

Division of Real Estate

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First Quarter 2015

Director's Message

2015 Legislative Update

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Jonathan Stewart

The 2015 Legislative Session ended on March 12, 2015. The Division of Real Estate once again ran what we like to call a "clean-up bill" to address industry issues, federal laws that affect Utah licensees, and potential loopholes. Representative Gage Froerer sponsored our bill, H.B. 227, which passed unanimously in both the House and the Senate. We would like to thank Representative Froerer for the time he spent helping us with our bill. Thanks also

to the Utah Association of Realtors, Chris Kyler, and Mike Ostermiller for their support and for testifying in favor of our bill. H.B. 227 should become effective on May 11, 2015.

The following is a short summary of changes made in H.B. 227. For exact language, please refer to the bill text:

<http://le.utah.gov/~2015/bills/hbillint/HB0227S01.pdf>

Residential Mortgage Practices Act

- **61-2c-102 and 61-2c-204.1** – Clarified that the Division approves examination providers and approves continuing education.
- **61-2c-102** – Clarified that acting as a loan underwriter without being employed by a licensed entity requires a license.
- **61-2c-102** – Clarified referral fees to be consistent with RESPA.
- **61-2c-105** – Added an exemption for a Community Development Financial Institution.
- **61-2c-202** – Clarified for an entity when applying for

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How Can I Get My Probationary License Status Removed?

The Division of Real Estate has some licensees who have had a probation or conditional status placed on their license for conduct that occurred in their personal or professional lives. The placement of a conditional or probationary license status occurs for a number of reasons, but it is always accompanied by an Order or Stipulation that is signed either by the Division/Commission/Board (Order), or by both the Division/Commission/Board and the Licensee (Stipulation). When the terms of the order or stipulation are satisfied, the probationary or conditional license status can be removed. The Order or Stipulation will specify the length of time that the restriction has been placed on the license, and the means under which the restriction will or can be eliminated.

Sometimes the license status restriction that has been placed on a license is limited to the renewal term of the license or the restriction could be for a specific period of time, and if there are no further violations, the restricted status will be automatically dropped.

In other cases, the licensee needs to provide verification to the Division that the terms of the probation or conditional license have been met. In those instances, they should address a letter, referencing the order issuing the restricted licensing status to Renda Christensen, at P.O. Box 146711, Salt Lake City, Utah 84114, or by email at rendachristensen@utah.gov and outline the steps they have taken to complete the terms of the probation, whether it was by paying all required fines, meeting terms of a criminal probation, making restitution, taking courses, or paying off judgments or liens. These terms should be documented adequately in the letter requesting that the probationary status be removed. The request must be in writing.

In some cases, a hearing is required before the status can be changed. In these instances, the hearing request should be in writing and directed to Ms. Christensen as indicated in the previous paragraph, and a hearing date will be scheduled. Please allow up to two months for the hearing to take place. When you appear for the hearing, be prepared to show how the terms of the probation have been met and all items satisfied as outlined in the Order.




A Question About Earnest Money

A couple of months ago, a Division employee was asked the following question by a principal broker whose brokerage represented a builder:

Can the parties to a new construction contract agree to allow the seller/builder to hold the earnest money?


This question does not seem to be answered by our rules specifically at this time, but had been in the past. Before the statutes and rules were renumbered a few years ago, there was a specific rule that stated that all monies received by a licensee in a real estate transaction were required to be delivered to the principal broker and deposited into the broker's trust account within three banking days. Furthermore, the rule stated this did not apply if the REPC "or other agreement states that the earnest money or other funds are to be made out and paid to the seller, or to the person or company named as the escrow closing agent."

The section of our rules where most of these requirements can be found now, R162-2f 401c(i)(i)-(iii), does not include the specific statement referenced from the older rule above. Regardless, the Division believes the parties to a contract can agree to terms in that contract, so the Division would not oppose the parties agreeing to terms in which the seller may hold the earnest money or other funds as was specifically allowed by the prior rule. 

Appraiser Applicants for any Designation Now Require Fingerprinting

For several years, Appraiser Trainees have been required to be fingerprinted when they registered to become a Trainee in the State of Utah. Until recently, the fingerprinting requirement was limited to initial Trainee registrations. Historically, appraisers seeking a licensing upgrade were not fingerprinted.

Recently that requirement has been expanded to include not only Trainees, but all appraiser candidate submissions including: Trainees, Licensed, Certified Residential, Certified General, and Reciprocal applications.

This requirement now places Utah in compliance with Appraisal Subcommittee guidelines that although were recently delayed, are required to be implemented by January, 2017 

CARAVAN 2015



On February 27th, all Utah Division of Real Estate licensees were sent an email invitation, for the upcoming 2015 Spring CARAVAN. 3-hour presentations will be provided at nine different locations throughout the state. Recipients of the announcement email were requested to view available information located on the Division website and for interested parties to register.

As of the publication of this newsletter five locations: Vernal, Provo, Layton, Park City, and St. George locations are filled, and we are no longer taking reservations. In the remaining four sites: Logan, Moab, Richfield, and Cedar City, there is still limited seating available. For additional information, or to register, please go to the Division website at : <http://realestate.utah.gov/caravan.html>.

Please keep in mind that the Division's annual Spring CARAVAN was originally created, and is currently designed, to reach out and provide services to real estate, mortgage, and appraiser licensees in the underserved areas throughout the state.

