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Utah Department of Commerce

Division of Real Estate

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Third Quarter 2014

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ARELLO Presented Division National Education Award for 2014 CARAVAN

The Association of Real Estate License Law Officials (ARELLO) is the premier national organization that is recognized by all government agencies, industry organizations, consumers, and practitioners as the unquestioned authority and source of leadership on real estate regulatory issues. The goal of this organization is to ensure that individuals with honesty, integrity and trustworthiness are licensed so that the industry as a whole will enjoy a high reputation and consumers will feel safer and more confident during their real estate transactions.

Two weeks ago, ARELLO nationally recognized The Utah Division of Real Estate with a prestigious award for the **best continuing education course for 2014!** The Division's regulatory course submission was the 2014 CARAVAN.

The concept for our annual course was explained to the awards committee. We explained that the division travels throughout the state (with special emphasis to under served areas) presenting a three hour continuing education course to our licensees. The course focuses on current issues and hot topics facing the real estate, mortgage, and appraisal industries. We explained that our annual CARAVAN has two primary goals: First, to make sure that licensees around the state understand what the Division is doing and the changes that have taken place. Second, to have an exchange between state regulators and industry members. We expressed how important it is for us to have interaction with our licensees.

The streamlined course registration system makes enrollment in the annual course easy and convenient. An electronic version of the 2014 CARAVAN was provided to ARELLO for their evaluation which demonstrated the high quality measures involved to produce a meaningful,

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Division of Real Estate

Director's Message

Expanding Educational Efforts

Jonathan Stewart

Historically, the Division of Real Estate has focused its educational efforts on licensees through events like our annual CARAVAN and Instructor Development Workshop. Part of the Mission Statement of the Division is protecting the public through education. In the past year, the Division has been focused on expanding our educational efforts to the public, while maintaining our efforts to educate licensees. We feel that it is just as important to educate the public so they are well equipped to protect themselves when entering into a real estate transaction. Currently the Division is working on several methods to help educate the public.

The Division is currently producing three new public service announcements that will air on television this coming winter or spring. The main goal of these PSAs is to direct the public to our website, where they can find information about the industries we regulate. The subjects of the three PSAs are: (1) Using a licensed professional when engaging in real estate transactions, (2) Avoiding becoming a victim of fraud and (3) Understanding a residential appraisal. The Division will also be creating new sections on our website that will coincide with each subject.

In addition to the three PSAs, the Division is planning to attend additional conventions and expos, starting with the Senior Expo on October 2nd and 3rd. In preparation for the Senior Expo, we have been creating additional pamphlets to educate those who attend. Some of the pamphlets we have created are:

Questions to Ask a Prospective Mortgage Lender

Questions to Ask Your Real Estate Agent

Reverse Mortgage Scams and Risks for the Elderly, and

Avoid Senior Tsunami, aimed at helping seniors avoid being victims in real estate transactions.

The Division continues to look for additional topics that will be used in creating pamphlets to help educate the public.

The Division is also looking for opportunities to speak in college and high school classes to educate those who may not have experienced their first real estate transaction, but likely will in the future. Two Division staff members are already scheduled to speak at two classes at BYU in December about real estate ethics.

We continue to improve the education we already provide, and now are looking for more opportunities to educate the public. American physician and novelist, Robin Cook, said, "Education is more than a luxury: it is a responsibility that society owes to itself." We are confident that by adding to the education we provide, we will be better able to accomplish the mission of the Division.

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interesting, and effective interactive course.

We explained to the awards committee the benefits of licensees receiving timely, current, and accurate information from their regulators in an environment that allows licensees to have their questions answered and concerns addressed.

CARAVAN presentations have changed quite a bit over the past 31 years, but the Division is proud to have received this award for not only the most recent CARAVAN, but also for the staff, industry, and management support for this annual training course. Thanks to you for your assistance, annual course evaluations, and encouragement over the years that have helped make CARAVAN a resounding and continued success!

Welcome Commission Member Richards

"My real estate career began in July of 1973. I have seen many changes in the industry in that time and hope to be able to continue to contribute to the industry. I have been President of both the Salt Lake Board of Realtors and the Utah Association of Realtors. I have been very involved in various committees on the local, state, and national arenas. I have the designations of CCIM and CRB.I have been very involved in the political side of our industry and am currently the FPC for Congressman Jim Matheson and chair of the UAR RPAC trustees. I have worked with many lenders over the years and hope to contribute to the professionalism of that industry. I look forward to serving on the commission with the other commissioners."

We look forward to having George's guidance, expertise, and knowledge on the Utah Residential Mortgage Regulatory Commission.

