in a July 7, 2008 Order. Mr. Boegler

failed to properly notify the Division of a past criminal conviction and the revocation of his teaching license.

CANRO, NELSON, Sales Agent Renewal Applicant, Ogden, UT. Renewal application for sales agent granted but placed on probation for the entire term of renewal in an August 18, 2008 Order for recently entering into a diversion agreement.

CERVANTES, ROSENDO, Sales Agent Applicant, Salt Lake City, UT. Application for sales agent granted, but immediately suspended for 30 days, and then placed on probation for the remaining initial licensing term in an August 18, 2008 Order. Mr. Cervantes has several recent criminal convictions.

CHURCH, KENNETH P., Sales Agent Applicant, Kanab, UT. Conditional license issued on April 5, 2007 was revoked for failing to disclose a criminal judgment. In an August 28, 2008 Order on Appeal, the Division reversed its decision based on the fact that he had a reasonable good faith belief that he had no criminal history to report. Mr. Church's application for sales agent was granted.

COLVIN, TERRID., Principal Broker, Sandy, UT. Agreed to pay a \$10,000.00 civil penalty, the revocation of her principal broker's license, the issuance of a sales agent's license, and to not be affiliated with ProStar Realty Group, in a August 20, 2008 Stipulation and Order. Ms. Colvin allowed unauthorized withdrawals from her Real Estate Trust Account (RETA) and admitted that subsequent transfer deposits were designed to restore the RETA balance sufficient to fund the trust liability of the brokerage. Ms. Colvin failed to maintain a check register, individual ledgers, and failed to reconcile the RETA with bank statements in accordance to Utah Administrative Rules. Case # RE31569.

DEAN, HEATHER, Sales Agent Renewal Applicant, Ogden, UT. Renewal application for sales agent granted but placed on probation for the entire period of renewal in an August 28, 2008 Order due to a past criminal conviction.

Disciplinary Sanctions Continued from page 13

DEWITT, JEFF, Sales Agent Applicant, Ogden, UT. Conditional license issued on October 9, 2007 was revoked for failing to disclose a past criminal conviction. In a June 5, 2008 Order on Appeal, the Division reaffirmed its decision and the revocation was upheld. Mr. Dewitt may reapply for his license on or about April 11, 2009.

EVES, AMBER, Sales Agent, Orem, UT. Agreed to pay a \$2,500.00 civil penalty, have her sales agent license placed on probation for five years, satisfactorily complete a Division-approved course in real estate ethics and trust accounting, work under the "active supervision" of a prescribed principal broker and regularly meet with Division staff to discuss Division expectations and concerns. Active supervision by Ms. Eve's principal broker shall include actively monitoring her work on the premises a minimum of three days a week, in a July 16, 2008 Stipulation and Order. Case # RE34633.

EVES, JOYLENE K., Sales Agent Applicant, Orem, UT. Agreed to withdraw her application for a real estate license and work as a non-licensed individual under the "direct supervision" of a licensed principal broker. Active supervision by Ms. Eves' principal broker shall include actively monitoring her unlicensed work on premises a minimum three days a week in a July 16, 2008 Consent Order. Case # RE32046.

FIKE, ANDREW, Sales Agent Renewal Applicant, Salt Lake City, UT. Renewal application for sales agent license granted but placed on probation for the entire period of renewal in an August 28, 2008 Order due to a past criminal conviction.

FRANCO, VERONICA, Sales Agent, Draper, UT. Agreed to pay a \$3,000.00 civil penalty in an August 20, 2008 Stipulation and Order. Ms. Franco admits that she paid real estate commissions to her non-licensed assistant on at least three separate occasions. Case # RE40915.

GALE, BENJAMIN L., Sales Agent, Provo, UT. Agreed to pay a \$80,000.00 civil penalty, the revocation of his real estate license, "full and timely cooperation"

in other ongoing investigations, and not to reapply for a new license for at least five years, in a June 3, 2008 Stipulation and Order. Mr. Gale created a false Real Estate Purchase Contract (REPC) that included forged initials and signatures of the seller of the property. This forged REPC did not reflect the terms of the transaction between the seller and the original buyer of the property. Mr. Gale admits to substituting a second buyer for the original buyer of the property and used the false REPC to introduce this new buyer to the transaction. This caused the false REPC to be submitted to the closing title company. If Mr. Gale applies for a new license after five years, a hearing shall be held. Case # RE35006.

GIRALDO, ELENA N., Sales Agent, South Jordan, UT. Agreed to pay a \$2,500.00 civil penalty, the revocation of her real estate license, and may not reapply for a new license for at least two years in a June 18, 2008 Stipulation and Order. Ms. Giraldo admits she submitted a file to lenders with whiteout on the Real Estate Purchase Contract. This file also had a false verification of employment. If Ms. Giraldo applies for a new license after two years, a hearing shall be held. Case # RE39253.

