

# Division of Real Estate NEWS

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

Gary R. Herbert, Governor

Francine A. Giani, Executive Director

Jonathan Stewart, Division Director

FOURTH QUARTER 2011

## 2012 MORTGAGE LICENSE RENEWAL

The on-time mortgage license renewal period quietly ended on 12/31/11. As of the publication deadline for this article, 2,088 mortgage loan originators (including MLOs, PLMs, BLMs, and ALMs) had submitted their 2012 mortgage license renewal requests with the NMLS. 1,475 originators have not submitted their 2012 renewal request. 544 mortgage entities and mortgage branches had also requested license renewal. 238 mortgage entities and mortgage branches have not requested license renewal.

This year's mortgage license renewal procedure proceeded smoothly compared to the renewal process that occurred last year. There was dramatically less anxiety, frustration, and less overall confusion on the part of mortgage licensees. Various loan originators offered consistent comments on the 2012 mortgage license renewal process:

- “The requirement that all renewing mortgage licensees complete eight hours of NMLS CE made for a much more streamlined and simplified process overall.”
- “Having no renewal testing requirement really calmed the nerves of renewing licensees.”

**Log into NMLS**

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## IMPORTANT APPRAISER INFORMATION

Appraisers should be aware of some significant changes, some of which have already occurred and others that will occur soon.

For a long time appraisers have expressed frustration with the fact that when they renew their licenses, they occasionally and briefly “fall off” the Appraisal Subcommittee National Registry. This does sometimes occur during the period of time between the end of the month and the time the Subcommittee receives the Division's monthly payment of accumulated national registry fees. For this reason, the Division has made two important recent changes to remedy this recurring problem.

1. **Expanding License Renewal Window from six weeks to three months.** Doubling the renewal window gives appraisers more time

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## DIRECTOR'S MESSAGE



**Jonathan Stewart**

The Division of Real Estate is always looking for better ways to serve and communicate with the public, licensees, and industry members. If you have visited our website recently, you may have noticed something new. In November the Division

added a "live chat" function to the website. This new feature allows anyone visiting our website to instantly connect with a Division staff member. With the addition of this new communication feature, people wishing to contact the Division have more options at their disposal. There are several advantages to adding live chat. Division staff will be able to chat with multiple individuals at the same time, and while chatting, Division staff can also share helpful links to newsletter articles, RELMS, NMLS, and assist licensees individually in checking things like license status and CE hours.

Some have expressed concern that by adding this chat feature, the Division is trying to avoid personal contact with those who want to speak with us. On the contrary: the Division is taking this step in order to expand and increase the communication choices we offer our licensees. Your questions, comments, or concerns can now be addressed in the manner and timeliness you choose. Division staff will always be available to speak with you in person or over the telephone. During a chat, if it is determined that the question is too complex to be answered fully in the chat format, it may be recommended that the individual call the Division instead. We want to be more conveniently accessi-

ble to anyone who desires to communicate with us. If you prefer to use the telephone, pick up the phone and call us at (801) 530-6747, and someone will be able to assist you.

If you want to chat with us, visit our website at [www.realestate.utah.gov](http://www.realestate.utah.gov) (the link to the live chat feature is on the home page in the lower left hand corner), where you will be able to immediately connect with a Division representative.

During the first month that we have offered our new live chat function, Division staff chatted with 118 individuals, and we have received very positive feedback. The Division hopes that this new feature will continue to meet the needs of those we serve, by providing an additional avenue of communication.

We look forward to serving you in the future and hope you all have a successful 2012.

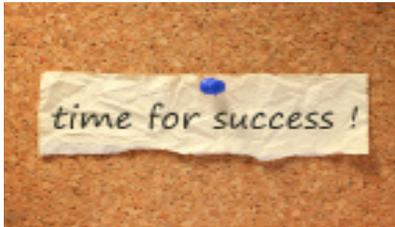


## 2011 ANNUAL INSTRUCTOR DEVELOPMENT WORKSHOP



### Do you have a question or a suggestion for the Division?

In late October, beautiful 106 contractors and pre-instructors and



tober, in Park City, continuing license enthusiasts and

educationalists were treated with a two-day Instructor Development Workshop (IDW) hosted by the Division and taught by nationally recognized instructor Mark Barker, DREI (Distinguished Real Estate Instructor).