NOTE:

If you have reserved seating at this year's CARAVAN and you learn that you have an attendance conflict, please contact the Division Real Estate Education Coordinator, Jennica Gruver at (801) 530-6751 to cancel your reservation so that other interested parties can attend.

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licensure, what information needs to be provided to the Division and to the Nationwide Mortgage Licensing System.

- **61-2c-206** – Clarified that the loan originator licensing exam includes the national and state portion.
- **61-2c-206** – Added a provision that would allow a Principal Lending Manager to simultaneously oversee both a non-originating entity location and an originating branch office.
- **61-2c-301** - Removed the licensing requirement to order or hold a title insurance policy.
- **61-2c-301** - Clarified when an appraisal has to be provided to an applicant.

Appraisal Management Company Registration and Regulation Act

- **61-2e-204** – Clarified that if an Appraisal Management Company's surety bond lapses and the company fails to renew it within 30 days, their registration will be immediately suspended until the surety bond is reinstated.
- **61-2e-303** – Required Appraisal Management Companies to retain for a period of five years information related to appraisals they review in relation to 61-2e-302.

Real Estate Licensing and Practices Act

- **61-2f-202** – Clarified that a salaried employee of a property management company or real estate brokerage is exempt from licensing if they perform support services as outlined by administrative rule.
- **61-2f-202** – Clarified the licensing exemption for an owner of real estate.
- **61-2f-303** – Clarified the independent contractor relationship of a sales agent or associate broker with their principal broker.
- **61-2f-401** – Clarified that a principal broker may not pay a sales agent a commission unless the sales agent was affiliated with the broker at the time they earned the commission.
- **61-2f-401** – Clarified that a sales agent or associate broker may not place a lien on real property for unpaid commissions and a principal broker may only place a lien if done according to Utah law.

Kagie's Korner

Why is sub-agency important, and what is required?

Sub-agency is an issue that the Division continues to address with our licensees. Here are two common examples:

Situation #1

Listing agent Ms. Jones has a listing agreement with Mr. and Mrs. Hopeful to list their property at 123 Main in Rural, UT. Ms. Jones is one of three licensees at Farwest Realty. All is going great with the listing, which has had a number of showings over the past month. The other two licensees with Farwest Realty just left town on vacation for two weeks, leaving Ms. Jones as the only representative for Farwest Realty in town.

Later that night, Ms. Jones receives a call informing her that her father has just passed away unexpectedly. Ms. Jones needs to leave town right away and calls her good friend, Marely Helper, an agent with New Realty, another brokerage in town. Ms. Jones asks Ms. Helper if she can show the Hopeful's property to a prospective buyer that Ms. Jones is expecting, and to present any offer to the Hopefuls that the prospective buyer may make on the property. Ms. Helper agrees to help Ms. Jones. Ms. Helper assists the prospective buyer with access to the Hopeful's home, and later that day meets with Mr. and Mrs. Hopeful to present an offer submitted by the prospective buyer.

Situation #2

Agent James Smith with ABC Realty has a listing on a short sale. Mr. Smith has a lot of listings at this time, so he does not know if he can handle all of the negotiations with the short sale lender. In addition, he knows other agents in the area who specialize in short sale negotiations and knows they have good reputations for working well with short sale lenders. Mr. Smith reaches out to Mr. Negotiate, who is affiliated with XYZ Realty, to negotiate Mr. Smith's short sales.

What do these situations have in common? These situations require a written sub-agency agreement between the listing brokerages (Ms. Jones' and Mr. Smith's brokerages) and the non-listing brokerages where the other agents are affiliated (Ms. Helper's and Mr. Negotiate's brokerages), in order for the agents to assist one another.

Why is sub-agency required? According to the statute 61-2f-401(3)(b), an agent or associate broker cannot "[represent] or [attempt] to represent a principal broker other than the principal broker with whom the person is affiliated." Since the listing brokerage has agency with the sellers, and usually exclusive rights to represent the client, sub-agency is needed. The non-listing brokerage cannot enter into an agreement directly with the seller, as that may expose the non-listing brokerage to violations of

R162-2f-401b(11) which prohibits licensees from entering or attempting to enter into concurrent agency agreements.

What is required when sub-agency is going to occur? According to the pertinent portions of R162-2f-401a (12), the non-listing licensee needs to enter into a written agreement with the listing brokerage. The agreement should cover these critical areas of importance:

- Verify – before creating a sub-agency agreement verify that the sub-agent broker/agent is currently actively licensed in Utah;
- Consent – confirm mutual consent to the sub-agency;
- Scope – clearly define the scope of the agency;
- Information – obtain from the listing broker all available information about the property; and
- Fiduciary duty – the non-listing broker/agent is under the same obligation of fiduciary duty to the seller as is the listing broker/agent.

Without a written sub-agency agreement, licensees may fail to look out for their client's best interests. They may create a situation where other agents violate a number of different statutes and rules.

Division of Real Estate

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If you have any questions regarding sub-agency, we recommend that you talk with your principal broker for guidance.

Attention to all agents who do short sales:

As a side note to this article, we see variations of situation #2 above where the negotiator used for the short sale is not licensed. Any negotiator for a short sale must be licensed, especially if you are going to pay them. A licensee who pays an

unlicensed person to negotiate a short sale can be in violation of our statutes and rules. ∞



Toni Heldman Retiring

Toni has been with the State of Utah since 1993 and as the Real Estate Licensing Specialist since 1998. Her retirement party is:

April 9, 12:00 - 3:00 pm
Room 210
Heber Wells Building

Congratulations Toni!