HANDLEY, MARC C., Sales Agent Renewal Applicant, Salt Lake City, UT. Renewal application for sales agent license granted but placed on probation for the entire renewal period in a July 7, 2008 Order due to past criminal convictions.

HANNA, MIKAL, Sales Agent Renewal Applicant, Duck Creek, UT. Renewal application for sales agent license granted but placed on probation for the entire term of renewal in an August 18, 2008 Order due to two plea in abeyance agreements.

HARVEY, STEVEN, Sales Agent Applicant, Salt Lake City, UT. Application for sales agent license granted but placed on probation for the entire initial licensing term in an August 18, 2008 Order due to a past criminal conviction.

HEEDLY, KRYSTAL, Principal Broker Renewal Applicant, West Hills, CA. Renewal application for principal broker license granted but placed on probation

for the entire term of renewal in a July 14, 2008 Order due to a past criminal conviction.

HOLT, LEE, Pre-License Instructor, Roy, UT. Agreed to pay a \$2,500.00 civil penalty, complete a four hour ethics course, and have his license placed on probation for the duration of his current licensing period, in a July 16, 2008 Stipulation and Order. Mr. Holt admits that he knowingly used unauthorized copyrighted course material from another approved pre-licensing school. Case # RE40226.

IREN, SIBEL, Sales Agent Applicant, Salt Lake City, UT. Application for sales agent license granted but placed on probation for the entire initial licensing term in an August 18, 2008 Order due to dog-related convictions.

JARAMILLO, CARMEN, Sales Agent Applicant, South Jordan, UT. Conditional license issued on November 15, 2006 was revoked for failing to disclose a past criminal history. In a June 16, 2008 Order on Appeal, the Division reversed its decision based on Ms. Jaramillo's having had a reasonable good faith belief that she had no criminal history to disclose. Ms. Jaramillo's application for sales agent was granted.

KLEIN, RICK, Continuing Education Instructor Applicant, Park City, UT. Application for continuing education instructor license granted but placed on probation for the entire initial licensing period in an August 18, 2008 Order due to a past criminal conviction.

KUNZ, STEPHANIE, Sales Agent Applicant, Preston, ID. Application for sales agent license granted but placed on probation for the entire initial licensing period in a June 10, 2008 Order due to past criminal convictions and failing to fully disclose her criminal history.

LAMBERTON, LANCE, Sales Agent Applicant, Sandy, UT. Conditional license issued on May 1, 2007 was revoked for failing to disclose a past criminal history. In a June 10, 2008 Order on Appeal, the Division reaffirmed its decision and the revocation was upheld.

Mr. Lamberton may reapply for his license on or after April 2, 2009.

LARSEN, JAMIE, Sales Agent Applicant, Mantua, UT. Application for sales agent license granted but placed on probation for the entire initial licensing term in a July 14, 2008 Order due to past criminal convictions.

LAW, ERIC, Sales Agent Applicant, Kaysville, UT. Conditional license issued on November 15, 2005 was revoked for failing to disclose a past criminal history. In a June 16, 2008 Order on Appeal, the Division reversed its decision based on a reasonable good faith belief that at the time of the application, there was not a criminal history to reveal. Mr. Law's application for sales agent was granted.

LE, CATHY, Sales Agent Renewal Applicant, Sandy, UT. Renewal application for sales agent license granted but immediately suspended for 30 days, and then placed on probation for the entire term of renewal in a July 14, 2008 Order due to a past criminal conviction.

LEMON, SANDRA, Sales Agent Renewal Applicant, West Jordan, UT. Renewal application for sales agent granted but placed on probation for the entire term of renewal in a July 14, 2008 Order due to a past plea in abeyance agreement.

LEWIS, SCOTT, Sales Agent Renewal Applicant, Ogden, UT. Renewal application for sales agent granted but placed on probation for the entire term of renewal in a July 14, 2008 Order due to a past criminal conviction.

MALIK, KAAB, Sales Agent Renewal Applicant, West Valley City, UT. Renewal application for sales agent granted but placed on probation for the entire term of renewal in an August 18, 2008 Order due to a plea in abeyance agreement.

MARTINDALE, SUSIE, Principal Broker Renewal Applicant, Holladay, UT. Renewal application for principal broker granted but placed on probation for the entire term of renewal in a July 15, 2008 Order due to a past alcohol-related reckless driving conviction. *continued on next page*

Disciplinary Sanctions Continued from page 15

MCDONALD, GARY, Sales Agent Renewal Applicant, Draper, UT. Renewal application for sales agent granted, but immediately suspended for 30 days, and then placed on probation for the entire period of renewal in an August 28, 2008 Order due to past criminal convictions.

