

Third Quarter 2018

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Director's Message

Selling a Property as a Principal

Brokers and sales agents must be careful when selling a property they own directly or indirectly because state Administrative Rules include certain requirements and limitations when selling such a property. These requirements and limitations apply to a transaction even if the licensee does not actually own the property, but has an interest in an entity that owns the property or if the licensee is in a position described in rule to influence that entity. For purposes of this article, any of these relationships described in rule will be referred to as owner or principal. This article reviews provisions of the rule, discusses two common misconceptions about the rule, and finally, suggests some ways to sell a property as an owner or principal without violating this rule.

R162-2f-401b. Prohibited Conduct As Applicable to All Licensed Individuals.

An individual licensee may not:

(15) act or attempt to act as a limited agent in any transaction in which:

(a) the licensee is a principal in the transaction; or

(b) any entity in which the licensee is an officer, director, partner, member, employee, or

stockholder is a principal in the transaction;

In other words, a licensee cannot act or attempt to act as a limited agent if they directly or indirectly own the property. As an owner, it would be an inherent conflict of interest to be or attempt to be a limited agent when you are representing yourself.

Misconceptions

There are two **misconceptions** the Division hears quite frequently:

1- As a principal in the transaction I can represent both sides as long as I have the buyer sign a Limited Agency Consent Agreement.

The rule is very clear: a licensee **cannot** act as a limited agent if they are a principal in the transaction. Obtaining a signed limited agency consent form does not remove this prohibition.



Jonathan Stewart

Division of Real Estate

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2- I am not a limited agent because an entity owns the property and I am only a(n) (officer, director, partner, member, employee, or stockholder) of the company.

The rule is also very clear about entities that own property. If a licensee is an officer, director, partner, member, employee, or stockholder of an entity that owns property, the same prohibition applies.

Options for Licensees

With this in mind, what options does a licensee have when selling their own property or a property owned by an entity with which they have a relationship described in rule? It is more complicated for a principal broker than a sales agent, but there are options for both.

Sales Agent

Hire an Agent to Represent You

As a sales agent you can always hire another sales agent to represent you. This might be the least favorable option because you may not want to pay someone to do something you can do yourself. Although it may not be appealing, it would help to insulate you from potential legal liability and keep you in compliance with Administrative Rules.

Buyer Signs an Unrepresented Buyer Form

Another option is to have a potential buyer that is not represented sign an unrepresented buyer form. With

this form signed, you would be in compliance with Administrative Rules, but there are still risks involved. Often times an unrepresented buyer will need assistance with the transaction. When dealing with an unrepresented buyer, licensees must be careful not to create implied agency by performing actions as though you were their agent.

Ensure that the Buyer is Represented

A third option is to make sure that any buyer interested in your property is represented by another agent or to only accept an offer from a represented party. You can't control whether a buyer is represented, but you can control how you interact with unrepresented parties and which offer to accept.

Principal Broker

For a broker, the rule is a bit more complicated. If any of your affiliated agents brings a buyer to purchase your property, you would become a limited agent because your agents represent you.

Hire an Agent Outside of Your Brokerage to Represent You

As mentioned in the Sales Agent section above, you can always hire a sales agent to list your property. Again, this may not be the most

favorable option, but it would protect you from violating applicable administrative rules.

Prohibit Your Agents from Bringing you a Buyer

Because you are a Principal Broker, your agents cannot represent a buyer on a property you are selling if you are representing yourself. Because your agents represent you, this structure would make you a limited agent. If you are a Principal Broker representing yourself in the sale of your property, make sure your agents know they can't bring you a buyer unless you take steps to remove yourself from the transaction.

Have your Agents Refer a Buyer to a Different Brokerage

If an agent in your brokerage has an interested buyer, have your agent refer the buyer to a different brokerage for a referral fee. You can continue to represent yourself, your agent can be compensated for the buyer they found, and you would remain in compliance with this administrative rule.

This administrative rule is there to protect the public and protect licensees from being accused of taking advantage of unrepresented buyers. If you own a property or have a relationship described in rule with an entity that owns property, make sure you take the proper steps to protect yourself, minimize risks and potential legal exposure, and adhere to all statutes and rules.



Division of Real Estate



MORTGAGE LICENSE RENEWAL

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

Individual Renewal Checklist (Loan Originators and Lending Managers)

Prior to November 1, 2018

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

2. Review your NMLS filing to make sure there are no license items placed on your filing. License items can be deficiencies or requirements that are pending on your license and must be cleared prior to requesting renewal. When a license item is placed on your filing, you receive an email through the NMLS notifying you of the deficiency or requirement. Some common deficiencies include Employment History Updates, ACH Payments that may

have been returned unpaid, requests for information about Disclosure Questions or Credit Reports. **Satisfy all pending license items prior to renewal.** You may call the Division of Real Estate licensing department at 801-530-6747 if you do not understand your deficiency or need help in getting it cleared. For assistance in navigating the NMLS system please contact the NMLS Call Center at (855)-665-7123. NMLS Support staff will assist you in NMLS system use issues and for help requesting your license renewal online.

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

3. If your driver's license number has changed, be sure to indicate this update on your filing, as well as your US citizenship status. This is found under the Identifying Information section on your MU4 form. If this information is incorrect or incomplete, we may place a deficiency on your license requiring you to provide the Division with a copy of the Certificate of

Legal Presence found here: 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), the Utah Law Course (2 hours), and MLO's licensed between 05/08/17 and 12/31/17 must have completed the new Utah MLO Course (5 hours) by 10/21/18 if they desire to renew their mortgage license at the beginning of the 2019 renewal period on November 1st. Lending Managers are NOT required to complete the new Utah MLO Course. Each of these CE requirements must be completed prior to requesting renewal.

MLO'S LICENSED BETWEEN 05/08/17 AND 12/31/17 MUST HAVE COMPLETED THE NEW UTAH MLO COURSE (5 HOURS) BY 10/21/18 IF THEY DESIRE TO RENEW THEIR 2019 MORTGAGE LICENSES ON NOVEMBER 1ST

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It is recommended that these hours be completed no later than December 15, 2018 in order to insure timely license renewal. The NMLS will prevent you from requesting renewal if these hours are not banked in the NMLS.

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

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

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

On or After November 1, 2018:

1. You can now request renewal. The renewal fee is \$78.00 which includes the NMLS processing fee of \$30, Renewal fee of \$30.00 and Recovery Fund fee of \$18.00. You will be required at that time to **ATTEST AND SUBMIT** to the accuracy of your

- filing so make sure, once again, that all is correct.
2. If there is a change in your answers to the Disclosure Questions, you must upload the required documentation explaining the change in your filing.
 3. If you request your renewal prior to January 1, 2019, your license will remain in the status that it was prior to renewal. If your status 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, and branches):

Prior to November 1, 2018

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

4. Provide a current **Certificate of Existence for all entities & DBAs** from the **Utah Division of Corporations** at <https://secure.utah.gov/bes/> and upload to the Entities NMLS record.