Welcome Commission Member Musselman

Cal Musselman is an associate broker with Golden Spike Realty in Sunset, a suburb of Ogden. Licensed for more than 15 years, Cal specializes in residential real estate. He recently completed his term as 2013 president for the Utah Association of REALTORS®. In 2007, he served as president of the Northern Wasatch Association of REALTORS® and received that organization's prestigious REALTOR® of the Year award. He has held various leadership positions at local, state, and national levels, including assignments on the UAR's finance and legislative committees. Cal holds the real estate designation of Graduate REALTOR® Institute and is a certified Short Sale Specialist. He has an associate's degree from Dixie State College and is a graduate of the Utah Association of REALTORS®' leadership program.

We look forward to having Cal's guidance, expertise, and knowledge on the Real Estate Commission.

Broker Liens

By, Elizabeth Harris
Assistant Attorney General

The Division has recently seen an increase in cases involving real estate licensees placing liens on real property to protect their right to receive a commission from failed transactions. The right to lien property for commissions is a commonly misunderstood area of law and real estate practice. Nonetheless, given the serious consequences facing real estate licensees that wrongfully place liens on real property, it is an important area of law that all licensees should take care to understand.

In Utah, the right to lien real property is primarily granted by statute. Section 38 of the Utah Code provides for numerous types of liens, including, among others, construction liens, tax liens, hospital liens, and attorney's liens. What is not found in section 38, or elsewhere in the Utah Code, is a specific provision providing for a lien to recover commissions by a real estate broker.

One possible source of the confusion concerning a broker's right to lien property for commissions may have been the Utah Mechanic's Lien Law, which historically allowed contractors, subcontractors, and other individuals who supplied labor, materials, or other services to improve real property to place a lien upon the property for the value of their contribution. Many real estate brokers assumed they had provided services concerning the real property when they furnished a ready, willing, and able buyer for the property, and that this service entitled them to lien the property if the seller refused to pay a commission.

The problem with this assumption is that the service of finding a buyer is not a service that improves real property, but rather is a service rendered to the owner of the property.

A listing and/or sales agency agreement is a personal services contract between the owner of the property and the real estate broker. The broker agrees to furnish a personal service, that is, his or her marketing efforts, to the owner in exchange for payment for those efforts. In these cases, since the service was rendered for the benefit of the owner, not the property itself, it is not the type of service that was contemplated by the Mechanic's Lien Statute.

In 2011, the Utah Legislature amended the Mechanic's Lien Statute and eliminated any doubt as to whether a broker would be entitled to a lien for commissions under that statute. In its current codification, the Mechanic's Lien Statute only provides for preconstruction liens and construction liens, and limits individuals entitled to lien property under that statute to those providing "preconstruction service or construction work." *See* Utah Code §38-1a-301. Both terms are explicitly defined by the statute. *See* Utah Code § 38-1a-102(11), (28).

There are serious possible consequences facing a licensee who wrongfully files a lien against real property. The Wrongful Lien statute imposes substantial civil liability for filing a wrongful lien and/or refusing to remove the lien within 10 days of a written request from the owner of the property to do so. A licensee who files a wrongful lien may be sued for slander of title or named in a quiet title action. A licensee may also face criminal prosecution because it is a 3rd degree felony to knowingly file a wrongful lien against property. *See* Utah Code § 76-6-503.5. Finally, a licensee who files a wrongful lien may be subjected to disciplinary action by the Utah Real Estate Commission.

In light of the potential consequences for filing a wrongful lien, it is important for brokers to be aware of the correct and only way to obtain a lien on the real property of one who refuses to pay a real estate commission. To achieve this result, the principal broker may sue the owner of the property for the amount allegedly due. If the broker prevails and obtains a judgment against the owner, that judgment entitles the broker to place a lien against all real property owned by the individual by properly recording the judgment in the office of the county recorder in which the real property of the judgment debtor is located.

In summary, the Division would like to remind licensees that absent a judgment by a court of law, liens are not available as a method to enforce payment of real estate commissions. Remember that only a principal broker may sue for a commission. If you feel that you have a claim for commission, consult your legal counsel regarding how to bring suit and obtain a judgment.

Rule Developments Since July 1, 2014

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

No amendments of the administrative rules for the appraisal management industry were proposed during the Third Quarter.

Appraisal

Rules 162-2g-102, 302, 304a, 304b, 304c, 304d, 306a, 307a – f, 311, 502a, 502b, and appendices1-4. These administrative rules are proposed to be amended to update the education and experience rules which go into effect January 1, 2015 and to specify prohibited conduct by continuing education providers. The public comment period for these rule amendments will be from October 15 to November 14, 2014.

Mortgage

No amendments of the administrative rules for the mortgage industry were proposed during the Third Quarter.

Real Estate

Rule 162-2f-206c is proposed to be amended to include water law, rights, and transfer as course topics that may be requested by continuing education providers for consideration by the Division for certification as a core topic.