Mark Barker entreated educators from the real estate, mortgage and appraisal industries with numerous practical insights and aids to assist instructors in the overall enhancement of their presentations and courses.

Mark is the owner of the largest real estate school in the Mid-West. He has a master's degree in adult education and is skilled in making complex issues easy for people to understand. He has taught seminars in 49 states in addition to being a prolific course writer and author and past national President of the Real Estate Educators Association.

In addition, a panel discussion was held covering some of the latest hot industry topics, answering questions, and responding to the challenges and concerns of our licensees and their associated industries. The panel discussion included Real Estate Commission Chair Stefanie Tugaw-Madsen, Residential Mortgage Commission Chair Lance Miller, Appraiser Licensing and Certification Board Chair Craig Morley, and Utah Division Director Jonathan Stewart.

Utah licensees and pre-license school students are fortunate to have such a group of talented and dedicated instructors to teach Utah education courses.

This annual IDW event was particularly appreciated by the fortunate participants.

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.

The Good, Bad and the Ugly!

All questions and suggestions will be anonymous. Selected questions will be answered in the next newsletter.

Submit questions to:

[DREnewsletter@utah.gov](mailto:DREnewsletter@utah.gov)

A HAPPY  
NEW YEAR

## ACTIVE LICENSING STATISTICS

Real Estate	Principal Broker	2,329
Real Estate	Branch Broker	188
Real Estate	Dual Broker	110
Real Estate	Associate Broker	1,351
Real Estate	Sales Agent	9,625
Real Estate	Real Estate Company	2,320
Real Estate	Property Management Company	136
Real Estate	Property Management Principal Broker	25
Real Estate	Real Estate School	16
Real Estate	Pre-license Real Estate Instructor	40
Real Estate	Continuing Education Provider	583
Real Estate	Continuing Education Instructor	364
Timeshare/Resort/Subdivision	Timeshare Sales Agent	292
Timeshare/Resort/Subdivision	Timeshare Registration	72
Timeshare/Resort/Subdivision	Subdivision Registration	11
Appraiser	Trainee	108
Appraiser	Licensed Appraiser	171
Appraiser	Certified Residential Appraiser	708
Appraiser	Certified General Appraiser	400
Appraiser	Temporary Appraiser	40
Appraiser	Appraiser School	16
Appraiser	Appraiser Instructor	55
Appraiser	Appraiser Continuing Education Provider	34
Appraiser	Appraiser Management Company	134
Mortgage	Principal Lending Manager	523
Mortgage	Branch Lending Manager	177
Mortgage	Associate Lending Manager	362
Mortgage	Mortgage Loan Originators	2,562
Mortgage	Mortgage Companies	531
Mortgage	Mortgage Branch	260



continued from page 1

# IMPORTANT APPRAISER INFORMATION

in which to submit a renewal application. For example, a license that expires at the end of March could be renewed as early as January. Appraisers who take advantage of early renewal will not fall off the national registry.

2. **Twice-Monthly Payment to Subcommittee.** Division submissions of national registry fees will be sent to the subcommittee twice each month, on the first business day following the 1<sup>st</sup> and 15<sup>th</sup> of each month.

With these two recent service improvements, appraiser licensees are now better able to manage their license renewal, and thus completely avoid falling off the national registry. Even so, appraisers who wait to renew their licenses until the last two weeks of the renewal period may still temporarily fall off the registry due to their own procrastination or lack of planning.

Beginning January 1, 2012 the national registry fee will increase from \$50 to \$80. This fee is paid by appraiser licensees at the time of licensure and at license renewal. The national registry fee is a pass-through fee that the Division collects and then transmits to the Appraisal Subcommittee.

Appraiser licensing staff indicate that a number of appraisers continue to delay taking their continuing education until just prior to submitting their license renewal applications. Remember, education providers have a duty under Division rules to bank CE hours into a licensee's personal RELMS account within ten days *after* the appraiser completes a CE course. In addition, there is also *an additional* two- to three-day lag time *following* when an educator banks CE hours, and when those hours are entered into the licensee's RELMS account. For these reasons, appraisers should realize that if they do not have their CE completed by the 15<sup>th</sup> of the month in which their license renews, they have a very high likelihood of having to pay a \$50 late fee. Please avoid the late fee by completing CE before the 15<sup>th</sup> of the renewal month!