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

On or After November 1, 2018:

1. Request and pay renewal fees through NMLS between November 1 and December 31, 2018. **If renewal is requested prior to January 1, 2019, the license will remain in the status that it was prior to renewal.** If the status was active, 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.



MORTGAGE LOAN ORIGINATORS - ALERT!!

If Initially Licensed Between
May 8, 2017 and December 31, 2017...

You are REQUIRED to Complete the 5-Hour New Utah MLO
Course to Renew Your License for 2019

The Utah Residential Mortgage Regulatory Commission (Commission) approved a 5-hour post license education course for all Mortgage Loan Originators (MLOs) who received an original Utah mortgage loan originator's license between May 8, 2017, and December 31, 2017. **MLOs who were initially licensed in Utah in 2018, will need to complete the New Utah MLO Course to renew their 2020 MLO licenses.**

The strong housing market in Utah combined with the statutory change which substituted the Uniform State Test (UST) for the previous Utah State MLO Exam (which became effective May 8, 2017) significantly increased the overall number of MLOs licensed in Utah. The Commission determined that because the Utah MLO exam has now been eliminated, there is a persuasive need for a CE Course to instruct new Utah MLO licensees regarding the Statutes and Administrative Rules that were previously encompassed by the Utah exam.

The deadline for completion of the required post license education course is the end of year

following the year in which the MLO is initially licensed in Utah.

For example, a mortgage licensee who has been licensed in a state other than Utah, and received their initial Utah MLO license in August 2017, will need to complete the New Utah 5-hour MLO Course no later than October 21, 2018, in order to request license renewal for 2019.

The 5-hour post license course covers Utah specific legislative and Administrative Rule requirements pertaining to the following topics:

Non-Disclosure Sales

Property Ownership

Property Tax Collection

- Due November 30, in arrears
- Primary and Secondary Rates

Mortgage Products – Including State Specific

Who Signs? – The Authority to Sign Documents

Marketing and Advertising Requirements

- Trigger Terms

- Joint Marketing – Lender/Real Estate Licensee – Open Houses
- Social Media
- MSA – Current MSA Guidelines and Rule Changes
- Lead Generation and Purchasing Leads

Review of the Utah Division of Real Estate

- Regulatory Authority
- Department/Agency Structure
- Responsibilities and Limitations

Regulatory Authority and Responsibilities of the Utah Residential Mortgage Practices and Licensing Act

The Utah High Cost Home Loan Act

Mortgage Administrative Rules and Rule Changes that Occurred in the Previous Two Years

Utah License Law and Regulation

- Activities Requiring a License
- Unlicensed Activity
- MLO Compensation and Personal Liability

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Mortgage License Maintenance

- Continuing Education Requirements
- Personal Information Updates and Required Notifications
- Renewal
- Record Keeping and Reporting
- License Suspension, Reinstatement, or Rescission of License
- Fines and Penalties
- Civil and Criminal Liability

MLOs licensed between May 8, 2017, and December 31, 2017, need to **ACT NOW** to complete this important required course **in advance of the 2019 license renewal period which commences on November 1, 2018. MLOs that have not completed this required course by October 21, 2018, will be prevented from requesting their 2019 license renewal or reinstatement until the NMLS receives documentation of course completion by the course provider.**

For information regarding current providers of the 5-hr Utah MLO Course please go [HERE](#):

The implementation of the post licensing course by the Mortgage Commission will help to ensure that Utah consumers continue to be protected by having all mortgage loan originators educated on Utah lending industry regulatory requirements and obligations. MLOs licensed in 2017, after May 8th, have had as much as one and one-half years to complete this CE Course requirement. Prompt action NOW will prevent delays in renewing your 2019 MLO license.

MORTGAGE LENDING MANAGERS!

The Division encounters Mortgage Loan Originators (MLOs) and Lending Managers (LMs) that are not aware of the rule that Principal Lending Managers (PLMs) are responsible for any and all promotional item put out to the public, regardless of the forum. This includes individual and "team" websites, co-advertisements, Facebook, Twitter, etc.

R162-2c-301a.(2)(b)(ix): "An LM who is designated in the nationwide database as the principal lending manager of an entity shall review for compliance with applicable federal and state laws all advertising and marketing materials and methods used by: (A) the PLM's sponsoring entity; and (B) the entity's sponsored mortgage loan originators[.]"



Pearson

VUE is conducting a National Real Estate Job Analysis to update the National Real Estate Licensing Exams. Pearson VUE invites Real Estate licensees to participate in a short survey. Participation in the survey is a simple way to give back to the real estate community and prepare the next generation of real estate licensees for the industry. To participate, please contact Brianna Gillespie at Brianna.Gillespie@pearson.com

BROKERS!

Don't Cause Aspiring New Agents Unnecessary Grief!

A prospective sales agent has completed their real estate pre-licensure education and their real estate licensing exam. As they contemplate making application to the Division of Real Estate for licensure, they now must decide which brokerage to place their soon to be obtained sales agent license.

A prospective sales agent may be very excited and eager to interview with several brokers in their community to decide which brokerage they want to work for. They become impressed with the reputation, training, and professionalism of a particular broker including the pleasant staff and the collection of skilled licensees. Finally the prospective sales agent makes a very personal and important decision; they want to be part of your brokerage.

As their chosen new Broker, you request that rather than immediately signing their real estate license application, you ask the nervous but eager, soon to be sales agent, to simply leave their application paperwork with you to sign and subsequently submit to the Division. The prospective sales agent is very appreciative of your willingness to transmit the

required documents to the DRE which saves them a trip downtown to the Heber M. Wells Building. Weeks later the prospective sales agent contacts the Division to find out why they have not yet received notice of their approved real estate license. After searching high and low the Division explains to the unsuspecting individual that the Division of Real Estate NEVER RECEIVED THEIR REAL ESTATE SALES AGENT APPLICATION!!

After the frustrated candidate tracks down their "formerly selected" broker they now realize that their license application was overlooked or somehow misplaced by the brokerage. The nervous applicant immediately hand delivers their license application directly to the Division. After reviewing the required application documents, the Division has the unfortunate and unenviable duty to now inform the licensee that both their real estate education (one year) and exam completion (ninety days) deadlines have both been exceeded.

The panicked real estate licensee now must RETAKE THE 120 HOUR PRELICENSE EDUCATION & RETAKE AND PASS THE EXAM simply because these critical requirement deadlines have

been exceeded. Talk about being upset, they are absolutely livid!!!