Appraiser Supervisor/Trainee Course

(Portions of this article reprinted from 1st Quarter 2014 Newsletter)

The Appraisal Qualifications Board has created a course of instruction for all currently existing and subsequent new appraiser supervisors and trainees. In addition, the Utah Appraiser Board desires that some additional topics (in addition to the AQB course curriculum) also be taught to supervising appraisers and trainees in Utah. This AQB course outline will be included along with some additional topics approved by The Utah Appraiser Board.

The Appraisal Licensing and Certification Board has approved the course outline and instruction manual for this six hour course.

IMPORTANT NOTICE: All supervising appraisers and trainees are required to attend this course before January 1, 2015. Any supervisor or trainee that fails to attend this course before the deadline will not be allowed to supervise or function as a trainee (and receive experience hours) until they have completed this required course.

It is hoped that the important information taught in this course will help both supervisors and trainees better understand their roles in the appraisal process. Common problems associated with Licensed appraisal applications will be discussed. Best practice issues will be explained. In summary, this course should help all parties better understand and meet expectations regarding supervising appraisers and their trainees.

Kagie's Korner

The Division is concerned that licensees are not using the Real Estate Licensing Management System (RELMS) to its maximum potential. This article illustrates how RELMS can be a useful tool beyond just the renewal of your license every two years. To begin, let's ask a basic question:

Why should I monitor my RELMS account on a regular basis?

Instead of providing an answer, here are some situations the Division sees on a regular basis, and how these situations could have been easily avoided.

One of the concerns the Division's enforcement section regularly observes arises when a licensee decides to change their company affiliation to join a new brokerage. The agent will typically initiate the change process in the RELMS system and then go on their merry way, thinking all is done and that a pending status or affiliation change has been completed. However, this may not be the case. In order for a company affiliation change to transpire, **both the existing broker and the new broker are required to acknowledge/confirm the change (within 10 days), via RELMS email response, or the requested affiliation change does not occur. Once again, if either broker fails to acknowledge/confirm the requested change within 10 days, this affiliation change fails. A new affiliation request would need to be re-initiated by the sales agent if either broker has not electronically accepted the agent's request.**

In this instance, the agent and/or the new broker could be in violation of licensing statues and administrative rules if the agent commences working for the new broker while still affiliated with the existing broker on Division records. This situation can be easily anticipated and prevented if both the agent and the new broker follow through and verify the pending change has taken place BEFORE the agent commences working with the new broker.

Brokers and agents would never allow a listing to be removed from the market as being under contract merely because of a pending offer, before they confirmed that the parties to the transaction had acknowledged their contract. As such, brokers and agents should not allow a prospective agent who submits an affiliation change to commence work for a new brokerage until the affiliation change has been confirmed.

Another concern arises in regard to an inactive agent who wishes to activate their license with a broker. In this situation, the inactive agent goes into RELMS to activate with a broker, but the new broker does not acknowledge the activation within ten (10) days. The inactive agent begins to do real estate activity on behalf of the broker, when in fact, they are still on an inactive status according to the Division's records. Both the broker and inactive agent fail to check their RELMS accounts to verify that the activation occurred, so they are conducting their business in a precarious manner. It comes to the Division's attention that the agent has been selling real estate with an inactive license, and a case is opened against both the sales agent and the Principal Broker. Since neither the agent nor broker followed through and checked to make sure the requested change had occurred, both are potentially in violation of the Division's statutes and rules.

Since the beginning of 2011, the Division performs change requests in the RELMS system and does not generally accept changes via a paper change card. There are a couple of exceptions, and those are generally when a broker change is being made (e.g. a new principal broker or branch broker will be put in charge) or when the RELMS system is not available. If submitting changes via change card, I would suggest you check RELMS or with Division staff to ensure that the changes were made correctly. Do not assume the changes were made.

Last but not least, let's look at one more example. A licensee fails to recognize their license is about to expire. After the license expires with the Division, the licensee continues to do real estate activities that would require an active license, including representing sellers and buyers, assisting in making offers, and ultimately accepting a commission check from their broker at the end of the transaction. The Division learns about the activities and begins to review the activities and takes action against both the licensee and the broker for unlicensed activity. Again, even if this scenario is slightly changed, and you believe you have renewed on time, do not assume this to be the case unless you have received confirmation (e.g. checking RELMS).

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Utah! Division of Real Estate

NEWS

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When the enforcement section moves forward with these types of cases, it is typical to receive an answer about how a person attempted to make a change, but it is not their fault that the Division or RELMS did not reflect the change. This reminds me of a parallel example: I need to register my car. I go down to the repair shop and get the State Safety and Emissions Inspection. Following that, I get busy with other activities, so I do not follow through to get the vehicle registered with the state. Months later, I get pulled over for expired plates. Whose fault is it that I get a ticket for the expired plates? It's mine. Not the officer, the court clerk, my significant other, or my office manager.