MURDOCK, STEPHEN G., Principal Broker, Taylorsville, UT. Agreed to pay a \$2,500.00 civil penalty in a July 16, 2008 Stipulation and Order. Mr. Murdock allowed his Principal Broker's license to expire; consequently, all the agents in his office were automatically placed on inactive status and were no longer able to act as real estate licensees. He admits that he signed change cards for and in behalf of agents that were not in the office. Case # RE36305.

NELSON JR., RALPH, Sales Agent Renewal Applicant, Ogden, UT. Renewal application for sales agent license granted but placed on probation for the entire term of renewal in an August 18, 2008 Order due to a past plea in abeyance agreement.

OLDHAM, CARL, Sales Agent Applicant, Salt Lake City, UT. Application for sales agent license granted in an August 25, 2008 Order. Mr. Oldham must notify his broker that his sales agent license was revoked in 1989.

PROULX, CRAIG, Sales Agent Renewal Applicant, Springville, UT. Renewal application for sales agent license granted but placed on probation for the entire period of renewal in an August 28, 2008 Order due to a recent plea in abeyance agreement.

RICCI, GARY, Sales Agent Renewal Applicant, Sandy, UT. Renewal application for sales agent license granted but placed on probation for the entire renewal period in an August 25, 2008 Order due to a past criminal history.

ROGERS, KATHE, Sales Agent Applicant, Park City, UT. Conditional license issued on March 4, 2006 was revoked for failing to disclose a past criminal history. In a June 5, 2008 Order on Appeal, the Division reaffirmed its decision and the revocation is upheld.

SANDERS II, DONALD E., Sales Agent, Thornton, CO. Agreed to pay a \$10,000.00 civil penalty, the revocation of his sales agent license, and never again apply to the Division for a real estate license, in an August 20, 2008 Stipulation and Order. Mr. Sanders signed as both the Buyer and Seller on the Real Estate Purchase Contract (REPC) without a duly executed Power of Attorney. He signed as his wife, the Seller, on the REPC and the Seller's Property Condition Disclosure. Case # RE33587, RE33785.

SCHIEFER, JOHN, Sales Agent Renewal Applicant, Union City, CA. Renewal application sales agent license granted but placed on probation for the entire term of renewal in a July 14, 2008 Order due to past criminal convictions.

SHINER, VICTORY, Sales Agent Renewal Applicant, Kaysville, UT. Renewal application sales agent license granted, but immediately suspended for 30 days, and then placed on probation for the entire period of renewal in an August 18, 2008 Order due to past plea in abeyance agreements.

SISK, BLAKE, Sales Agent Applicant, Salt Lake City, UT. Application for sales agent license granted, but immediately suspended for 30 days, and then placed on probation for the entire licensing term in a July 15, 2008 Order due to past criminal convictions.

SMITH, REED, Sales Agent, Provo, UT. Ordered to pay a \$77,500.00 civil penalty and the revocation of his sales agent license for a minimum of five years, in an October 7, 2008 Order on Hearing. Mr. Smith had 31 acts of misconduct, which included, among other things, substantial and flagrant misrepresentations, and false promises of a character likely to influence, persuade, or induce. Mr. Smith also failed to keep and make available for inspection by the Division records of each transaction. Mr. Smith used his real estate license to submit false and misleading information to the Multiple Listing Service (MLS). The properties involved were located in the exclusive Provo River Bottoms area. Appraisers and real estate licensees relied on the information. The same information was used and misused for the purpose of

artificially inflating value of homes in the surrounding area.

SUTTON, JAMES, Principal Broker Renewal Applicant, Layton, UT. Renewal application for principal broker license granted but placed on probation for the entire period of renewal in an August 28, 2008 Order due to a past criminal conviction.

THOMAS, TIFFANY, Sales Agent Renewal Applicant, Salt Lake City, UT. Renewal application for sales agent license granted and placed on probation in a May 27, 2008 Order. The Division reaffirms its decision in a July 18, 2008 Order on Application, Request for Reconsideration in which Ms. Thomas' license will remain on probation for the entire renewal licensing term due to a past criminal conviction.

VANDYKE, DUSTIN, Sales Agent Renewal Applicant, Orem, UT. Renewal application for sales agent license granted but placed on probation for the entire term of renewal in a July 14, 2008 Order due to past plea in abeyance agreements.

VIAL FATHERINGHAM, LLP, Continuing Education Provider, Sandy, UT. Agreed to pay a \$6,000.00 civil penalty in an August 14, 2008 Stipulation and Order. The education provider submitted a continuing education course application to the Division less than 30 days from the date of application for approval by the Division, but taught the course without first receiving Division approval. Case # RE39775.