Brokers: Please don't cause prospective licensees unnecessary grief by holding licensing applications at your office, and ultimately subjecting someone that at one time wanted to work for you, to have to redo important and expensive prelicensing requirements due to your failure to immediately submit candidate applications to the Division. Prospective licensees may not inform you of how close they are to exceeding application deadlines. Assuming the responsibility for another individual to submit critical date sensitive information is NOT A RECOMMENDED PROCEDURE. We recommend and advise brokerages to promptly sign application documents and have **THE LICENSING CANDIDATE THEMSELVES** deliver or mail their own application documents directly to the Division. If you unnecessarily interject yourself into the application process by agreeing to assume the responsibility of delivering timely documents, you run the needless risk of potentially contributing to the delinquency of a licensing application.

A sad, but true, recurring story. PLEASE don't be the cause of an aspiring new agent's unnecessary grief.

APPRAISER QUALIFICATIONS Minimum Standards

In the division's first quarter newsletter, we addressed new changes to the minimum standards to become an appraiser released by the Appraisal Qualifications Board (AQB). That article stated that we would provide additional information about the areas where the division's rules exceed AQB minimum standards. The Board has already voted on a rule amendment implementing the changes from the AQB that became effective on September 4, 2018. If you want to read about how the minimum standards have changed, you can do so [HERE](#). This article will only focus on areas the division exceeds the minimum standards. There are some additional changes that only impact mass appraisers that will not be covered in this article.

In May of this year we identified eight areas that administrative rule exceeds minimum standards and discussed each of these with the Board to determine if we wanted to continue exceeding minimum standards. In each case, the Board decided to keep these rules unchanged. The areas our administrative rules exceed minimum standards are as follows:

1. R162-2g-302(1)(b) – Experience hours used to become a State Licensed Appraiser are only recognized when obtained while the individual was registered with the Division as a Trainee.

2. R162-2g-304b(1)(a) – Certified Residential Appraiser candidates must complete at least 500 experience hours while the applicant is licensed as a State Licensed Appraiser.

3. R162-2g-304d(2)(b)(i) – The Appraiser Board may not award credit for appraisal experience earned more than five years prior to the date of application.

4. R162-2g-304d(2)(c) – at least 50% of the appraisals submitted for experience credit shall be appraisals of properties located in Utah.

5. R162-2g-304d(2)(g) – Experience gained for work without a traditional client may qualify for experience hours but cannot exceed 50% of the total experience requirement.

6. R162-2g-304d(3)(J) – As to the first 35 residential appraisals or first 20 non-residential appraisals completed, as applicable to the license or certification being sought, the inspection must include:

- Measurement of the exterior of a property that is the subject of an appraisal; and
- Inspection of the exterior of a property that is used as a comparable in an appraisal; and



- As to appraisals after the first 35 residential appraisals or first 20 non-residential appraisals completed, as applicable to the license or certification being sought, the inspection must satisfy all scope of work requirements.

7. R162-2g-304d(4)(c)(i) – An individual applying for certification as a state-certified residential appraiser shall document at least 75% of the hours submitted from:

- the residential experience hours schedule found in Appendix 1; or
- the residential portion of the mass appraisal hours schedule found in Appendix 3.

8. R162-2g-304d(4)(d) – an individual applying for certification as a state-certified general appraiser shall document at least 1,500 experience hours as having been earned from:

- the general experience hours schedule found in Appendix 2; or
- properties other than 1- to 4-unit residential properties identified in the mass appraisal hours schedule found in Appendix 3.

Division of Real Estate



DIVISION STAFF *Spotlight*



Sarah Thaler

Meet Sarah! Sarah is a member of the Division's Real Estate Licensing team. She was born and raised in Green River, Wyoming and moved to Salt Lake in 2005 where she attended the Utah College of Massage Therapy. She then took residence in Denver to be a Ski Technician for a couple of years before heading back to Wyoming to practice Massage Therapy. Sarah decided her ambition was to pursue a Real Estate career. Her aunt was an owner/broker for 30 years and wanted to teach Sarah everything she knew! Sarah practiced Real Estate for 4 years very successfully and enjoyed the fun career but always wanted to move back to Salt Lake City. She returned to our amazing State in the Fall of 2017 and feels lucky to have landed her job as a Real Estate Licensing Specialist with the Division in March of this year.

Sarah's favorite things to do are snowboard and golf so she feels Utah is the perfect place to call home. She's been snowboarding since she was 6 years old and loves everything about Winter! Things that Sarah loves in life are football, the Denver Broncos, her long time boyfriend, Jeremy and their two miniature Australian shepherds, Strat and Telee who are their everything!

Some words from Sarah herself:

" I love working with agents and brokers because I've been on the other side of the industry and just want to be as helpful as possible so they can get back to their busy careers. What I enjoy most about working for the Division of Real Estate is my coworkers. We work very hard but always find time to have fun, we're like a little family".

Utah! Division of Real Estate

NEWS

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Division of Real Estate

THIRD QUARTER LICENSING and DISCIPLINARY ACTIONS

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

APPRAISAL

BODELL, J. MARTELL, II, certified residential appraiser, Draper, Utah. In an order dated June 19, 2018, Mr. Bodell was found to have failed to actively supervise his unlicensed assistant with regard to four subject properties for which Mr. Bodell completed appraisal assignments. He did not accompany her when she measured and sketched the properties, he did not take independent measurements, and he did not name her as a person who provided significant real property appraisal assistance in the appraisal reports. Mr. Bodell did not gain entry to one of the properties and falsely certified in the appraisal report that he had performed a complete visual inspection of the interior of the property. The scope of work requirements provided that he must perform a complete visual inspection of the property. He also failed to disclose the research performed in his absence by his unlicensed assistant. In doing so, Mr. Bodell failed to properly inform, and not mislead, the intended users of the appraisal. Mr. Bodell's actions in these circumstances were in violation of Utah law and USPAP, including a total of six violations. Mr. Bodell was ordered pay a total civil penalty of \$18,000 and to complete the 15

hour USPAP course and the Division approved Appraiser Supervisor/Trainee course in addition to the hours of continuing education required for his next license renewal. Case number AP-15-76775 and Docket No. AP-2017-004

KIMBER, CHARLES K., certified general appraiser, Tremonton, Utah. In a stipulated order dated August 22, 2018, Mr. Kimber admitted that in failing to support adjustments to the selling prices of comparable sales, failing to analyze the comparable sales data, and falling to support an opinion of site value, he violated USPAP and Utah law. Mr. Kimber agreed to pay a civil penalty of \$1,000 and to complete four hours of continuing education in addition to the education required for his next license renewal. Case number AP-13-63451, Docket No. AP-2018-002