Kendelle Christiansen joins the Division



The Division of Real Estate would like to welcome Kendelle Christiansen as our new Appraisal Licensing and Education Specialist. Kendelle has been working in real estate office administration for the past seven years.

She learned a lot about the industry in that time and enjoyed working with the real estate professionals with whom she came in contact. She has definitely brought her expertise with her to the Division as she has learned her job duties very quickly and is exceptionally Organized.

Kendelle helps our appraisal licensees and AMCs with initial application and renewal questions along with regulating appraisal education and many other job duties. Kendelle is very organized and meticulous and is proving to be a perfect match to work with the appraisal industry.

Outside of work, Kendelle enjoys spending time with her family out in the beautiful Utah outdoors; she especially enjoys her annual visit to Flaming Gorge. While there, she enjoys floating the river, fishing, 4-wheeling, and hunting.

When Kendelle isn't camping with her family, you will find her watching one of her 15 nieces or nephews at one of their football, basketball, soccer, softball, or volleyball games. Along with her nieces and nephews, Kendelle is also quite the athlete who enjoys playing volleyball with her husband and friends in all-night tournaments and city leagues up to four times per week.

Welcome Kendelle!



Year End Mortgage License Renewal Fingerprint & Credit Reporting Required

Utah Mortgage licensees, who transitioned onto the NMLS system back in 2010, were required to be (re)fingerprinted, and to authorize the issuance of a credit report. Subsequently, the Division reviewed and in some instances took licensing actions restricting licensees based upon the results of the fingerprint and credit reports.

Since 2010, some states have required annual fingerprint and credit reporting when determining the competency of renewing mortgage licensees. Other states, including Utah, have taken a less assertive approach to requiring mortgage licensees to submit to recurring fingerprinting and credit reporting.

On November 20, 2013, the Utah Residential Mortgage Commission & the Utah Division of Real Estate approved amendments to Administrative Rule R162-2c-204 to require the reauthorization of fingerprints and credit reporting as indicated below:

For the renewal period beginning November 1, 2015, licensees filing to renew a license are required to submit a fingerprint background report and a credit report. The rule amendment also requires all renewing licensees to submit a fingerprint background

report and a credit report every fifth year after 2015.

The fourth quarter 2013 Division Newsletter, announced this previously referenced Administrative Rule Amendment.

This article is intended to further inform and notify all Utah mortgage licensees that when they submit a license renewal this fall (11/1/15 - 12/31/15), they will be required to re-authorize fingerprint and credit reporting. The NMLS has advised the Division that some fingerprint records “expire”, which will necessitate that licensees with “expired” fingerprint records, be obligated to submit new fingerprint cards. To know if your fingerprint records have “expired”, licensees should review their individual records in the NMLS.

In addition, anyone receiving an initial or new Utah mortgage license (Mortgage Loan Originator or Lending Manager) between the dates 1/1/15 - 10/31/15, will be required to re-authorize fingerprint and credit reporting in conjunction with their 2016 license renewal (11/1/15 - 12/31/15).

The Division will review and evaluate the results of the fingerprinting and credit reporting to determine what if any further licensing action(s) may be prompted as a result of these recent reporting requirements.



Utah! Division of Real Estate

NEWS

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2015 Published by

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Legal Name Requirement in NMLS

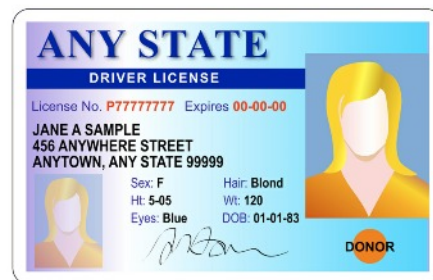
From time to time we have licensees ask about the name requirement in NMLS. Some wish to use a nickname or go by a former last name. It is important when you set up an account in NMLS that you use your full legal name as shown on your driver's license or other legal documentation. When you are obtaining your license, you have to schedule your exams through NMLS. When you show up at the testing center, confirmation of your legal name is required through a legal document such as a driver's license and it must match your name in NMLS.

The Division requires that you use your complete legal name on your NMLS account. Over time, licensees are allowed to update or change their name in NMLS to reflect the name they wish to show on their license. A licensee may want to update or change their name because of how clients are familiar with addressing them or due to a change in marriage status. If you choose to go by a shortened version of your name, a nickname, or any other name, you must list the name in the Other Names section on the MU4 form. This allows consumers to search for you under any of the iterations of your name.

If you propose to change your name in NMLS, we will ask for legal documentation to back up the change. We suggest that you review how your name is listed in NMLS and

confirm that you have supplied your full legal name.

As a sub note to this, sometimes licensees ask if their full legal name must appear on their business card or on an advertising or promotional piece. As long as you have listed your full legal name in your NMLS account and have added additional names in the Other Names section, we are not overly concerned about your use of other names on your business card or on advertising. We do want to avoid confusion to the consumer and we want the consumer to be able to confirm your licensing status, so please keep this in mind whenever you put your name on any industry related document or account. The savvy consumer will verify that their loan originator is licensed and in good standing. You will want to make verification easier for them.