The new 2012 - 2013 USPAP edition goes into effect on January 1, 2012. It is important to note that all appraisers are responsible and accountable for all provisions included in this new USPAP edition *regardless* of whether they have taken the new USPAP update class or not. There are a number of changes that apply. Exposure time reporting requirements are changing as well as a modification to a certification requirement. See the following link for a summary of these meaningful changes: <http://www.globalpres.com/mediasite/Viewer/?peid=ae8192ef41804f23a498bf7b30458189>

<p><b>Utah!</b></p>	<p><b>DIVISION of REAL ESTATE</b></p>
<p>NEWS</p>	
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<p><b>Residential Mortgage Regulatory Commissioners</b>                  Lance Miller, Chair                  Holly J. Christensen, Vice Chair                  Rodney "Butch" Dailey                  Steve A. Hiatt</p>	
<p><b>Appraiser Licensing and Certification Board Members</b>                  Craig Morley, Chair                  Paul Throndsen, Vice Chair                  Debra Sjoblom                  Jeanette Payne                  Daniel V. Brammer</p>	

## 2012 MORTGAGE LICENSE RENEWAL



Division licensing staff also expressed that the number of phone calls and e-mails the Division received was greatly reduced from last year. A number of licensees actually called the

Division simply to make sure that they hadn't missed something because the renewal requirements were so relatively easy compared to last year's mortgage license renewal procedure.

Division staff have already processed 59% of loan originator renewal applications and 70% of mortgage entity and branch office renewal requests. It may take a few weeks to process the final year-end renewal request surge. License deficiencies placed on a licensee's NMLS record will prevent Utah licensing staff from processing the renewal. Licenses should take immediate action to clear up any existing licensing deficiencies that would prevent licenses from being processed and ultimately renewed.

Please be aware that all loan origination activities must immediately cease for all originators who have not submitted a complete Utah NMLS mortgage (MLO, PLM, BLM, ALM, Entity or Entity Branch) renewal request. A complete renewal request means that both the NMLS and the State of Utah requirements are satisfied and the originator's NMLS account is free of any license deficiencies. Origination activities may not continue for expired licensees until a reinstatement process is completed.

**Q:** How does a licensee who submitted the renewal request just before the end of the year know if a delay in receiving a new license is due to deficiencies that require attention or just due to processing delays?

**A:** If the originator held a 2011 Utah MLO license and, by 12/31/11, submitted the following through the NMLS, the application has been, or will be processed during January of 2012:

- Satisfactorily resolved all outstanding deficiencies; thus, no pending deficiencies noted in NMLS.
- Completed 8 hours of NMLS continuing education (unable to submit a renewal request if CE has not been completed).
- Requested renewal through the NMLS.
- Paid the appropriate fee to the NMLS.
- Sent the completed Social Security Verification Form to the Utah DRE.

Applicants who successfully performed each of the five steps listed above by the year-end deadline may continue to practice as an MLO until the renewed license arrives (in up to three weeks).

Those individuals who were licensed with the Division in 2011 and who failed to renew the license by December 31, 2011 will need to meet the reinstatement requirements by February 29, 2012.

## MORTGAGE LICENSE TWO-MONTH REINSTATEMENT PERIOD

Those individuals who failed to submit a license renewal application by December 31, 2011 or who failed to complete each of the five requirements described above may obtain a license by meeting the reinstatement requirements by February 29, 2012. These requirements are as follows:

*continued on next page*

**NOTICE**  
**TO APPLICANTS**  
**WITH**  
**CRIMINAL HISTORY**

- Meet the five 2012 renewal requirements described in the Q & A section above
- Satisfy any deficient NMLS CE taking courses identified as “2011 late CE” in the NMLS-approved course offerings. Any other CE will not be accepted during the reinstatement period.
- Pay the NMLS reinstatement late fee in addition to the renewal fee.