MORTGAGE

BEUS, BRADLEY R., mortgage loan originator, Hooper, Utah. In a stipulated order dated July 11, 2018, Mr. Beus admitted to having originated loans under the name and license number of Brandt Miles in violation of Utah law and administrative rules. Mr. Beus agreed to disgorge commissions from the transactions amounting to

\$6,122.50 and to pay a civil penalty of \$4,000, resulting in a total obligation for payments to the state of \$10,122.50. In addition, he agreed that his license would be on probation until December 31, 2019. Case number MG-16-80783 and Docket No. MG-2018-009

CAMPBELL, RYKER DANIEL, mortgage loan originator, Syracuse, Utah. In an order dated June 28, 2018, Mr. Campbell's license was denied due to his criminal history. Case number MG-18-101717

DUNROE, JESSICA, mortgage loan originator, Kaysville, Utah. In a stipulated order dated June 22, 2018, Ms. Dunroe admitted that while acting as a loan processor, she processed loans she knew were originated by Brandt Miles in the names of other licensed mortgage loan originators. In addition, on at least two occasions, Ms. Dunroe signed for the other originator, without the originator's knowledge or consent. Ms. Dunroe's actions were in violation of Utah law and administrative rules and she agreed to have her license suspended for 12 months, to disgorge commissions in the amount of \$1,376, and to pay a civil penalty of \$5,000, resulting in a total obligation for payments to the state of \$6,376. Case number

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MG-14-69349 and Docket No. MG-2018-003

HANSEN, MARIA, mortgage loan originator, Mountain Green, Utah. In a stipulated order dated June 22, 2018, Ms. Hansen admitted that while acting as a loan processor, she processed loans she knew were originated by Brandt Miles in the names of other licensed mortgage loan originators, in violation of Utah law and administrative rules. Ms. Hansen agreed to have her license suspended for 12 months and to pay a civil penalty of \$5,000. Case number MG-14-71705 and Docket No. MG-2018-004

MILES, BRANDT, lending manager, Syracuse, Utah. In a stipulated order dated June 22, 2018, Mr. Miles admitted that his name and the name of his mortgage company, Precision Home Loans, Inc. ("Precision") were placed on the exclusionary list by the Federal Home Loan Mortgage Corporation ("Freddie Mac"), which excluded him and his company from transacting business with Freddie Mac. Mr. Miles arranged to have loans that he originated submitted to Freddie Mac through other companies and in the name of other mortgage loan originators. In addition, Mr. Miles submitted loan applications through Precision to lenders using his name and license as if he had originated the loans despite the loans having been originated by other licensees not affiliated with Precision. Mr.

Miles's actions were in violation of Utah law and administrative rules and he agreed to have his license revoked and to pay a civil penalty of \$50,000. Case number MG-13-67766 and Docket No. MG-2018-001

WHEELER, AMIE, mortgage loan originator, Syracuse, Utah. In a stipulated order dated June 22, 2018, Ms. Wheeler admitted that she agreed to process loans in her name and under her license that had been originated by Brandt Miles. In one instance, Ms. Wheeler fabricated credit score disclosure forms by cutting and pasting the borrower's signature on the form without the borrower's knowledge or consent. Ms. Wheeler also processed loans originated by other licensees under Brandt Miles's name and license. Ms. Wheeler's actions were in violation of Utah law and administrative rules. In its investigation, the Division determined that there were mitigating circumstances in Ms. Wheeler's conduct in that she relied on representations by Mr. Miles and by her lending manager and, at the time, her experience in the mortgage industry was limited to working as a contract processor. Ms. Wheeler agreed to have her license suspended for 36 months and to disgorge commissions in the amount of \$13,570.34. Case number MG-15-79930 and Docket No. MG-2018-002

WHITTAKER, TODD HUGH, mortgage loan originator, Salt Lake

City, Utah. In an order dated August 13, 2018, Mr. Whittaker's application for licensure was denied due to a prior denial for licensure and due to outstanding judgments and liens. Case number RE-18-102759

REAL ESTATE

AFFLECK, NATHAN, associate broker, Syracuse, Utah. In a stipulated order dated June 20, 2018, Mr. Affleck admitted to having failed to uphold his fiduciary duties to his client. In addition, Mr. Affleck failed to disclose to his client that he was a principal in the transaction prior to executing the purchase agreement. Mr. Affleck's actions were in violation of Utah law and administrative rules. Mr. Affleck agreed to pay a civil penalty of \$6,000 and to complete six hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-14-73936

ANDERSON, HEATHER, sales agent, Salt Lake City, Utah. In a stipulated order dated July 11, 2018, Ms. Anderson admitted that she failed to disclose prior criminal history in her application for licensure, in violation of Utah law. Ms. Anderson agreed that her license be placed on probation for the initial licensing period and to pay a civil penalty of \$1,000. Case number RE-18-101719

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ANTONELLI, AMERICO, sales agent, St. George, Utah. In an order dated August 30, 2018, Mr. Antonelli's license was renewed and placed on probation for one year due to a plea in abeyance in a criminal matter. Case number RE-18-103201

BLOXHAM, MELISSA M., sales agent, Payson, Utah. In an order dated August 8, 2018, Ms. Bloxham's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-102705

BOYSON, TIFFANY, sales agent, Ogden, Utah. In a stipulated order dated August 15, 2018, Ms. Boyson admitted to having acted in a transaction as a limited agent in which she was also a principal in the transaction. Her actions were in violation of Utah law and administrative rules. Ms. Boyson had disclosed her status as a part owner. However, Utah law prohibits a licensee from acting as a limited agent in a transaction in which the licensee is a principal, regardless of disclosure. Ms. Boyson agreed to pay a civil penalty of \$3,500 and to complete three hours of continuing education in addition to the continuing education required for her next license renewal. Case number RE-15-75167

BROWN, COLLIN R., principal broker and dual broker, Layton, Utah. In a stipulated order dated August 15, 2018, Mr. Brown ad-

mitted to having performed unlicensed property management activities after his dual broker license had expired. In mitigation, Mr. Brown had renewed his principal broker license and thought that he had also renewed his dual broker license. Mr. Brown admitted that his unlicensed property management activities during the time that his dual broker license was expired were in violation of Utah law and administrative rules. He agreed to pay a civil penalty of \$1,000 and to complete three hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-15-76368

BURNSIDE, CAMERON S., sales agent, Sandy, Utah. In a stipulated order dated August 15, 2018, Mr. Burnside admitted to having advertised properties for sale that were either already under contract or sold at the time the advertisement was posted. These ads are a violation of Utah administrative rules. Mr. Burnside agreed to pay a civil penalty of \$150. Case number RE-15-78653

CAHOON, BRAD VERNON, sales agent, St. George, Utah. In an order dated August 16, 2018, Mr. Cahoon's application to renew his license was denied due to criminal history and his registration on the Utah Sex Offender Registry. Case number RE-18-101710 and Docket No. RE-2018-037