Support Your Adjustments

While writing a report for one of my college classes, I wanted to use the quote "whoever has the gold makes the rules." As in any college report, proper citation and credit for sources used must be given. In looking for the origins of this quote, I came across the website "quote Investigator" which has researched this quote and states "this comic strip contained the earliest evidence". The comic strip referenced is from the "Wizard of Id" which was written and illustrated through a team effort and published in 1965. In this comic the question is asked; "What is the golden rule?" The answer in the comic was "Whoever has the gold makes the rules." Due to possible copy right issues the actual comic was not included here.

As appraisers we have often felt the real effects of this definition of the "Golden Rule". Many of the rules, standards and requirements which govern appraisers have been created by non-appraisers who had the power or "gold" to enact appraisal rules. Quote investigator could only trace this version of the "golden rule" back 50 years, but the reality of the rule has always been around.

Each week I receive a number of emails containing articles related to appraising and emails with advertisements to attend webinars or continuing education classes for appraisers.

Over the past year, the topic of **supporting your adjustments** has been in the spotlight. I would also like to discuss this topic, just as many others have done over the past year. It should not come as a surprise that an appraiser is required to support any adjustments.

You can google States' disciplinary actions against appraisers and find among violations noted: "lack of support for adjustments." The first item noted on my google search shows 2010 actions in Florida and had "lack of support for adjustments" as a violation on 28 appraisers. The next search result is from California showing actions from the fall of 2005 and includes this as a violation against one of the appraisers disciplined that quarter. There are many other actions I could continue to note, but I think you get the point.

These actions show that having support for your adjustments is not a new requirement, even though it has come to the forefront once again.

Let us first explore the requirements currently in place that necessitate an appraiser to support the adjustments.

Record Keeping Rule

all other data, information, and documentation **necessary to support the appraiser's opinions and conclusions** and to show compliance with USPAP, or references to the location(s) of such other documentation; and

Standard Rule 1-3 comment under section (a)

- Comment: An appraiser must avoid making an **unsupported** assumption or premise about market area trends, effective age, and remaining life.

Standard Rule 2-2 (a) (viii)

- summarize the information analyzed, the appraisal methods and techniques employed, and **the reasoning**

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that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

- **Comment:** The appraiser **must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions**, including reconciliation of the data and approaches, in accordance with Standards Rule 1-6.

An adjustment is an opinion and/or conclusion, and as noted above from these USPAP references, it needs to have support and be reported in such a way that the "client and intended users understand your rationale".

Hopefully each of you have also been receiving and reading some of the articles written on this topic. Often, we as investigators are at loss as to how an appraiser came up with an adjustment. This is one of the reasons a workfile is requested when a notice of complaint is given to the appraiser.

When asking an appraiser how they determined an adjustment, often the answer given is: "From my experience."

While I am not here to discount your experience and expertise, I would ask the question: How do you include your experience and expertise in a report in such a way that the "**reasoning supports the analyses, opinions and conclusions**" and "**enables the client and intended users to understand the rationale for the opinions and conclusions?**"

Each appraiser must answer this question in their own way.

I would also remind you that an intended user or client who has seen few appraisal reports may have different needs in order to understand your reasoning and rationale than one who has seen numerous reports.



Rule Developments Since January 1,

To view and comment on any proposed or amended rules, please visit the Utah State Bulletin at <http://www.rules.utah.gov/publicat/bulletin.htm>

Appraisal Management

Rule 162-2e-401. A proposal to amend this rule was filed November 21, 2014. The amendment provides that failure by an AMC to pay an appraiser within 45 days of completion of an appraisal assignment is unprofessional behavior by the AMC, subjecting the AMC to disciplinary action. The rule amendment became effective January 28, 2015.

Appraisal

Rules 162-2g-102, 304a, 304b, 304c, 304d, 502b, and appendices 1-3. These administrative rules were amended to update the education, experience, and supervisory/trainee rules. In addition, the rule amendment specifies prohibited conduct by continuing education providers. The rule amendments became effective January 1, 2015.

Mortgage

Rule 162-2c-201. A proposal to amend this rule was filed December 4, 2014. The amendment provides a third option by which an applicant for a lending manager's license may demonstrate the required industry experience. In addition, the amendment allows an applicant for lending manager license to request approval from the Division to take the precicensing education prior to verifying the applicant's experience if verifying the experience could affect the applicant's current employment status. If the applicant is approved for the precicensing education prior to documenting the necessary experience, the applicant assumes the risk of time and expense of precicensing education, testing, and application fee with no assurance that applicant's experience will qualify the applicant for licensure as a lending manager. The rule amendment became effective February 10, 2015.

Real Estate

Rule 162-2f-206. A proposal to amend this rule was filed November 21, 2014. The amendment adds the topic of "water law, rights and transfer" to the list of continuing education core topics. The rule amendment became effective January 21, 2015.

Rule 162-2f-401a. A proposal to amend this rule was filed March 3, 2015. The proposed amendment would require a licensee to obtain written permission from both buyer and seller before selling the final price in a real property transaction. A licensee would be able to release, but not sell, the final sales price when allowed to do so by contract with either buyer or seller. The public may comment on the proposed rule until May 1, 2015, by contacting Justin Barney, the Division records manager, at justinbarney@utah.gov.



Mandatory Denials of an Application for Mortgage Loan Originator

The Division of Real Estate receives applications for licensure or registration in the mortgage, real estate, and appraisal industries. Each application is carefully reviewed to confirm that the applicant meets the requirements necessary for registration or licensure. Each industry has specific requirements, but generally requires that applicants demonstrate good moral character, honesty, integrity, and truthfulness. The requirements in the mortgage industry are somewhat stricter than those in other industries, but each industry precludes from licensure applicants with certain specified criminal acts.