**MORTGAGE  
LICENSEES  
WHO FAIL TO  
REINSTATE**

An individual who fails to renew by December 31, 2011, and thereafter fails to reinstate by February 29, 2012 must complete the following requirements in order to relicense:

- If relicensing as a mortgage loan originator, complete the Utah 40-hour prelicensing education.
- If relicensing as a lending manager, submit to Utah DRE an experience documentation form, qualify to take the 40-hour PLM course, and successfully complete the course and pass the lending manager exam.
- Demonstrate having completed all required NMLS CE for the year in which the license expired.
- Reapply for a license, including the payment of an application fee.



In an effort to make good, informed licensing decisions, the DRE requires all applicants with a criminal history to provide the following information and documents as to each criminal incident:

1. A detailed letter explaining the circumstances of the incident.
2. Police report and citation.
3. Charging document (complaint, petition, information, or indictment).
4. Court docket.
5. All documents signed by the defendant in entering a plea or plea agreement.
6. All orders and findings issued by the court.

Similarly, an applicant with regulatory history is required to provide the following as to each action:

1. A detailed letter explaining the circumstances of the incident.
2. Complaint filed with or issued by the regulatory body.
3. Any answer submitted by the respondent.
4. Any documentation provided by the respondent as part of an investigation, hearing, or other administrative proceeding.
5. Any notice of hearing or other administrative proceeding issued by the regulatory body, including all exhibits.
6. Any orders, agreements, or other documents by which the action was resolved.

An applicant who does not provide the above at the same time he or she submits the application is given ten business days to gather and submit the required documents and information. Failure to do so results in the application being deemed incomplete and the license denied.

A word to the wise: if you have criminal or regulatory history, do some legwork before you submit your application. Otherwise, you run the risk of having to deal with a license denial and a reapplication process.

# FOURTH QUARTER LICENSING & DISCIPLINARY ACTIONS



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

## APPRAISERS

BARKER, KIRK, State-certified general appraiser credential, Farmington, UT. In an October 26, 2011 stipulation and order, Mr. Barker agreed to pay a civil penalty of \$3,000. In violation of Utah Code §§ 61-2g 406 and 61-2g-407, Mr. Barker accepted a contingent fee for a consultation service without providing the required disclosures. Case number AP-46900.

BURRIS, ALEN E., State-certified residential appraiser credential, Smithfield, UT. In a September 28, 2011 stipulation and order, Mr. Burris agreed to pay a \$7,500 civil penalty. Mr. Burris operated outside his license authority when he appraised a commercial property. In this appraisal, he failed to analyze and evaluate a previous sale of the subject. In addition, he failed to indicate which reporting option was used, failed to include a specific scope of work, failed to explain the type and extent of research and analysis required for the assignment, and failed to evaluate the leased fee estate. These actions constitute violations of the USPAP ethics and competency rules, as well as USPAP Standards Rules 1-1(a), 1-5(b), and 2-1(b). Case number AP-08-41445.

*continued on page 12*



*Staff Spotlight*

*Amber Nielsen*

*Scanning  
Specialist*



Amber has been working at the DRE for four and a half years (five in July). She was originally hired as a real estate licensing specialist, but transitioned about one year ago into the records section of the DRE. Her duties include scanning all DRE records for digital stor-

age, assisting the records officer in retrieving records in response to GRAMA requests, and assisting the hearing officer in obtaining court dockets and other records that are needed in order to evaluate an application for licensure. Amber is very technologically knowledgeable—which makes her a very valuable asset at the Division!

Aside from her main duties with the records section, Amber has a working knowledge of nearly all the other positions at the Division, thus earning her the moniker “Division Swiss Army Knife.”

When she's not at work, Amber enjoys reading, blogging, acting, writing, and just being an all-around joy. She is a part-time student at Salt Lake Community College, where she is working on a degree in education, with a goal of ultimately teaching history and theater, perhaps at the junior high level. Amber also occasionally participates in a bit of community theater. Her dream role is Tracy Turnblad in Hairspray.

Amber is as single as the day is long and hopes someday to marry a man like Sheldon from The Big Bang Theory or Rory Williams from Doctor Who. Her personal motto is “credo quia absurdum est,” which means “I believe it because it is absurd.”