CALZADA-HERNANDEZ, DANIEL, sales agent, Layton, Utah. In an order dated July 17, 2018, Mr. Calzada-Hernandez's license was granted and placed on probation for one year due to a plea agreement in a criminal matter. Case number RE-18-102121

CARLTON, CHANCELLOR RICHARD, sales agent, Mona, Utah. In an order dated August 22, 2018, Mr. Carlton's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-103029

CARROLL, JAMES A., continuing education instructor, Farmington, Utah. In an order dated July 2, 2018, Mr. Carroll's application for licensure was denied due to criminal history. Case number RE-18-101736

CARTER, SHANE R., sales agent, Cedar City, Utah. In a stipulated order dated August 15, 2018, Mr. Carter admitted to having advertised real estate services on social media without including his affiliated brokerage information, in violation of Utah administrative rules. Mr. Carter agreed to pay a civil penalty of \$150. Case number RE-15-76216

CARY, DOUG R., sales agent, Centerville, Utah. In a stipulated order dated August 15, 2018, Mr. Cary admitted that he removed the key from a lock box and hid the key so that a home inspection could be performed. Mr. Cary's client re-

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trieved the key but failed to return it to the lock box. These actions were contrary to specific instructions from the listing agent. Mr. Cary agreed to pay a civil penalty of \$500 for violation of Utah administrative code. Case number RE-15-76695

CLEGG, PAIGE CIERRA, sales agent, Bluffdale, Utah. In an order dated May 31, 2018, Ms. Clegg's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-100785

CLYDE, CYNDIE MARIE, sales agent, Pleasant Grove, Utah. In an order dated August 30, 2018, Ms. Clyde's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-103204

FILLMORE, LYNN C., principal broker, Orem, Utah. In a stipulated order dated August 15, 2018, Mr. Fillmore admitted to having prepared a real estate purchase contract ("REPC") in which he was listed as the buyer's agent. He was paid for preparing the REPC and for other real estate services. Mr. Fillmore failed to enter into a written buyer-broker agency agreement disclosing the scope of agency between him and the buyer. These actions are a violation of Utah law and administrative rules. Mr. Fillmore agreed to pay a civil penalty of \$1,000 and to complete two hours of continuing education in addition to the

continuing education required for his next license renewal. Case number RE-15-77552

GOODWIN, MELINDA L., sales agent, Washington, Utah. In a stipulated order dated August 15, 2018, Ms. Goodwin admitted to placing advertisements on social media and on her personal vehicle. The advertisements did not identify her brokerage as required by Utah administrative rules. Ms. Goodwin agreed to pay a civil penalty of \$500. Case number RE-14-72147, RE-15-78224, and RE-16-81216

GRANT, DAVID B., sales agent, Lehi, Utah. In a stipulated order dated August 15, 2018, Mr. Grant admitted to operating a branch real estate office that was not registered with the Division. In addition, Mr. Grant placed advertisements on social media that did not include the name of his brokerage as required by Utah administrative rules. Mr. Grant agreed to pay a civil penalty of \$1,000. Case number RE-16-80396

GREEN, RACHEL, sales agent, Salt Lake City, Utah. In a stipulated order dated August 15, 2018, Ms. Green admitted that in 2014 she placed advertisements on social media that did not identify her brokerage as required by Utah administrative rules. The Division contacted Ms. Green and warned her of the advertising violations. In 2017, Ms. Green again placed advertisements on

social media without including her brokerage name. She agreed to pay a civil penalty of \$500. Case number RE-14-72622

HANSEN, JODI L., sales agent, South Jordan, Utah. In a stipulated order dated August 15, 2018, Ms. Hansen agreed to the entry of an order against her. In 2015, she was a licensed real estate agent. At the time she also worked as a loan processor in the mortgage industry. Ms. Hansen admitted that in the course of processing a loan, she signed a "Right to Receive a Copy of Appraisals" form for a buyer without the buyer's knowledge or authorization. The form waived the buyer's right to receive copies of the property valuation in advance of closing. Ms. Hansen's actions violate Utah law. She agreed to pay a civil penalty of \$5,000 and to complete three hours of continuing education in addition to the continuing education required for her next license renewal. Case number RE-15-77788

HELGESON, LORRAINE DEANNE, sales agent, Heber City, Utah. In an order dated July 30, 2018, Ms. Helgeson's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-102454

HOLT, THOMAS BARRY, sales agent, Ivins, Utah. In an order dated August 17, 2018, Mr. Holt's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-102914

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HUNTER, ROSARIO, sales agent, South Jordan, Utah. In a stipulated order dated August 15, 2018, Ms. Hunter admitted to signing or initialing a counter offer on behalf of her clients without a written Power of Attorney and without her client's permission. Ms. Hunter's actions were in violation of Utah law and administrative rules. Ms. Hunter agreed to pay a civil penalty of \$4,000 and to complete six hours of continuing education in addition to the continuing education required for her next license renewal. Case number RE-15-79758

JENTZSCH, JASON, sales agent, Park City, Utah. On May 29, 2018, the Division issued a citation to Mr. Jentzsch for advertising without displaying his brokerage information as required by Utah administrative rules. The citation assessed a fine in the amount of \$150. Case No. RE-18-99414 Citation number DREC-18-5

JORDAN, JOHN B., sales agent, Sandy, Utah. In an order dated August 1, 2018, Mr. Jordan's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-102511

KING, R. MONTE, sales agent, North Ogden, Utah. In an order dated August 10, 2018, Mr. King's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-102737

KNIGHT, JONATHAN PARKER, sales agent, Sandy, Utah. In an order dated August 3, 2018, Mr. Knight's license was granted and placed on probation for the initial licensing period due to a plea in abeyance in a criminal matter. Case number RE-18-102580

LARKIN, JEREMY L., sales agent, St. George, Utah. On May 29, 2018, the Division issued a citation to Mr. Larkin for advertising identifying his team name rather than displaying his brokerage information as required by Utah administrative rules. Mr. Larkin had been previously warned about advertising violations. The citation assessed a fine in the amount of \$500. Case No. RE-17-96766 Citation number CDREC-18-6

MADSEN, JEFFREY DARRELL, sales agent, Orem, Utah. In an order dated August 15, 2018, Mr. Madsen's application for renewal of his license was denied due to his criminal history. Case number RE-18-102834