When an applicant is precluded from licensure, the application will be denied. In these circumstances there is no discretion, the denial of the application is mandatory. For applicants with less serious criminal history, or criminal history that occurred years ago, an application may be granted or may be denied, depending on the seriousness of the criminal history and the amount of time that has transpired since the conduct occurred.

The mortgage licensing rules require the denial of an application under certain circumstances. Administrative Rule R162-2c-202(1) precludes the Division from granting a license to an applicant who has been convicted of, pled guilty to, pled no contest to, or resolved by diversion or its equivalent, any of the following crimes:

1. a felony involving an act of fraud, dishonesty, a breach of trust, or money laundering

(Ever);

2. any other felony in the past seven years;
3. a misdemeanor involving moral turpitude in the past five years; or
4. a misdemeanor involving a finding of fraud, misrepresentation, theft, or dishonesty in the past three years.

In addition, the rule requires the denial of an application in the following circumstances:

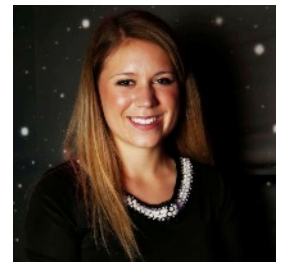
1. a mortgage loan originator's license has been revoked by a government regulatory body unless the revocation was subsequently vacated or converted;
2. the applicant's professional license or registration (in Utah or in another jurisdiction) was suspended, surrendered, cancelled, or denied in the last five years if the regulatory action was based on misconduct in a professional capacity that relates to moral character, honesty, integrity, truthfulness, or the competency to transact the business of residential mortgage loans; or
3. in the past five years, the applicant has been barred by the Securities and Exchange Commission, the New York Stock Exchange, or the Financial Industry Regulatory Authority (FINRA), or if a permanent injunction was entered against the applicant by a court or administrative

agency on the basis of conduct or a practice involving the business of residential mortgage loans or conduct involving fraud, misrepresentation, or deceit.

Anyone desiring to obtain a license in Utah in the mortgage, real estate, or appraisal industries must demonstrate the good moral character, honesty, integrity, and truthfulness that are required by law and administrative rule. Certain conduct precludes the Division from granting a license. In those circumstances the denial of an application is mandatory.

Good-bye Mykah

While only being with the Division a relatively short period of time, Mykah Travis performed her assignments as Real Estate Education Coordinator in a flawless fashion. She coordinated CARAVAN and Instructor Development Workshop scheduling, accommodations, and details down to the smallest scintilla. Mykah also approved prelicensing and continuing education courses, instructors, as well as evaluated education waivers from licensing applicants around the country. The Division wishes Mykah well in her future endeavors and sincerely thanks her for a job well done!



Mortgage Loan Originators Closing out Pipelines

The Division regularly receives questions about how to properly close out mortgage pipelines.

Here are some of the scenarios we frequently receive on this topic.

What happens if a loan originator leaves a mortgage company with loans still in his or her pipeline?

The lending manager (PLM or BLM) or another licensed loan originator should be assigned to the remaining pipeline by the PLM or BLM. As each loan closes, the assigned originator should sign the final loan application (1003) and will be responsible for the loan package. The exiting loan originator must cease all communications with the borrowers as of the date his/her employment and sponsorship ends. The PLM/BLM or newly assigned originator must contact the borrowers to inform them that he/she is taking over the departed loan originator's pipeline; however, the exited originator may still receive commissions for the loans that he/she originated while employed with the

mortgage company. When earned, commissions or partial commissions may be paid to the exited loan originator for applications he or she took up to and including the date of termination. Such commissions may be paid after the loan originator's employment ends in accordance with the mortgage loan company's standard payroll and mortgage loan originator compensation policies and procedures. If not explicitly set forth in an employment contract, the fair commission percentage for the loans not yet funded as of the termination date should be determined by the PLM and/or other company management on a loan-by-loan basis, if necessary. The same would apply to the commission percentage owed to the originator who took over the loans that eventually funded.

What if the loan originator's license expires or is suspended or revoked?

The previous answer still applies. A formerly licensed loan originator who was sponsored by your entity while licensed may still be paid commissions legitimately earned while

licensed with the state and sponsored by the mortgage entity, even after he or she is no longer licensed. Once again, the former licensee/employee must cease all communications with the borrowers as of the date his/her license expires or is suspended or revoked, and the PLM/BLM or newly assigned originator must contact the borrowers to inform them he/she is taking over the departed loan originator's pipeline.

What if a branch closes?

The loans must be transferred to corporate or another branch on or before the date the closing branch ceases operations and licensing. If the loan originator of a given loan is no longer employed or sponsored by the entity as of when the branch closes, the previous answers would apply, but if the originator simply moves to a different branch and remains sponsored by the entity, then he or she could remain as the loan originator as long as the entity and the new branch are still licensed in the State of Utah.

What if a mortgage company goes out of business?