VIDANA, VICTOR, Sales Agent, West Jordan, UT. Agreed to a \$5,000.00 civil penalty, revocation of his real estate license, and prohibition from applying for a new license for at least two years in a June 18, 2008 Stipulation and Order. Mr. Vidana represented several borrowers in the purchase of real property. He had knowledge that these individuals could not have qualified for the mortgage loans they received had the lenders been aware of the true terms of the transaction. Mr. Vidana did several transactions with a loan officer who was not licensed with the Division. Mr. Vidana was placed on the exclusionary list with Freddie Mac.

If Mr. Vidana reapplies for a new license, a hearing shall be held. Case # RE37787.

VIERIG, CRAIG, Principal Broker Renewal Applicant, Holladay, UT. Renewal application for principal broker license granted but placed on probation for the entire period of renewal in an August 28, 2008 Order due to a plea to an alcohol related driving charge.

WALLACE, STEVEN, Sales Agent Renewal Applicant, Sandy, UT. Renewal application for sales agent license granted but placed on probation for the entire term of renewal in a July 14, 2008 Order due to a past plea in abeyance agreement.

WHYTOCK, KELLY, Sales Agent Applicant, Bluffdale, UT. Conditional license issued on March 19, 2007 was revoked for failing to disclose a past criminal history. In an August 21, 2008 Order, the Division reversed its decision based on the applicant's reasonable good faith belief that there was no criminal history to disclose. Mr. Whytock's application for sales agent was granted.

WOODMAN, KURT, Sales Agent Renewal Applicant, Salt Lake City, UT. Renewal application for sales agent license denied in a July 7, 2008 Order after entering into a Stipulation and Order with the Division in which he agreed to surrender his Mortgage Loan Office license for two years. His conduct failed to meet the requirement to be honest, truthful, and to demonstrate integrity and reputation by forging an employer's signature on an employment verification letter and submitting a falsified pay stub. Mr. Woodman also rewrote and changed employment information that was submitted to a loan underwriter. Mr. Woodman may reapply for his sales agent license on or about July 11, 2009.

WOODS, JANNA, Sales Agent Renewal Applicant, Salt Lake City, UT. Renewal application for sales agent license granted but placed on probation the entire term of renewal in an August 18, 2008 Order due to a past criminal trespassing conviction.

THANK YOU COMMISSIONERS



Bonnie Peretti
Real Estate Commissioner

It has been a rewarding four years working with the outstanding leadership within the Real Estate Division. Our current director, Mark Steinagel and the past director, Derek Miller have both taken aggressive action to better the communications, to strengthen regulations and improve all levels of education for our industry, the membership and the public.

During my term a few of the accomplishments I am proud to be a part of are the following: 1) Approval of the NEW REPC; 2) Stronger guidelines for potential agents to enter the industry; 3) On-Line License Renewal System; 4) New Sales Agent Course required for all new agents; 5) Changes to Continuing Education creating "distant education" which brought the internet into the home of agents from the outlying areas of the state making education more accesible; 6) Expanding Core Topics; 7) CE Banking capability and the list goes on and on. All of these changes are making a difference in the way we do business daily.

Most of all, I will miss the other commissioners that have touched my life. They, like me, believe in the future of

the industry and the need to always be on the cutting edge for the benefit of our industry and the public we serve. In closing, may I not forget the staff that stands behind the scene, loves what they do and makes everything seem easy? It has been a great experience and I will treasure the time we shared ideas and the difference it will make in our futures!



Lynn N. Christensen
Chairman,
Utah Appraiser and
Certification Board

I was appointed a member of the Utah Real Estate and Certification Board in July of 2004. I arrived at my first meeting and within one hour was elected chairman and expected to conduct the remainder of the meeting. This was a daunting task since I had never attended an appraiser board meeting prior to that time. With the help of my colleagues I was able to make my way through. Since that relative "baptism by fire" I have learned many things and have made what I hope to be life-long associations with my fellow board members and those at the Utah Division of Real Estate that I have worked closely with.

Through all of the major changes that have occurred in licensing taking affect January 1, 2008, the board and the division have had their hands full. There were invariably a few “bumps in the road”, but by in large, we were able to make the transition smoothly. This did mean extra work for the division and longer and extra meetings for the appraiser board that were all taken in stride.

We, as an independent board, have made every effort to help keep the Appraisal profession respected and valued by those that are within our industry. We have also made it a priority to remember that the appraisal industry must always have the public trust. With this in mind, while the majority of trainees, licensed and certified appraisers conduct themselves and run their respective businesses in ethical and professional ways, there are those individuals that do not. Unfortunately, these individuals are the ones that we must focus on and either provide them with the education to become competent and ethical professionals or take such action that either sanctions them, or in extreme cases, removes them from the profession. I have always felt, as a board member, that this is a solemn responsibility never to be taken lightly.