MENDEZ, RAFAEL, associate broker, Pleasant View, Utah. In a stipulated order dated June 20, 2018, Mr. Mendez admitted that his client offered to purchase a home by making a down payment of 20% of the purchase price, with seller financing for the balance. The REPC contemplated the transfer of title and a note and deed of trust. However, at closing, the client signed a uniform real estate lease contract, contrary to the provisions of the REPC. Title

to the property was not transferred to the client. After the client's default, the seller evicted the client and retained the client's down payment. The client was an unsophisticated buyer who relied on Mr. Mendez's experience and knowledge in structuring the transaction. Mr. Mendez's actions were in violation of Utah law and administrative rules. Mr. Mendez agreed to pay a civil penalty of \$8,000 with a reduction, dollar for dollar, of up to \$4,000 for any restitution paid to his client. Mr. Mendez shall also complete four hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-12-61634

NUNEZ, MICHELLE R., sales agent, Layton, Utah. In an order dated August 29, 2018, Ms. Nunez's license was renewed and placed on probation for the renewal period due to criminal history. Case number RE-18-103161

OGWIN, ANDREW REED, sales agent, Spanish Fork, Utah. In an order dated July 17, 2018, Mr. Ogwin's license was granted and placed on probation due to a pending criminal matter. Case number RE-18-102124

PROSPECTOR SQUARE MANAGEMENT COMPANY, LLC, unlicensed, Park City, Utah. In a stipulated order dated July 11, 2018, Prospector Square Management Company, LLC ("PSMC") admitted to being a par-

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ty to long-term real estate lease agreements without a license and without affiliating with a principal broker, in violation of Utah law and administrative rules. PSMC and its agent, Terry Rawstern agreed to pay a civil penalty of \$5,000. Case number RE-14-73309

RAWSTERN, TERRY, unlicensed, Park City, Utah. In a stipulated order dated July 11, 2018, Mr. Rawstern admitted to having engaged in the business of real estate sales agent by negotiating for Prospector Square long-term real estate lease agreements without a license, in violation of Utah law and administrative rules. Mr. Rawstern and his company, Prospector Square Management Company, LLC, agreed to pay a civil penalty of \$5,000. Case number RE-14-73309

ROBERTS, MICHAEL, sales agent, Cedar City, Utah. In an order dated July 6, 2018, Mr. Roberts's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-101888

ROSE, LYNDI, sales agent, St. George, Utah. In an order dated July 31, 2018, Ms. Rose's license was granted and placed on probation for one year due to a plea in abeyance in a criminal matter. Case number RE-18-102458

ROUNKLES, BLAKE D., sales agent, Kaysville, Utah. In a stipu-

lated order dated August 15, 2018, Mr. Rounkles admitted to participating in a real estate transaction with his company as seller and without disclosing that he was an owner-agent or that he had an interest in the property. Terms of the agreement provided for seller financing and allowed the seller 60 days after closing to pay off a home equity loan. Mr. Rounkles failed to pay off the home equity loan as agreed. He also stated to the buyer that the loans on the property did not have a due on sale clause but later admitted to the Division investigator that the loans did have a due on sale clause. Mr. Rounkles's actions were in violation of Utah law and administrative rules. Mr. Rounkles agreed to pay a civil penalty of \$2,000 and to complete nine hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-16-87212

SLOSS, REBECCA M., sales agent, Draper, Utah. In a stipulated order dated August 15, 2018, Ms. Sloss admitted that she failed to notify the Division in writing within ten business days of entry of a plea in abeyance to a charge which requires such notification. In mitigation, Ms. Sloss did eventually notify the Division by telephone approximately one year after entry of her plea agreement and also disclosed the plea agreement when she later renewed her license. Ms. Sloss agreed that her license be re-

newed on probation for the renewal period and to pay a civil penalty of \$250. Case number RE-18-102128

SOORMA, KAPIL, sales agent, Layton, Utah. In a stipulated order dated August 15, 2018, Mr. Soorma admitted to having rented a property to a tenant without disclosing that he was a 50% owner of the property. Mr. Soorma's actions were in violation of Utah law and administrative rules. He agreed to pay a civil penalty of \$1,000 and to complete six hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-16-85652

STAEFFLER, DUSTIN, former sales agent, St. George, Utah and Rapid City, South Dakota. In a default order dated June 14, 2018, Mr. Staeffler was found to have 1) twice made false representations; 2) been incompetent to act as a sales agent in such a manner as to safeguard the interests of the public; 3) engaged in dishonest dealing; and 4) prepared a document that did not reflect the true terms of the transaction. He was assessed a civil penalty of \$25,000 and was restricted from applying for licensure for five years. In the event Mr. Staeffler does reapply for licensure after the five-year restricted period, he must appear before the Real Estate Commission before his application may be granted. Case number RE-18-

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71508 and Docket No. RE-2018-017

VALDEZ, STEFANIE DAWN, sales agent, West Haven, Utah. In an order dated June 18, 2018, Ms. Valdez's license was granted and placed on probation for the initial licensing period due to a plea in abeyance in criminal matter. Case number RE-18-101385

WELCH, JACOB TAYLOR, sales agent, Salt Lake City, Utah. In an order dated August 8, 2018, Mr. Welch's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-102706

WILLIAMS, RACHEL LYNN, sales agent, South Jordan, Utah. In an order dated August 24, 2018, Ms. Williams's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-103094

WRIGHT, ROBERT L., sales agent, Cottonwood Heights, Utah. In a stipulated order dated July 11, 2018, Mr. Wright admitted to having failed to disclose his criminal history in his application for licensure, in violation of Utah law and administrative rules. Mr. Wright agreed to pay a civil penalty of \$1,000 and that his license would be on probation for the initial licensing period. Case number RE-18-101718

ZEA, MARIA YOLANDA, sales agent, Salt Lake City, Utah. In an order dated June 18, 2018, Ms. Zea's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-101396

TIME SHARE

ANDERS, JOSHUA M., time-share salesperson, Magna, Utah. In a stipulated order dated July 5, 2018, Mr. Anders admitted to having failed to disclose his criminal history in his application for registration as a timeshare salesperson, in violation of Utah law and administrative rules. Mr. Anders agreed to pay a civil penalty of \$2,000. Case number TS-18-101726

TEBBS, RICHARD C., time-share salesperson, Heber City, Utah. In a stipulated order dated August 16, 2018, Mr. Tebbs admitted to having failed to disclose his criminal history in his application for registration as a timeshare salesperson, in violation of Utah law and administrative rules. Mr. Tebbs agreed to pay a civil penalty of \$1,000. Case No. TS-18-102743



Qu**e**s**t**i**o**n**s**?

Co**m**m**e**n**t**s?

Contact the Division of Real Estate by phone, email or [Live Chat!](#)

(801) 530-6747

realestate@utah.gov





Rule Developments

Since July 1, 2018

To view and comment on any proposed or amended rules, please visit the [Utah State Bulletin here](#).

Appraisal Management Company Rules

Proposed Rule Amendment #1.

A proposed rule amendment was filed August 24. The primary changes proposed include the timing and content of notice from an AMC to appraisers on the AMC's panels, required communications between an AMC and its appraisers, and the manner by which an AMC offers an appraisal assignment to appraisers.