On another subject, the Division would like to remind all licensees that use of the RELMS system is where you notify the Division of information changes that are required by statute to be reported within ten days of the change. Here is the statute for reference:

61-2f-207. Change of information -- Failure to notify.

(1) An applicant, licensee, registrant, or certificate holder shall send the division a signed statement in the form required by the division notifying the division within 10 business days of any change of:

(a) principal broker;
(b) principal business location;
(c) mailing address;
(d) home street address;
(e) an individual's name; or
(f) business name.

(4) Failure to notify the division of a change described in Subsection (1) is separate grounds for disciplinary action against an applicant, licensee, registrant, or certificate holder.

If you have had one of the above happen in the past few months, take the time to verify that this information is correct with the Division. You may ask why this is so important. The Division uses this information to send notice to the address you provide, and it is considered to have been served appropriately by sending communication to the address furnished to the Division by the licensee.

All licensees should be very familiar with their RELMS account. The Division recommends that all licensees verify the information that the Division has on record to ensure its accuracy. Principal and Branch Brokers should regularly check and compare your brokerage roster against the Division's RELMS records (at least monthly) to make sure that all licenses are current, active, and that everyone is actually associated with your brokerage. As the broker, you are responsible for the supervision of the licensed and unlicensed staff that are associated with your brokerage.

Fee Schedules

I received an email from a well known AMC which included an updated fee schedule with appraisal fees higher than I had seen them offer before. Having this email come out a week after the release of a Utah Residential Fee Study prepared by Barrett Slade may have been coincidental, but interesting nonetheless. As I looked over the schedule and saw the fees being offered, I was surprised that this AMC had raised their fees after years of what I as an appraiser considered to be low appraisal fees.

I took a print out of the fee schedule to Director Stewart and mentioned that there was a possibility the survey was affecting residential appraisal fees. As Director Stewart looked over the schedule he took note that the fees were divided by a value range and questioned if that could be a potential problem. We discussed that the fee schedule was from an AMC and that AMCs are not required to comply with USPAP. They can break down the fee schedule in any manner that suits them. We also discussed how AMCs might derive a possible value from other sources such as a sales contract, borrowers estimates, prior sales, or assessed values in determining the fee being offered.

This conversation led me to recall an email I received from an appraiser questioning how some appraisers have on their websites a fee schedule which also separates their various fees by property value or value range. This appraiser questioned whether an appraiser was in violation by offering fees based on property value ranges.

Although I doubt that an appraiser who has a fee schedule that varies by property value range would consider increasing a value from $395,000 to $400,000 for the extra $50 they would be paid according to their fee schedule, there is a perception that something may be amiss. Also, the fee is usually established in the problem identification and scope of work stages, long before the appraised value is established.

The reason this could be problematic for an appraiser is because of USPAP's ethics rule, which states: **"An appraiser must not accept an assignment, or have a compensation arrangement for an assignment, that is contingent on any of the following;"**

1. the reporting of a predetermined result (e.g., opinion of value);

2. a direction in assignment results that favors the cause of the client;

3. the amount of a value opinion

4. the attainment of a stipulated result (e.g., that the loan closes, or taxes are reduced); or

5. the occurrence of a subsequence event directly related to the appraiser's opinions and specific to the assignment's purpose [i]

The Frequently Asked Questions (FAQs) section of USPAP has some great questions and advice to further clarify this issue.

From FAQ 43. **"A potential client has asked me to complete a form indicating what my appraisal fees would be for different assignments. The form asks me to indicate my appraisal fees according to appraised value, e.g., to list the fee for assignments with appraised values between $100,000 and $299,000, $300,000 to $499,000, etc. Is it a violation of USPAP to quote fees in this manner?"** [ii]

Answer, "Yes."

From FAQ 46. **"I'm aware that an appraiser's fee cannot be based on the amount of the appraiser's value conclusion. However, does USPAP allow an appraiser's fee to be based on the amount of the owner's estimate or a pending sale price of the subject property?"** [iii]

Answer, "USPAP does not prohibit an appraiser's fee from being based on an owner's estimate, a pending sale price of the subject property, loan amount, or any other factor outside the appraiser's control."

I have just presented the questions and answers. Each of these FAQs has additional rationale for the answers.

In researching a random selection of appraiser's websites, I found some sites which showed fees varied by complexity, size, or a minimum price for each type of assignment. Others had no fee schedule but a request to call for a fee quote.