I know that as my tenure on the board is now concluding, I reflect on what being on the appraiser board has done for me personally. I have made great friends, associated with good, hard-working people that have our industry as appraisers at heart. I have learned how to find all-day parking in an ever-changing downtown. I have even perfected ordering my deli sandwich from the local delicatessen for our “working lunches” at our monthly meetings. But most of all, I have learned to be a better and more competent appraiser. I know that all those that work for the Utah Division of Real Estate are dedicated professionals. The appraiser board members that are currently serving and continue to serve always go above and beyond to assist our industry. I hope that my appointment to the appraiser board has in some small way had a positive impact on our industry and profession.



**Holly Christensen,
Vice Chair,
Utah Appraiser and
Certification Board**

It has been an exciting and eventful four years as a member of the Utah Appraisal Board. During this time there have been monumental changes that have affected not only the appraisal industry but other related industries as well. Having been on the appraisal board has allowed me to see firsthand the impact of legislation and regulation at all levels. It has been overwhelming to see the time and effort that has been spent in behalf of the Division Staff so that those in the real estate, mortgage and appraisal industry can continue to succeed while maintaining required compliance.

Sitting on the board has given me the opportunity to see the many different ways that people operate in business. Some choices have not been so good and some have possibly been the result of unintentional errors. Nonetheless, it has been rewarding to see that the majority of individuals that have come before the board have not only a desire but a passion to serve our community.

I am grateful to have had the association with board members and division staff that have spent countless hours sharing insight and education so that we can have the opportunity to do what we love.



APPRAISER CLARIFICATION

By Craig Morley Vice-Chair Utah Appraiser Licensing and Certification Board

Clarification has been requested by the UAA (Utah Association of Appraiser) pertaining to policies and procedures established and implemented by the Utah Appraiser and Certification Board. Licensing and certification as dictated by the ASB (Appraisal Standards Board) requires that applicants seeking state appraisal licenses must meet minimum standards of education and work experience. Rules established by the State of Utah are intended to conform to the standards imposed by the ASB.

Experience review of a sample of an appraiser's appraisal work product is required to determine that the work being produced by the applicant complies with USPAP (Uniform Standard of Professional Appraisal Practice). Many applicants have tried to make the case that work experience alone (regardless of the work quality) should allow the applicant to be licensed. This concept is clearly inconsistent with the intent of the ASB, otherwise there would be no need for the work product to be reviewed. A review subcommittee of volunteers has been selected by the appraiser board to review all appraisals submitted for experience review. Work that is denied allows an applicant the opportunity to appeal to the appraiser board for reconsideration. As we have held these reviews we have found common issues that cause us concerns. From these concerns we have established policies to try improve the overall quality of the work being completed.

Some of the concerning issues we confront arise from inconsistencies between the work being produced, and the scope of work required of the appraiser by the client for whom the appraiser has completed the assignment. Most of the issues arise from residential appraisers completing Fannie Mae forms which clearly establish the scope of work required by the appraiser using that report form. The problems arise when an appraiser signs an appraisal report certifying that certain work has been completed when in fact it has not.

1) Use of MLS photos in an appraisal report. Many of the Appraiser licensing and certification board appraiser applicants who have been denied submit experience with a large percentage of comparable sale photographs coming from the MLS. We believe this is a problem for an appraiser who signs a residential appraisal report that requires a physical inspection of the comparable sales being used. We reasoned that if an appraiser is inspecting the comparable sales why isn't the photograph taken at the time of inspection being used in the appraisal report. While we believe there may be legitimate reasons why an MLS photo might be used, we believe these reasons are the exception. The concern has been magnified when we have looked at experience logs where inspections have been made within a 200 mile radius within a few days. The result is that the board instructed the experience reviewers to deny appraisal experience where a high percentage of comparable sales photographs come from the MLS. The appraiser can appeal to the appraiser board and testify under oath that they have in fact inspected the comparable sales prior to the completion of the appraisal report in which the sales were used. A photograph of the comparable sale (taken at the time of the inspection) properties (if not used in the appraisal report) should be included in the appraisal file.

2) Sales History. USPAP has requirements to provide a sale and listing history for the subject property. In many of the appraisals that have been produced where inflated appraisals were used to make bad loans, the sales history was deficient. USPAP requires the level of verification should comply with the normal course of business with a description of what efforts were made to obtain the sales history information. The information is more easily obtained in some areas of the state than in others. The board has taken the position that if the county in which the subject is located provides public records on line, then the appraiser should report at least public information that is readily available on line which includes transfer dates and parties to the transaction. Further, if the transactions are reported in the MLS, that information must be reported as

part of the sales history as well. Some applicants have erroneously believed that a sales history is not required if the building improvements are proposed. Prior lot sales for the three years prior to the date of appraisal must be reported if in fact sales have taken place. If the lot was produced by a developer who is also the builder of the improvements, no prior sale of that lot may be available. Appraiser's who have had disciplinary action taken for sales history violations did not report information that was readily available to them. Note that USPAP does not require the appraiser to report a sales history for the comparable sales. However, appraiser's using the Fannie Mae form have an expanded scope of work that includes a one year sales history for the comparable sales used in the report.