The proposed rule amendment would also provide a presumption of compliance with the customary and reasonable fee requirement. If the proposed rule is adopted, an AMC that compensates an appraiser for a completed appraisal at a rate consistent with the fee schedule for the state of Utah as published by the United States Department of Veterans Affairs Denver Regional Loan Center Appraisal Fee Schedule (the "VA Fee Schedule") would be presumed to be in compliance. The proposed rule does not adopt the VA Fee Schedule and the VA Fee Schedule would not become a minimum fee or the required fee. Rather, the VA Fee Schedule would be presumed to be customary and reasonable and in compliance with Utah and Federal law. An AMC could pay a fee

lower than the VA Fee Schedule if the AMC can document that the lower fee is customary and reasonable.

Public comment will be received on the proposed amendment through October 15. Following the public comment period, the Appraiser Board will consider whether to make the proposed amendment effective.

Proposed Rule Amendment #2. A proposed rule amendment was filed that provides for the Division to collect the AMC registry fee and forward it to the Appraisal Subcommittee. A change to the proposed rule is being prepared for filing which will incorporate the federal definition of a covered transaction instead of using the term residential mortgage loan transaction. The current registry established by the Appraisal Subcommittee for an AMC that has been in existence for more than a year is \$25 for each appraiser who has performed an appraisal assignment for the AMC in connection with a covered transaction in Utah during the previous year. For an AMC in business less than a year, the registry fee is currently \$25 for each appraiser who has performed an appraisal assignment for the AMC in connection with a covered transaction in

Utah since the AMC commenced doing business.

Appraisal

On September 4, a rule amendment became effective which adopts many of the appraiser qualification criteria changes recently adopted by the Appraiser Qualifications Board ("AQB"). The AQB establishes national minimum standards for appraisers. A state may adopt a stricter standard than that established by the AQB but may not allow a less strict standard. The rule amendment lowers the minimum standard for appraiser qualification in the areas of appraiser experience and college education required to qualify for a particular appraiser credential.

The rule amendment lowers the number of experience hours needed to qualify for a licensed appraiser credential from 2,000 hours to 1,000 hours. For the certified residential appraiser, the number of hours has decreased from 2,500 to 1,500. The minimum months required to obtain the required hours has also decreased. In addition, the rule amendment reduces the required college educational requirement and provides alternative means for an applicant to obtain the required college education.

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Mortgage

On July 13, 2018, a rule amendment became effective which provides optional experience points for a licensed mortgage loan originator working as a junior loan officer or assistant loan officer. Under circumstances outlined in the rule, optional experience points may accumulate at the rate of one-half point per month.

Real Estate

On August 21, 2018, a rule amendment became effective which 1) amends and clarifies the exemption from licensing requirements for an owner of real property; 2) changes the manner and content of qualifying experience points that a broker applicant may submit to the Division in an application for licensure; and 3) approves the use of lead-based paint forms available for use by licensees. This rule amendment provides that individual applying for a broker license shall select from the individual's documented experience at least 60 points but no more than 80 points for consideration and review by the Division of Real Estate.

Timeshare and Camp Resort

There are no recently adopted or proposed rule amendments under consideration for the timeshare and camp resort rules.

New Website for Solar Energy Consumers

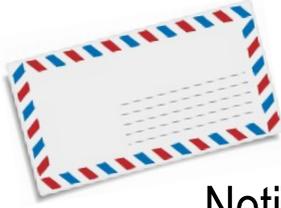
This past July, Francine A. Giani, Executive Director of the Utah Department of Commerce, announced that the Department of Public Utilities and the Office of Consumer Services jointly launched a new, public resource website that provides a road map for exploring solar energy options. The media announcement can be viewed here:

https://commerce.utah.gov/releases/2018-07-27_dpu-ocs-rooftop-solar.pdf

The information-packed website found here, <https://rooftopsolar.utah.gov/>, includes an extensive check list of questions that consumers should ask any prospective solar company or contractor, as well as applicable rates and rules, and the costs and benefits of solar. Not only will consumers find this information extremely helpful, but real estate agents surely will, as well. Take a look at this new, information-packed site, and if the need comes up, you can feel confident recommending the site to your clients seeking information about solar.



Division of Real Estate



KAGIE'S KORNER

Notification of Change of Address or Name Change

There are several occasions when the Division may need to communicate with a licensee. Usually, the Division will attempt contact via email or mail. The Division relies on the contact information in the RELMS system, provided by the licensee. If a licensee's information is not accurate in the RELMS system, the licensee may not be notified timely of important information. Here are a few examples to demonstrate why it is important for a licensee to keep their contact information up to date with the Division.

Scenario 1: Mr. Agent is a licensee who has been in the industry for nine years. A complaint is filed with the Division against Mr. Agent. The Division attempts to notify Mr. Agent of the complaint and requests that he produce documents for the investigation of the complaint. Mr. Agent recently moved, but failed to notify the Division and update his new mailing and email address. Mr. Agent does not receive the notice of complaint and fails to provide requested documents. The Division issues a citation with a civil penalty to Mr. Agent for failing to respond.

Scenario 2: Mr. Agent switched brokerages and failed to update his new email address with the Division via the RELMS system. Mr. Agent does not receive the automated emails sent by the Division informing Mr. Agent his license renewal is coming due. Mr. Agent forgets to renew his license and continues selling real estate with an expired license. The Division finds Mr. Agent in violation of the statute and

rules for conducting unlicensed real estate activity.

Licensees should update their individual record in the Real Estate License Management System (RELMS) including:

- Home Address (Address of Record)
- E-mail Address (for Division Notifications)
- E-mail Address (for RELMS Account Access)
- Affiliation (Brokerage change)
- Activation or Inactivation

Scenario 3: Ms. Agent was recently married and changed all her business cards, signs, and advertising materials to reflect her new last name. Ms. Agent forgot to update the RELMS system and notify the Division of her name change. A new prospective client of Ms. Agent calls the Division to verify her license status. The Division informs the prospective client that there is no licensee under Ms. Agent's name and is encouraged to file a complaint for unlicensed activity.

Licensees wishing to change their name should submit a cover letter of explanation and include the following documentation to the Division:

- Documentation such as:
- o Marriage Certificate
 - o Divorce Decree
 - o Court Order
 - o Drivers License

Business Change Requests can be accomplished by submitting the appropriate Business Change Form (Business Change Forms Can Be Found On Division Website under the Real Estate tab, see Forms and Applications (in green box))

Brokerage Entity CHANGES including:

- Principal or Branch Broker
- Business Address
- Business Name
 - Include registration approval by Division of Corporations
- Location of Records

Why put yourself in any of these situations by not updating your contact information as required by State Statute?