The purpose of this article is to address a concern expressed to the Division and help appraisers think a bit of how a simple fee schedule might give the wrong perception and some possible ways to present fees for different assignments. It is to also highlight a couple of FAQ's concerning this issue.

i. USPAP, Ethics Rule, management section, pg. 6 - 8
ii. USPAP FAQ, Pg. F-18, no. 43
iii. USPAP FAQ, pg. F-19, no.46

Division Question and Answer

Do you have a question you have been wanting to ask an investigator 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

Instructor Development Workshop 2014

The Division of Real Estate will be holding our annual Instructor Development Workshop (IDW), Wednesday and Thursday October 22 and 23, 2014 at the Park City Marriott.

This year's speaker will be the fabulous Karel Murray. Imagine a master storyteller and a motivational humorist who has the business acumen to deliver a knock-your-socks-off message you can't wait to start applying right away. Karel focuses on delivering content that not only informs and educates, but provides practical suggestions mixed with a healthy dose of humor. This year, instructors will be taught how to create presentations that truly 'dazzle.' Attendees will discover that they are learning how to be innovative and more open minded when it comes to problem solving, communication and leadership – laughing all the way.

Division speakers for this event will be Division Director Jonathan Stewart, Chief Investigator Jeff Nielsen, and Education and Licensing Director Mark Fagergren. During the morning session of Wednesday, October 23rd, the Division will present current information on our industries and Division changes.

The IDW is required for real estate, mortgage, and appraiser pre-licensing instructors only. But, the event is open to continuing education instructors as well. Real estate attendees will receive 13 hours of core continuing education. Please keep in mind that credit will only be given in full-day segments. Mortgage and appraisal instructors are invited to this course despite not being allowed continuing education credit by the Nationwide Mortgage Licensing System and the Appraisal Subcommittee.

The registration fee for the two day IDW is $75, or $50 if you wish to attend only one day (light breakfast and lunch are included). The registration deadline is October 8th, 2014. A $20 late fee will be applied to all registrations received after October 8th, 2014.

Registration information is on the following page.

INSTRUCTOR DEVELOPMENT WORKSHOP 2014

NAME:

LICENSE #:

EMAIL:

PHONE #:

CREDIT CARD #: EXPIRES:

VISA, AMEX, & MASTERCARD ACCEPTED

KAREL MURRAY

MAKE CHECKS PAYABLE TO:

UTAH DIVISION OF REAL ESTATE

160 E 300 S PO BOX 146711 SLC UT 84114

PHONE: (801) 530-6747

FAX: (801) 526-4389

*Due to new security restrictions, online registration will not be available this year

PARK CITY MARRIOTT

1895 SIDEWINDER DRIVE
PARK CITY, UT

REGISTRATION DEADLINE OCTOBER 8TH

REGISTRATIONS RECEIVED AFTER THIS DAY WILL BE CHARGED A $20 LATE FEE.

REGISTRATION FEE WILL INCLUDE

LIGHT BREAKFAST AND LUNCH

SIGN-IN 8AM-8:45AM

WORKSHOP 9AM-5PM

PLEASE INDICATE THE DATES YOU WILL BE ATTENDING:

WEDNESDAY & THURSDAY

OCTOBER 22nd & 23rd $75

OCTOBER 22nd $50

OCTOBER 23rd $50

Mortgage License Renewal - Be Prepared

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

Individual Renewal Checklist
(Loan Originators and Lending Managers)
Prior to November 1, 2014

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

2. Review your filing to make sure there are no license items placed on your filing. License items can be deficiencies or requirements that are pending on your license and must be cleared prior to requesting renewal. Some common deficiencies include Employment History Updates, ACH Payments that may have been returned unpaid, and requests for information about Disclosure Questions or Credit Reports. Satisfy all pending license items prior to renewal. You may call the licensing department at 801-530-6747, if you do not understand your deficiency or need help in getting it cleared. When a license item is placed on your filing, you receive an email through the NMLS notifying you of the deficiency or requirement.

Directions on how to check your filing:
Log on to your NMLS filing, click Composite View, click View Individual, click View License/Registration List, then select the hyperlinked number under the license items to view the license item details.

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

4. NMLS-approved continuing education (8 hours) must be completed prior to requesting renewal. It is recommended that to ensure an on time renewal, these hours must be completed no later than December 15, 2014. NMLS will prevent you from requesting Renewal if these hours are not banked on your record.

5. Utah specific continuing education on Utah Law (2 hours) must be completed prior to renewal approval. Note: This required course is new this year. The NMLS system will not prevent you from requesting renewal, but if we later find you have not completed the 2 hours of Utah law, a deficiency will be placed on your filing and your renewal will not be approved until the hours are completed. To find providers for this course, you may go to the Utah Division of Real Estate website to find a list of approved providers: http://realestate.utah.gov/forms/MO_CE_Providers1.pdf. ***Note: To ensure an on time renewal, these hours must be completed no later than December 15, 2014. It is also important to note that these hours will not be banked on your NMLS account. These hours will only be tracked in the Utah DRE database.***

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

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Thank you Commission Member Dailey

We have been very fortunate to have had Rodney "Butch" Dailey serve on the Mortgage Commission from June 2006 – June 2014. Butch served as the public member on the commission and brought his 30 years of experience in real estate to the mortgage commission. Butch has served on many boards and has received numerous awards for his commitment to continually helping to improve the real estate industry.