3) Trainee's participation in appraisal process.

As a trainee is not a licensed appraiser, the trainee can not sign the appraisal report as an appraiser. However, the trainee must be recognized for the specific participation in the appraisal process. Failure to do so is a violation of USPAP and will result in work experience being denied to the trainee seeking experience credit. The State of Utah requires that a trainee be supervised during the initial inspection process (varies based on property type). Once the minimum points have been obtained by the trainee, the trainee may inspect a property without supervision. However, the appraisal report needs to clearly disclose who inspected the property. Appraiser's using the Fannie Mae report form will find that the appraiser who signs the report must have inspected the subject property as required by the specific form used and must inspect the comparable sales as well. Fannie Mae has defined the scope of work in such a way that regardless of what the trainee did in the preparation of the appraisal, the appraiser that signs the report must have completed the work defined in the report form. Several appraisers have had disciplinary action taken where the appraiser who signed the report did not inspect the subject property and/or the comparable sales as required by the scope of work outlined in the report form used. Regardless of the trainees participation in

the appraisal process, the appraiser who signs the report is fully responsible for the content and the opinion of value. Ultimately the supervising appraiser is responsible for the work completed by the trainee.

4) Geographic competency. USPAP requires that the appraiser must be competent to complete the appraisal assignment. We have encountered situations where appraisers are doing work in areas where the appraiser does not have access to local MLS data. The Fannie Mae report certification required the appraiser to have access to all data. Reliance upon sales data provided by others puts the appraiser at risk of not seeing the entire market picture and puts the appraiser at risk of not being geographically competent. We are aware of situations where



appraisers accept assignments in areas where they are not members of the MLS and are relying on the agent selling the property to provide the appraiser with all of the sales data. In many cases relevant sales and listing data is omitted that should have been considered by the appraiser thus resulting in USPAP violations.

There is increasing pressure on residential appraisers to do work faster for lower fees. Appraisers need to understand that your fees should be commensurate with the scope of work required determined by you for the appraisal assignment engaged by your client. Residential appraisers who choose to discount the appraisal fee are still required as to do all of the work set forth by the client based on the appraisal report form used. Short cuts taken by appraisers may result in violations of USPAP and expose the appraiser to potential disciplinary action. It is recommended that appraisers review and comply with the scope of work and certifications set forth in any form that they are using and signing. Many of the USPAP violations have been committed by appraisers that are not familiar with the scope of work and the certifications required by the FHA, VA, Fannie Mae and other clients who have specific appraisal requirements to which you have agreed to by using and signing their report from and certification.

FIVE PLEAD GUILTY IN PROVO MORTGAGE SCAM

In October of 2007, Governor Jon Huntsman and the U. S. Attorney for Utah, Brett Tolman, announced the formation the Utah Mortgage Fraud Task Force, (see the November 2007 Division of Real Estate Newsletter). The task force is the joint effort of Federal, State and Local Governments, who meet regularly to plan and implement a program for stemming mortgage fraud in our state.

Less than one year later, the first product of that task force has culminated in the guilty plea of five individuals. Bradley Grant Kitchen, David R Bolick, Steven Wells Cloward, Jeffery David Garrett and Ron K Clarke have all plead guilty to federal fraud charges. Each individual faces a maximum penalty of 20 years in federal prison and a fine of \$250,000. These individuals all played different parts in the fraud scheme. The sentencing for all five men is scheduled for December.

The mortgage scheme involved more than 20 homes in the exclusive Riverbottoms area of Provo. The scheme was centered around expensive single family homes that were artificially inflated for the purpose of inducing lenders to make loans in excess of the real value of the properties. While the homes involved in the actual fraudulent activities were small in number, the home values and money that changed hands was very significant. In addition, the assessed values of the homes in the surrounding areas were artificially inflated, resulting in higher taxes for the residents and overvalued properties for home buyers.

The morale to this story is that mortgage fraud hurts all of us. It tarnishes the image of our professions, it defrauds lenders, it artificially manipulates the market and it punishes hard working honest people. This entire scheme was concocted and implemented by a few unscrupulous individuals who have no respect or concern for our professions or for the rest of us.



"Everyone must take time to sit
and watch the leaves turn."