If the licensee fails to notify the Division of these changes, the licensee could be in violation of:

61-2f-207 (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.

The Division would like to inform all of its licensees in each industry that they have ten business days to notify the Division of any of the above changes.

The Investigative Process

By Chris Martindale, Real Estate Investigator

There are numerous reasons why someone might be in violation of the statute and rules that govern a licensee's license. These reasons range from failing to uphold fiduciary duty, making misrepresentations to a client or the division, failing to maintain records, simple errors involving carelessness, and even complex real estate fraud. Although these things happen, we find that most agents strive to keep the best interest of their clients at heart and are generally good and honest people. Of the 23,000 plus licensees, a very small percentage commit a violation that is reported to the Division of Real Estate. When a complaint is reported, a process is initiated to evaluate and investigate the complaint. Here is a very brief overview of the investigative process.

Notice

When a complaint is received by the Division, it is screened for potential violations and then assigned to an investigator. The licensee is referred to as the "Respondent." In most cases, the investigator will notify the Respondent of the complaint and request documents and information for the investigation. The notification of investigation is sent in the form of a letter, an email, or a phone call, and sometimes all three. The Respondent should not panic at this point. We treat all complaints as allegations until we substantiate that there is sufficient evidence to support an allegation. A Respondent should follow the instructions in the notice and direct any questions to the investigator working the case. The investigator may not be able to

answer all questions, but can certainly assist you in setting the investigation in the right direction.

Gathering Information

When the Division receives an initial complaint, we understand that we are receiving only one side of the story. There are often many perspectives of a situation. In order for the investigator to fully understand the situation, we need to see both sides of the story. This involves gathering information that we believe will be helpful in establishing the most accurate picture of events. It includes examining documents, interviewing all parties involved, including witnesses, and auditing records. The more information that is provided, the more accurately we can understand the situation. It is important for the Respondent to be timely in submitting documents and to give as complete a representation of the events as possible, and is required by statute and rule.

Conclusion

When all the information has been gathered and evaluated, a recommendation is made to the Chief Investigator. The Chief Investigator and the assigned investigator work together in an attempt to reach a fair conclusion as to whether the case should be dismissed, or whether action against the license is warranted. An Investigative Findings letter is sent to the Respondent informing them of the alleged violations and options to resolve the matter. The Respondent then has a choice to agree by stipulation to the

facts and a penalty, or to attend a hearing before the Commission or Board and the Division Director. This process provides a fair and balanced way for the Respondent to respond to the findings of the investigation. Whether by stipulation or by hearing, the Division strives to reach a clear, fair, and consistent resolution of the case. Cooperation and good communication always help to reach the fairest resolution possible, and in the most timely manner possible. When disciplinary action has been approved, it is published in the next edition of the newsletter that you are now reading.

Most investigations do not result in action being taken against a licensee, and a license is rarely revoked. As stated before, we believe licensees to be generally honest in their dealings. As the State regulatory agency for licensees, we help protect the public through regulation of real estate practices. In all cases, we strive to educate licensees, not just be the disciplinarian. Each case has different facts and circumstances and as much information as we can gather is taken into account for the best possible outcome. Knowledge of the statute and rules helps avoid common pitfalls for licensees (refer to 4th quarter newsletter article "Knowledge is Key!"). For more information regarding Enforcement and Investigations, please refer to the following rules and statutes:

Statute, §61-2f-402 and §61-2f-404.

Administrative Rule, R162-2f-402 and R162-2f-407.



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah Department of Commerce Division of Real Estate

FRANCINE A. GIANI
Executive Director

THOMAS A. BRADY
Deputy Director

JONATHAN C. STEWART
Real Estate Division Director

INSTRUCTOR DEVELOPMENT WORKSHOP Tuesday & Wednesday, October 9th and 10th Hilton Salt Lake City Center

The Division of Real Estate will be holding our annual Instructor Development Workshop (IDW), Tuesday and Wednesday October 9th and 10th at the Hilton Salt Lake City Center. We are excited to announce the return of this year's speaker, Mark Barker.

Mark literally grew up in the real estate business working with his Father who owned a real estate company in Kansas City for many years. After completing a bachelor's degree in sociology and a master's degree in education, he started Career Education Systems in 1980. 35 years ago, his application of modern adult education theory to real estate led the real estate education field in a new direction. Today most real estate educators utilize the techniques he pioneered. As a result, Career Education Systems is the largest real estate school in the middle of the country.

Mark is best known as the primary author of GAPE (Generally Accepted Principles of Education) and the Distinguished Real Estate Instructor criteria which he authored in 1992 and is still the benchmark for real estate academics worldwide. Mark was National President of the Real Estate Educators Association in 1993-1994. He was awarded the Distinguished Real Estate Instructor designation in 1987. In 1998 his workshop on fair housing won ARELLO's top workshop award. Mark has spoken in 49 states teaching instructor workshops, continuing education, GRI programs and high level sales programs for almost 30 years.

The Division is proud to have distinguished speaker and renowned Real Estate educator and trainer Mark Barker as our featured IDW presenter. The Division will provide update information from 10:00 – Noon on Tuesday, October 9th. Mr. Barker will provide insightful instructional techniques and share practical and transformative educational methods and how to's to enhance all attendees' skills.

NOTE: Attendance at the two-day IDW is **REQUIRED** once every two years for all real estate, mortgage, and appraiser **pre-licensing** instructors. Mortgage and appraisal instructors are invited to attend this course although no CE credit can be given. Only Real Estate instructors (pre-license and continuing education) as well as attending real estate licensees, will receive 12 hours of core continuing education credit for attendance at this outstanding training event. Please keep in mind that CE credits are only awarded in full-day segments.

Utah Division of Real Estate Instructor Development Workshop – 2018 –

Name: _____ License #: _____ - _____

License #: _____ - _____

Phone: _____ E-Mail: _____

REGISTRATION FEE INCLUDES:

LIGHT BREAKFAST AND LUNCH

TUESDAY 10/09:
SIGN IN & BREAKFAST 9AM - 9:45AM
WORKSHOP 10AM - 5PM

WEDNESDAY 10/10:
SIGN IN & BREAKFAST 8AM - 8:45AM
WORKSHOP 9AM - 4PM

Check Visa MasterCard American Express

Card #: _____

Exp.: _____ CCV#: _____

Signature: _____

MAKE CHECKS PAYABLE TO: UTAH DIVISION OF REAL ESTATE

***REGISTRATIONS RECEIVED AFTER SEPTEMBER
28TH WILL BE CHARGED A \$20 LATE FEE***

HILTON SALT LAKE CITY CENTER 255 S WEST TEMPLE, SLC 84101



Mark Barker

Please Select One Option:

Tuesday 10/9 — \$50

Wednesday 10/10 — \$50

Both Days — \$75