If a mortgage company goes out of business it can create serious problems for borrowers who still have their loans in process. It is critical that a closing mortgage entity have a plan in place for winding down operations. Without a principal lending manager sponsored by the entity, any loans still in the pipeline will

Pipeline Report by Loan Status					
Loan Number	Borrower Name	Loan Program	Lockin Date	Lock Exp. Date	Appl. Date
LoanOpen					
3000998888	Hatfield, Warren	15 Yr FHA Fix	09/01/2006	09/23/2006	09/14/2006
Group Total		1			

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not be able to close and fund, which means it is essential for the PLM to be with (and sponsored by) the company until the very last day. If the loan originator leaves before the last day and still has unfunded loans in his/her pipeline, the loan can still close and the loan officer be paid (see the answer to the first question above). Unfortunately, if the PLM leaves and there is no other LM to take his/her place as the entity PLM, the entity must cease operations immediately, and each borrower must be notified because he/she will have to start his/her loan application process over with another licensed mortgage company. ∞



Division Question and Answer

Do you have a question you have been wanting to ask an investigator or licensing specialist but have not had the time to call? Do you have questions about your license? We want to hear about your ideas and suggestions. All questions and suggestions will be anonymous. Selected questions will be answered in the next newsletter.

Submit questions to: DREnewsletter@utah.gov

First Quarter Licensing and Disciplinary Actions

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

To view entire stipulations and/or orders search here:
<http://realestate.utah.gov/actions/index.html>

APPRAISAL

FROST, JOEL J., Certified Residential Appraiser, Sandy, Utah. In a stipulated order dated December 19, 2014, Mr. Frost admitted that he allowed another certified residential appraiser to inspect and measure a property. Mr. Frost then signed the certification page of the appraisal report indicating that he had inspected the property when he had not done so. Mr. Frost agreed to pay a civil penalty of \$2,000. Case number AP-11-57600

SKAGGS, JERRY A., Certified Residential Appraiser, Avon, Utah. In a stipulated order dated January 28, 2015, Mr. Skaggs acknowledged that allegations by the Division if proven would constitute violations of statutory and regulatory provision. Mr. Skaggs agreed to surrender his license in lieu of the filing of a complaint and the holding of a hearing. Case numbers AP-11-57692, AP-11-57693, and AP-11-57694

MORTGAGE

BENNETT, MICHAEL GARY, mortgage loan originator, Farmington, Utah. In a February 26, 2015 order, Mr. Bennett's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number MG-15-75352

BREWER, JOSHUA DERRICK, mortgage loan originator, Detroit, Michigan. In a January 16, 2015, order, Mr. Brewer's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number MG-15-74682

CASHCALL, INC., mortgage entity, Orange, California. In an order dated December 11, 2014, Cash-Call's application for renewal of its mortgage entity license was denied because of regulatory action taken by several other states revoking, denying, or restricting its licenses in these various states. Case number MG-14-74119

HARRIS, JAMES MARK, mortgage loan originator, Mesa, Arizona. In a December 11, 2014, order, Mr. Harris's license was granted and placed on probation for the initial licensing period due to his criminal

history and outstanding civil judgments. Case number MG-14-74095

JOHNSON, JONATHAN LYLE, mortgage loan originator, South Jordan, Utah. In a December 8, 2014, order, Mr. Johnson's license was granted and placed on probation for one year due to tax liens and a recent bankruptcy and foreclosure. Case number MG-14-74003

MIRANDA, LARRY HENRY, mortgage loan originator, Tiverton Rhode Island. In a December 18, 2014, order, Mr. Miranda's license was renewed and placed on probation during the pendency of criminal charges against him and until the charges are resolved. Case number MG-14-74247

RASMUSSEN, ARRON D., associate lending manager, Lehi, Utah. In a February 18, 2015, order, Mr. Rasmussen's application to renew his license was denied due to his criminal history. Case number MG-15-75106

YOUNG, ANTHONY KALEOLANI, mortgage loan originator, Laguna Beach, California. In a February 26, 2015 order, Mr. Young's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number MG-15-75372

REAL ESTATE

ADAMSON, CASSIE, sales agent, Kaysville, Utah. In a December 22, 2014, order, Ms. Adamson's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-14-74266

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ARCHER, ZACH W., sales agent, Salt Lake City, Utah. In a stipulated order dated January 21, 2015, Mr. Archer admitted that he made a substantial misrepresentation to and breached a fiduciary duty to his clients with regard to a transaction involving water shares. Mr. Archer agreed to pay a civil penalty of \$500. Case number RE-12-59565

BALNKESHIP, CHRISTOPHER S., associate broker, Kamas, Utah. In a stipulated order dated December 17, 2014, Mr. Archer admitted that he violated advertising rules by failing to include his brokerage information in internet advertising on social media and an online webpage. Mr. Blankenship agreed to pay a civil penalty of \$150 for the violation. Case number RE-14-70698

BOWEN, WENDELL ALAN, sales agent, Ogden, Utah. In a December 22, 2014, order, Mr. Bowen's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-74278

CHAMBERS, BRETT STEVEN, sales agent, Lehi, Utah. In a February 20, 2015, order, Mr. Chambers's application was granted and placed on probation during the pendency of criminal charges against him and until the charges are resolved. Case number RE-15-75251

CAPSON, BLAKE R., sales agent, Bountiful, Utah. In a stipulated order dated December 17, 2014, Mr. Capson admitted receiving compensation for property

management services directly from a client rather than from his broker in violation of Utah law and administrative rules. Mr. Capson agreed to pay a civil penalty of \$500. Case number RE-10-52684

CHRISTENSEN, CARI F., associate broker, Salt Lake City, Utah. In a February 5, 2015, order, Ms. Christensen's license was renewed and placed on probation for one year due to her criminal history. Case number RE-15-74868