Elizabeth Lawrence

www.realestate.utah.gov

ON-LINE RELMS

Available Online Services:

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



Staff Spotlight

Amanda Orme Mortgage Education Coordinator



Amanda Orme has been with the Division for nearly five years. She started out in the licensing department and is now the mortgage education coordinator. In addition to her education duties Amanda

serves as the Division's resident technology expert by maintaining and coordinating the DRE website and the Division's computer functions. Amanda is the Division "go to" person for any computer need.

In some (most) cases it is "user error," which Amanda patiently endures. She has an uncanny ability to recall almost any phone number, date, certificate number, or any other number. She is remarkable!

Amanda reviews all pre-license and continuing education courses for mortgage schools and providers. Amanda has approved over 400 live continuing education courses and over 90 online continuing education courses. For those of you who remember the initial registration of mortgage officers, control persons, entities, and principal lending managers, Amanda played a very crucial role in those processes. Amanda spearheaded the many licensing changes then and she is once again ready to tackle the upcoming S.A.F.E. Act requirements that will once again be changing mortgage licensing. She can answer just about any question provided to the Division, whether licensing, education, or even many enforcement questions.

Amanda is married to her soon-to-be-in Law School husband, Nate. She has a beautiful little girl, Eleanor, whom she can't wait to see afterwork. She enjoys spending time with her mom and her siblings.

VAN'S CORNER

Q: Can a real estate team or group market themselves as a brokerage?

A: Not According to Administrative Rule R162-6-1 Improper Practices. R162-6.1.54 and R162-6.1.5.5 6.1.5.4. Advertising teams, groups, or other marketing entities which are not licensed as brokerages is prohibited if the advertising states "owner-agent" or "owner-broker" instead of the brokerage name.

6.1.5.5. Advertising teams, groups, or other marketing entities which are not licensed as brokerages is permissible in advertising which includes the brokerage name upon the following conditions:

(a) The brokerage must be identified in a clear and conspicuous manner. This requirement may be satisfied by identifying the brokerage in lettering which is at least one-half the size of the lettering which identifies the team, group, or other marketing entity; and

(b) The advertising shall clearly indicate that the team, group, or other marketing entity is not itself a brokerage and that all licensees involved in the entity are affiliated with the brokerage named in the advertising.

Van Kagie is an experienced investigator with the Division. Van receives many of the calls and questions from the public and our licensees. ❀

Amanda takes great pride in her relationship with her family. If you know Amanda personally or professionally you know she is one of kindest persons you will know. She is always willing and offering to help others. When you need something done right and done well, Amanda is often the Division staff person to call upon.



EXPERIENCE REVIEW REQUIREMENTS MODIFIED

In the November 2007 Utah Division of Real Estate News, an article explaining that since Certified General appraiser applicants were authorized to appraise all residential and non-residential transactions, The Appraisal Subcommittee (ASC) expected CG applicants to demonstrate USPAP competency for both residential and non-residential transactions. Accordingly, on 1/1/08, the Division began requiring CG applications to submit some residential experience on their experience log(s) to be reviewed and evaluated. Further the Division began selecting sample work from both residential as well as non-residential for work experience evaluation.

The ASC has slightly modified their requirement regarding a State's obligation to review an applicant's experience. The current position indicates that a state needs to review a "...representative sample of an appraiser applicant's work product". For example, if the experience log for an applicant for the Certified Residential or Certified General classification includes both residential and non-residential assignments, the State must review a sampling of non-residential/residential reports or assignments, in addition to the applicant's non-residential or residential work.

Therefore the determination by the Division to review both residential as well as nonresidential assignments will now be made based on the appraiser applicant's submitted work experience logs. If a combination of experience (both residential and nonresidential) is submitted by either a Certified Residential or Certified General appraiser candidate, the Division will request sample appraisals from the applicant that will include both categories of appraisal assignments.

This revision removes the previous requirement that CG applicants were required to have both residential and nonresidential work experience. We have heard from a number of CG applicants that expressed frustration that they had only performed nonresidential appraisals and were not pleased to be required to perform some residential appraisal work in order to apply for a CG license. Apparently, the ASC recognized this problem and revised their earlier more restrictive position. The Division is pleased with this more realistic requirement and desires that all Certified appraiser applicants understand the current experience review requirement. ❁

Ten Tips for Avoiding Mortgage Fraud

- DON'T provide false information about your employment, credit score, income, or whether you will occupy the home.
- DON'T use a false identity to get a loan for yourself or let someone use your identity (name, social security number or credit score) to get a loan for them.
- DON'T borrow more money in mortgage loans than you can afford to pay.
- DON'T sign blank or incomplete documents or documents you do not understand.
- DON'T expect to get "paid" for buying a home.
- DON'T conspire to sell your home at an artificially inflated value.
- DO be cautious about promises of "high rates of return" in real estate "investments".
- DO read and keep copies of all documents you sign.
- DO ask questions and make sure you understand everything you sign.
- DO work with professionals who are licensed in good standing with the State.