We appreciate the guidance and direction that Butch has provided the mortgage industry during his many years of service and wish him success in his future endeavors.

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7. NO CREDIT REPORT OR BACKGROUND CHECK is required this year. This requirement comes into play on every fifth year, the next time will be for the 2015 renewal. Do not authorize this as part of your renewal process or it will charge you needlessly.

On or After November 1, 2014:

1. You can now request renewal. The renewal fee is $78.00 which includes the NMLS processing fee of $30, Renewal fee of $30 and Recovery Fund fee of $18. You will be required at that time to attest to the accuracy of your filing so make sure, once again, that all filing information is correct.
2. If there is a change in your answers to the Disclosure Questions, you must upload the required documentation explaining the change in your filing.
3. If you request your renewal prior to January 1, 2015, your license status will remain in the approved status that it was prior to renewal and if it was active, you can continue to work as usual. Your renewal approval is contingent on all requirements being met, in which case the Division will process the renewal as quickly as possible and email your new license to you.

Entity License Renewal (company, dbas, branches):

Prior to November 1, 2014

1. Review MU1 filing and/or MU3 filing to confirm that the information including company location, mailing address, contact information, etc., is all correct.
2. If there is a change in any of your answers to the Disclosure Questions, you must upload the requirement documentation explaining the change in your filing.
3. Review the entity filing to make sure there are no license items placed on the filing. These items could include things like a returned ACH Payment, update qualifying individual, company ownership, etc.

On or After November 1, 2014:

1. Request and pay renewal fees through NMLS between November 1 and December 31, 2014.
2. If renewal is requested prior to January 1, 2015, the license status will remain in the approved status it was prior to renewal and if it was an active status, work can continue as usual. Your renewal approval is contingent on all requirements being met, in which case, the Division will process the renewal as quickly as possible and email your new license to the email address listed in the contact information.

Appraiser Qualification Criteria Increases January 1, 2015 (Portions of Articles Reprinted from March 2012, September 2012, March 2013, and March 2014 Newsletters)

The Appraisal Qualifications Board (AQB) has enacted changes to licensing criteria that will take effect on January 1, 2015.

The following is a substantive list of changes to qualification criteria that will be required for all appraiser candidates as of January 1, 2015 (for a complete, detailed description of all changes to the appraisal criteria, go to The Real Property Appraiser Qualification Criteria Effective January 1, 2015 at http://www.realestate.utah.gov/appraisal/Real%20Property%20Appr%20Qual%20Criteria.pdf Pages 49 – 65.

All candidates need to be aware and plan accordingly since there will be NO exceptions to the new AQB requirements after their implementation. These requirements include:

1. College level education will be required for all licensed appraisers – 30 semester credit hours from a college or university OR an Associate's degree or higher in any field.

2. College level education will be required for all certified residential appraisers – Bachelor's degree or higher in any field from an accredited college or university.

3. The Supervisory Appraiser and Appraiser Trainee Course (completion is required for Trainees and their supervisor(s)) has been approved and introduced in Utah. This course includes a combined six hour course including content from both the AQB and the Utah Appraisal Licensing & Certification Board.

Additional modifications to Utah's statute and rules will be made as needed in order to bring them into compliance with the AQB requirements prior to January 1, 2015. These changes include:

1. Candidates for all new license credentials will be required to have a criminal background check. Existing credential holders shall not be required to have a criminal background check unless they apply for a new license credential.

2. No license will be issued if the applicant:

A. has had an appraiser license or certification revoked in any governmental jurisdiction within the five (5) year period immediately preceding the date of application,

B. has been convicted of, or plead guilty or nolo contendere to, a felony (involving an act of fraud, dishonesty, or a breach of trust, or money laundering) during the five (5) year period immediately preceding the date of the application, or

C. has had other criminal offenses, civil judicial actions, actions or orders by State or Federal regulatory agencies that negatively reflect on the character or general fitness of the applicant, such as to command the confidence of the community and to operate honestly, fairly, and efficiently with the purposes of these criteria.

3. All supervisors and trainees must attend the Supervisory Appraiser and Appraiser Trainee Course that follows the AQB approved course outline and has been approved by the Utah Division of Real Estate. Trainees will not receive experience hours for work performed after January 1, 2015 until **both** the Trainee and Supervisor(s) have attended the course.