CRAGUN, MICHAEL N., principal broker, Mountain Green, Utah. In a stipulated order dated September 17, 2014, Mr. Cragun admitted to having paid a commission to an agent who was not affiliated with him at the time. Although the agent had attempted to affiliate with Mr. Cragun, he had not completed the process correctly. Mr. Cragun agreed to pay a civil penalty of \$2,000 and to take additional continuing education. RE-13-63994

CURNOW, BRIAN C., sales agent, Centerville, Utah. In a January 9, 2015, order, Mr. Curnow's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-15-74555

DAVIS, TRAKELL, sales agent, Provo, Utah. In a February 24, 2015, order, Ms. Davis's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-15-75300

DELLA CORTE, GIOVANNI CHRISTIAN, sales agent, Sandy, Utah. In a December 12, 2014, order, Mr. Della Corte's license was granted and placed on probation for the initial licensing period due to his criminal

EARL, JEFFREY G., sales agent, London, Utah. In a stipulated order dated September 17, 2014, Mr. Earl admitted that he deposited an earnest money check with the title company when the REPC stated that the earnest money would be deposited in the brokerage trust account. Mr. Earl agreed to pay a civil penalty of \$500 and to complete additional continuing education. Case number RE-13-63727

HANNIG, KIMBERLEE, sales agent, St. George, Utah. In a February 2, 2015, order, Ms. Hannig's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-15-74891

HARDIN, TAMRA, sales agent, Cedar City, Utah. In a February 26, 2015, order, Ms. Hardin's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-15-75370

HUNT, JONATHAN FENTON, sales agent, Bountiful, Utah. In a stipulated order dated December 17, 2014, Mr. Hunt admitted to having failed to disclose criminal history in his application for licensure as a sales agent. Mr. Hunt agreed to pay a civil penalty of \$500 and to have his license placed on probation for the initial licensing period. Case number RE-14-73902

IRWIN, DAVID S., principal broker, Sandy, Utah. In a February 24, 2015, order, Mr. Irwin's license was renewed and remains on probation during the pendency of criminal proceedings against him and until the charges are resolved. Case number RE-15-75306

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Division of Real Estate

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LEAVITT, TRENT W., principal broker, St. George, Utah. In a stipulated order dated February 18, 2015, Mr. Leavitt agreed to repay the remaining deficit in his trust account in the amount of \$174,271.75. Mr. Leavitt notified the Division of his own volition of the deficit which resulted from an employee of the brokerage embezzling funds from the trust account. Mr. Leavitt had previously repaid a significant sum to the trust account from his personal funds to reduce the deficit and agreed in the stipulated order to make monthly payments to complete the repayment to the trust account. In addition, Mr. Leavitt agreed to the appointment of a receiver or conservator and to complete an audit of the books and records of the brokerage. Case number RE-12-59152

LEE, JEFF T., principal broker, Pleasant View, Utah. In a February 13, 2015, order, Mr. Lee's license was renewed and placed on probation for the renewal period due to his criminal history. Case number RE-15-75122

LOWRY, KARLI, sales agent, Salt Lake City, Utah. In a January 6, 2015, order, Ms. Lowry's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-15-74468

JOHNSON, JEDIDIAH, sales agent, Salt Lake City, Utah. In a December 9, 2015, Order, Mr. Johnson's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-14-74001

MALCOLM, TODD, sales agent, Sandy, Utah. In a stipulated order dated December 17, 2014, Mr. Malcolm admitted to failing to include his brokerage name in online advertising in violation of Utah law. Mr. Malcolm agreed to pay a civil penalty of \$250. Case number RE-14-70699

MILLER, BRANDON, sales agent, Sandy, Utah. In a January 23, 2015, order, Mr. Miller's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-15-74747

NORTH, CRAIG, sales agent, Ogden, Utah. In a stipulated order dated August 20, 2014, Mr. North admitted that his unlicensed assistant placed an online advertisement that contained misrepresentations in violation of Utah law. Mr. North agreed to pay a civil penalty of \$500 and complete additional continuing education. Case number RE-13-64934

PARKER, DOUGLAS L., sales agent, Bluffdale, Utah. In a January 16, 2015, order, Mr. Parker's license was granted and immediately suspended for 30 days for failing to disclose criminal history in his application for licensure. Case number RE-15-74660

PARRA, SABRINA, sales agent, Draper, Utah. In a December 12, 2014, order, Ms. Parra's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-14-74144

PERRY, KEVIN, sales agent, Orem, Utah. In a January 13, 2015, order, Mr. Perry's license was granted and placed on probation for the initial

licensing period due to his criminal history. Case number RE-15-74585

PIPES, WILLIAM, sales agent, Sandy, Utah. In a stipulated order dated December 17, 2014, Mr. Pipes admitted to advertising violations in his online advertising. Mr. Pipes agreed to pay a civil penalty of \$150. Case number RE-14-70592

ROSS, GREGORY, Sales Agent, Salt Lake City, Utah. In a stipulated order dated August 20, 2014, Mr. Ross admitted to continuing to represent clients and receive a commission after his license expired in violation of Utah law. Mr. Ross agreed to pay a civil penalty of \$2,500 and complete additional continuing education. Case number RE-13-66061

SALAZAR, STEVEN, sales agent, Eagle Mountain, Utah. In a stipulated order dated February 18, 2015, Mr. Salazar admitted to having failed to disclose criminal history in his application for licensure as a sales agent. Mr. Salazar agreed to pay a civil penalty of \$1,000 and to have his license placed on probation for the initial licensing period. Case number RE-14-73854