B R O K E R R E P C E T H I C S F B Y C
 S E T T L E M E N T S T A T E M E N T R
 Q I W L L B O A R D M E M B E R Z R U E
 E F A S T O H E C N A I L P M O C A S D
 L A R E N E G D E I F I T R E C H D P I
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ACTIVE
APPLICATION
APPRAISER
AUDIT
BOARD MEMBER
BROKER
CERTIFIED GENERAL
CERTIFIED RESIDENTIAL
CHANGE CARD
COMMISSIONER
COMPLAINTS
COMPLIANCE
CONTINUING EDUCATION

CORE
CREDIT REPORT
DIVISION
ETHICS
FANNIE MAE
FREDDIE MAC
HOME OWNERSHIP
INACTIVE
INSPECTION
INVESTIGATOR
LENDING MANAGER
MORTGAGE
PROBATION

PROFESSIONALISM
RADON
REAL ESTATE
RELMS
RENEWAL
REPC
REVOKED
SAFE
SETTLEMENT STATEMENT
STRAW BUYER
TITLE REPORT
USPAP

CONTINUING EDUCATION COURSE PREFIX DEFINITIONS

Is my class CORE or ELECTIVE?

Appraiser:

A222222 = Appraiser Continuing Education

Mortgage:

M222222 = Mortgage Elective Credit

MC222222 = Mortgage Core Credit

Real Estate:

R222222 = Real Estate Elective Credit

RC222222 = Real Estate Core Credit

RA222222 = Real Estate New Agent/
Core Credit

Disciplinary Sanctions Continued from page 17

YOUNGER, HEIDI, Sales Agent Applicant, Providence, UT. Application for sales agent license granted but placed on probation for the entire initial licensing term in an August 18, 2008 Order due to a past criminal conviction.

The following is a list of individuals whose real estate licenses were revoked for failure to accurately disclose their criminal background on their initial applications:

Name	Revocation Date
COLLINS, CHRISTINE	06/16/2008

COMMISSION & BOARD MEETING SCHEDULES

Appraiser Board Meeting
November 12, 2008
December 10, 2008
January 28, 2009

Mortgage Commission Meeting
November 5, 2008
December 3, 2008
January 7, 2009

Real Estate Commission Meeting
November 19, 2008
December 17, 2008
January 21, 2009

Utah! **DIVISION of REAL ESTATE**
NEWS

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Ronald M. Smith, Chair
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Ambria L. Spencer
Debra Sjoblom
Paul Throndsen

Earlier this year, the Insurance Department's Title and Escrow Commission expressed concern to the Division of Real Estate regarding a real estate licensee payment issue that title companies were beginning to see in some of their transactions. In response to a request by the Title and Escrow Commission, the Division issued the following letter addressing the issue:



Subject: Division of Real Estate Interpretation of UCA Section 61-2-10

Dear Title and Escrow Commission,

Recently the Division of Real Estate has been asked to render an administrative interpretation of Utah Code Section 61-2-10, Subsection (1), which states:

(1) It is unlawful for any associate broker or sales agent to accept valuable consideration for the performance of any of the acts specified in this chapter from any person except the principal broker with whom the associate broker or sales agent is affiliated and licensed. UCA 61-2-10 (1)

It is the Division's position that the statute prohibits an associate broker or sales agent from accepting a sales commission from anyone other than the principal broker.

Some have questioned whether principal broker instructions given to a title company, which then distributes a commission at the direction of the broker, would qualify as payment from a principal broker. The Division's interpretation is that principal broker instructions alone are insufficient control measures to comply with UCA 61-2-10 (1).

A possible statutory change to address this issue could be considered for the following reasons:

1. The Division has received no complaints against an associate broker or agent for violation of this statute.
2. The Division HAS received complaints against brokers who do NOT pay their agents.
3. The nature of brokerage administration has changed enough that the law may need to be updated.
4. The only concern the Division has received is from people in the title industry who do not want to violate the law or who do not want to expand their bookkeeping duties to include commission distribution.

In summary, there may be some rationale for changing the current statute regarding broker distribution of commissions. However, the reasons for such change do not come from any complaints regarding violations of this statute. Rather, some brokerages would like to be granted greater flexibility in the manner in which they elect to distribute commissions within their offices. Some brokers also believe the greater flexibility could serve to protect agents' commissions even more. The important issue for the Division and the Real Estate Commission is that the broker maintains direct responsibility to control and oversee the payment of commissions.

In discussing this issue with the Real Estate Commission, the Commission does not believe any change in statute is warranted at this time.

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