4. Supervising Appraisers shall:

A. have been state-certified for a minimum of there (3) years prior to being eligible to become a Supervisory Appraiser;

B. be in "good standing" (shall not have been subject to any disciplinary action in any jurisdiction for a period of at least three (3) years that affects the Supervisory Appraiser's legal eligibility to engage in appraisal practice);

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Thank you Commission Member Hancock

We have been very fortunate to have had Gary Hancock serve on the Real Estate Commission from June 2006 – June 2014. Gary has been a broker with Century 21 Gold Spike Realty in Sunset, a suburb of Ogden for nearly 40 years! Gary has also served on many different boards and boards of directors in the real estate industry. Gary is committed to the excellence of licensees in the Real Estate profession and serving fellow licensees in many capacities.

We appreciate the guidance and direction that Gary has provided the real estate industry during his many years of service and wish him continued success in his future endeavors.

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C. comply with the Competency Rule of USPAP for the property type and geographic location that the Trainee Appraiser is being supervised; and

D. shall jointly (along with the Trainee Appraiser) be responsible for and maintain an appraisal experience log and ensure that the log is accurate, current and complies with the requirements of the Utah Division of Real Estate.

Current supervisory appraisers (those who have signed and identified themselves as a supervisor on a trainee's registration application, and who have been functioning as a trainee's supervisor before January 1, 2015), may continue to supervise those trainees that they have been supervising prior to January 1, 2015 (even if they have not been a certified appraiser for 3 years). However, they (supervisors) must comply with the 2015 requirements (three year Certification, see item a. above, and "good standing" rules, see item b. above), for any relationships commencing on or after January 1, 2015.

Some of the AQB changes have already been implemented within our existing Utah statutes and rules. These changes include the following requirements:

1. Qualifying education and experience MUST be completed BEFORE sitting for the exam;

2. The "segmented approach" for completing and satisfying licensing criteria has been eliminated;

3. Appraisers are restricted from receiving credit for completing the same continuing education course more than once within a two-year licensing cycle;

4. Certified general appraiser candidates are required to hold a bachelor's degree or higher in any field from an accredited college or university;

5. Trainee qualifying education must be completed within the five (5) year period prior to the date of application for a trainee appraiser credential; and,

6. Trainee appraisers are allowed to have more than one supervising certified appraiser.

Second 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

DAVIS, KENNETH LEWIS, Sr., certified general. In an August 27, 2014 order, Mr. Davis's application for licensure was denied for failing to disclose a previous licensing sanction in which he paid a $400 fine for an allegation of USPAP violation. Case number AP-14-72167

PHILLIPS, DAVID, continuing education instructor. In a June 27, 2014 order, Mr. Phillips's application for licensure was denied based on an Illinois consent order in which Mr. Phillips admitted to supervising unlicensed staff appraisers in the performance of appraisals in Illinois. The staff appraisers were licensed in Missouri but were not licensed in Illinois. Case number AP-14-71184

MORTGAGE

CHRISTENSEN, ALLAN D., loan originator. In an August 7, 2014 order, Mr. Christensen's license was denied due to a permanent injunction entered by the U.S. District Court enjoining him from violating sections of the Securities Exchange Act of 1934. Mr. Christensen consented to the injunction without admitting or denying allegations of fraud. The Utah Administrative Code § R162-2c 202(1)(a)(v) provides that an Applicant may not have had a permanent injunction entered against him by a court on the basis of conduct involving fraud, misrepresentation, or deceit. Case number MG-14-71848

VELASQUEZ, CARL MAURICE, loan originator. In an August 19, 2014 order, Mr. Velasquez's license was granted and placed on probation for the initial licensing period due to his criminal history and due to a previous cease and desist order out of California. Case number MG-14-72507

REAL ESTATE

ADAMS, JASON, sales agent. In a June 17, 2014 order, Mr. Adams's license was granted and placed on probation for the pendency of the court proceedings due to a pending criminal matter in case number 1415500015. Case number RE-14-71031

BAUMGARTNER, ANGELA M., sales agent. In a July 31, 2014 order, Ms. Baumgartner's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-14-71728

BRIMHALL, ZACH G., sales agent. In an August 22, 2014 order, Mr. Brimhall's license was granted and placed on probation for the initial licensing period due to his criminal history and due to a previous licensing sanction. Case number RE-14-72102

BROWN, GARY L., sales agent. In a stipulated order dated July 16, 2014, Mr. Brown admitted to having failed to disclose criminal history on applications to renew his license and to having failed to disclose certain criminal history within ten business days as required by law at the time. Mr. Brown admitted that his conduct was in violation of applicable sections of the Utah Code. Mr. Brown agreed to have his license suspended for one week and to pay a civil penalty of $6,250. Case number RE-12-63027