SCHROCK, CODY L., sales agent, Ogden, Utah. In a February 24, 2015, order, Mr. Schrock's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-15-75304

SCHULTZ, TERRIE, sales agent, West Valley City, Utah. In a stipulated order dated December 17, 2014, Ms. Schultz admitted to having failed to disclose criminal history in

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her application for licensure as a sales agent. Ms. Schultz agreed to pay a civil penalty of \$1,500 and to have her license placed on probation for the initial licensing period. Case number RE-14-74135

SMITH, EMMERSON A., associate broker, Salt Lake City, Utah. In a February 5, 2015, order, Mr. Smith's license was renewed and placed on probation for the renewal period due to criminal history. Case number RE-15-74968

SNEYD, MATTHEW G., sales agent, Midvale, Utah. In a stipulated order dated January 29, 2015, Mr. Sneyd admitted that his actions and practices as a sales agent were in violation of Utah law including making a substantial misrepresentation to his principal in a real estate transaction, breaching a fiduciary duty, and dishonest dealing. Mr. Sneyd agreed to have his sales agent license suspended for 12 months, his continuing education instructor license revoked, disgorging commissions of \$39,866, paying a civil penalty of \$10,000, completing additional continuing education, never again acting as a licensed agent on behalf of any seller in a short sale transaction, and other restrictions. Case numbers RE-12-49326 and RE-12-49963

TAYLOR, ANTONI J., sales agent, Smithfield, Utah. In a February 13, 2015, Order, Mr. Taylor's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-15-75119

TELFORD, TAYLOR BRAD, sales agent, Salt Lake City, Utah. In a

February 24, 2015 order, Mr. Telford's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-15-75295

TOMLINSON, JEFF D., sales agent, Syracuse, Utah. In a stipulated order dated August 20, 2014, Mr. Tomlinson admitted to advertising a home for sale after the listing expired and, although Mr. Tomlinson and his client agreed that there was an extension to the listing, Mr. Tomlinson was unable to produce a copy of the extension. Mr. Tomlinson's actions violate Utah law and administrative rules with regard to false or deceptive advertising and record keeping. Mr. Tomlinson agreed to pay a civil of \$2,000 and to complete additional continuing education. Case number RE-11-57727

VASIC, MILAN H., sales agent, Salt Lake City, Utah. In a February 5, 2015, order, Mr. Vasic's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-15-74941

WATERS, EVON, associate broker, Ogden, Utah. In a February 5, 2015, order, Mr. Waters's license was renewed and placed on probation for the renewal period due to his criminal history. Case number RE-15-74964

WELLS, JEFFREY R., principal broker, Salt Lake City, Utah. In a stipulated order dated August 20, 2014, Mr. Wells admitted to having failed to supervise an agent affiliated with him and to having paid a

a formerly licensed agent a commission after the agent's license had expired in violation of state law. Mr. Wells agreed to pay a civil penalty of \$2,000 and complete additional continuing education. Case number RE-13-66062

WILDEN, GEORGINA, sales agent, Roy, Utah. In a January 23, 2015 order, Ms. Wilden's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-15-74745

WILLIAMS, ALEX D., sales agent, West Jordan, Utah. In a January 15, 2015 order, Mr. Williams's license was renewed and placed on probation for the renewal period due to his criminal history. Case number RE-15-74622



THANK YOU

CARAVAN 2015



The Division of Real Estate is offering a FREE 3 hour CORE continuing education course for real estate, appraiser, and *mortgage licensees. (*Mortgage licensees will receive 2 hours of credit to fulfill their state specific CE requirement).

Jonathan Stewart, Director of the Division of Real Estate, Mark Fagergren, Director of Licensing and Education, and Jeff Nielsen, Chief Investigator, will be discussing current issues and hot topics facing the real estate, mortgage, and appraisal industries. They will also be available to answer any questions or concerns you may have as a licensee.

There continues to be no charge to attend the Division CARAVAN. However, if you cannot attend please be courteous and cancel your registration at least three business days prior to your scheduled event.

VERNAL

April 21, 2015
9:00am - Noon
Springhill Suites Marriott
1205 W Highway 40

PROVO

April 23, 2015
9:00am - Noon
Utah Valley Convention Center
220 W Center St.

LOGAN

April 28, 2015
1:00pm - 4:00pm
Bridgerland Applied Technology
Center
1301 N 600 W

LAYTON

April 30, 2015
9:00am - Noon
Davis Convention Center
1651 N 700 W

PARK CITY

May 7, 2015
9:00am - Noon
Park City Marriott
1895 Sidewinder Dr.

MOAB

May 12, 2015
9:00am - Noon
Grand Center
182 N 500 W

RICHFIELD

May 13, 2015
9:00am - Noon
Sevier County Administrative Building
250 N Main St.

CEDAR CITY

May 14, 2015
9:00am - Noon
SUU, Student Center - Cedar Breaks
Room
351 W University Blvd

ST. GEORGE

9:00am - Noon
May 15, 2015
Dixie State University,
Browning Learning Center Dunford
Auditorium
225 S 700 E

Reserve Your Seat Early

Seating is Limited

Stand-by Seating is Not Guaranteed

PLEASE COMPLETE THE ONLINE REGISTRATION BY LOGGING ONTO:

www.realestate.utah.gov/caravan.html