CHAMBERLAIN, DAVID MICAH, sales agent. In an August 4, 2014 order, Mr. Chamberlain's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-71796

CUSICK, ROBERT J., sales agent. In a stipulated order dated June 18, 2014, Mr. Cusick admitted to having violated several administrative rules relating to the advertising of real estate property and real estate services. Mr. Cusick agreed to pay a civil penalty of $2,500. Case number RE-12-60853

DOCK, JUSTIN TRENT, sales agent. In a July 7, 2014 order, Mr. Dock's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-71301

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DUKE, DAVID M., sales agent. In a June 19, 2014 order, Mr. Duke's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-71091

EDDY, MICHAEL, sales agent. In a July 10, 2014 order, Mr. Eddy's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-71421

EEN, AMBER, sales agent. In a June 4, 2014 order, Ms. Een's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-14-70820

ELLIS, CLAYBORN, sales agent. In a July 17, 2014 order, Mr. Ellis's application for licensure was denied due to his criminal history. Case number RE-14-70308

HAWKINS, JOHN LEE, sales agent. In a July 15, 2014 order, Mr. Hawkins's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-71476

KONCHER, BRYAN, sales agent. In a June 9, 2014 order, Mr. Knocher's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-70905

LACY, TED A., sales agent. In a July 29, 2014 order, Mr. Lacy's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-71685

LEWIS, RALPH BRADLEY, sales agent. In a stipulated order dated June 18, 2014, Mr. Lewis admitted to having failed to disclose criminal history in his application for licensure in violation of Utah Code Section 61-2f-401. Mr. Lewis agreed to pay a civil penalty of $500. Case number RE-14-70835

LUCAS, ANDREW, sales agent. In an August 15, 2014 order, Mr. Lucas's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-72005

MCCLELLAN, DARCIE NICOLE, sales agent. In a July 9, 2014 order, Ms. McClellan's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-14-71395

MCGHIE, CHALLIS S, sales agent. In a June 23, 2014 order, Mr. McGhie's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-71130

MOSS, BRYAN KENT, sales agent. In a June 23, 2014 order, Mr. Moss's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-71129

ORCHARD, LAUREN, sales agent. In a July 25, 2014 order, Ms. Orchard's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-14-71634

QUEEN, JARRETTE DUCRAY, sales agent. In an August 13, 2014 order, Ms. Queen's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-14-71927

ROGERS, DOUGLAS, sales agent. In an August 14, 2014 order, Mr. Rogers's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-71968

ROGERS, JANELLE, sales agent. In an August 4, 2014 order, Ms. Rogers's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-14-71790

SAGERS, NELDON CORDELL, sales agent. In a June 3, 2014 order, Mr. Sagers's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-70802

SCHRYVER, SCOTT, I., associate broker. In an August 18, 2014 order, Mr. Schryver's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-72016

SCOTT, BRENT, sales agent. In a stipulated order dated July 16, 2014, Mr. Scott admitted to having failed to: a) disclose terms of a limited agency agreement; b) uphold fiduciary duties to both parties to the transaction; and c) conform to accepted real estate standards. Mr. Scott's actions were in violation of Utah Code Section 61-2f-401. Mr. Scott agreed to pay a civil penalty of $2,000 and take three continuing education courses. Case number RE-13-67360

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STUCKI, CASEY LEE, sales agent. In a July 1, 2014 order, Mr. Stucki's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14 71243

TAMS, JASON, sales agent. In a June 11, 2014 order, Mr. Tams's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-70955

WARD, ADAM, sales agent. In a July 10, 2014 order, Mr. Ward's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-71423

WESTON, ADAM, sales agent. In a stipulated order dated June 18, 2014, Mr. Weston admitted to having placed a sign on a property advertising it for sale without having the written consent of the owner. Mr. Weston agreed to pay a civil penalty of $1,000 and to take a continuing education course on agency. Case number RE-13 66607

WINEGAR, PETRA D., sales agent. In a June 11, 2014 order, Ms. Winegar's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-14-70958

WUNNING, JANICE, sales agent. In a stipulated order dated August 20, 2014, Ms. Wunning admitted to having failed to disclose criminal history in her application for licensure in violation of Utah Code Section 61-2f-401. Ms. Wunning agreed to pay a civil penalty of $500 and will remain on probation during the initial licensing period. Case number RE-14-71745

WYATT, TESSA SHEA, sales agent. In a June 10, 2014 order, Ms. Wyatt's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-14-70929

YATES, RANDY S., sales agent. In an August 15, 2014 order, Mr. Yates's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-72004

TIMESHARE

ABEYTA, SHELDON B., timeshare salesperson. In an August 13, 2014 order, Mr. Abeyta's application for licensure was denied due to his reported criminal history and due to his failure to report additional criminal history. Case number TS-14-71966

THANK YOU