## **RULE DEVELOPMENTS SINCE SEPTEMBER 30, 2011**

### **APPRAISAL**

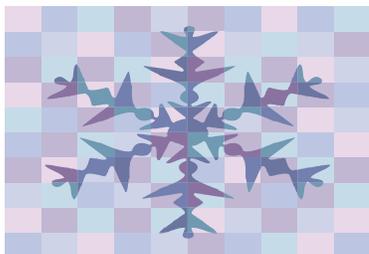
The appraisal rules have been reorganized into a new section, [R162-2g](#), which went into effect on November 1, 2011. Rules R162-101 through R162-110 were repealed concurrently. The new body of rules includes a provision (R162-2g-304d) that requires a mass appraiser who applies for certification as a residential appraiser to submit for review at least one appraisal of each of the following residential property types:

- vacant property
- two- to four-unit dwellings
- non-complex single-family units
- complex single-family units

### **MORTGAGE**

On October 11, 2011, two rule amendments went into effect, as follows:

- [R162-2c-102](#): The terms “expired license”, “lending manager” and “lending manager license”, “NMLS”, “reapplication” or “reapply”, “reinstatement” or “reinstate”, and “terminated license” are defined.
- [R162-2c-204](#): The deadlines for license renewal and reinstatement are clarified. An exemption is provided under which a person who obtains a new license after November 1 of the calendar year is not required to renew it within the same calendar year. The educational requirements for license renewal, reinstatement, and reapplication are delineated. The procedures for license renewal, reinstatement, and reapplication are amended to comport with recent decisions and policies from NMLS.



### **REAL ESTATE**

On November 21, 2011 rule [R162-2f-202b](#) was amended to provide that an individual who applies for licensure as a principal broker within two years after allowing a principal broker license to expire must demonstrate having amassed three years of full-time professional real estate experience within the seven-year period preceding the date of application.

## **MORTGAGE REGULATORY ACTIONS ON THE NMLS**

The NMLS has recently added a website feature that allows the DRE to post regulatory actions taken against mortgage licensees. The purpose of this reporting requirement—which is mandated by the S.A.F.E. Act—is twofold. First, it will ensure that regulators nationwide have access to information that will assist them in determining whether an applicant qualifies for licensure. Second, it will allow consumers to review licensees’ disciplinary histories so as to make more informed decisions about whether to hire a particular loan originator or mortgage entity.

Licensing orders issued by the DRE and the mortgage commission on or after September 1, 2011 are currently posted, and the DRE is in the process of implementing procedures by which enforcement orders and stipulations will be posted as well. In addition, we anticipate posting all revocation orders entered within the past several years.

A licensee who feels that the DRE has incorrectly posted an action to his or her NMLS profile has recourse under [Utah Code Ann. § 63G-2-603](#).



## Kagie's Korner

# UNLICENSED PERSONAL ASSISTANTS

Many times each month, the Division receives inquiries about the duties and range of services that unlicensed personal assistants (UPAs) may perform under Division rules. Specifically these callers ask whether there is a difference between the functions UPAs may perform for a real estate brokerage versus a property management company.

Regardless of whether UPAs work for a real estate brokerage or a property management company, they fall under the direction and supervision of the principal broker, who can be held accountable if a UPA performs any work for which a real estate license is required.

A UPA may perform a number of activities for a real estate licensee in a sales transaction. These activities include performing clerical duties, acting as a courier service in securing or delivering documents or records, picking up keys, placing signs, or other similar services. When acting in these capacities, the UPA may not engage in negotiations or other types of discussions that trigger licensing. Nor may the UPA complete real estate forms and documents. At an open house, UPAs may distribute preprinted literature as long as a licensee is present. For further details, see Utah [Administrative Code § R162-2f-401g](#).

A property management company may also utilize the services of UPAs. Property management assistants are allowed to provide prospective tenants with access to vacant properties; provide secretarial, bookkeeping, maintenance, and rent collection services; quote predetermined rent and lease terms; and complete preprinted lease or rental agreements (see [Utah Administrative Code § R162-2f-401j\(6\)](#)).

A common question received by the Division is: "May a UPA solicit or cold call a prospective client for a real estate licensee?" The answer to this question is the same, regardless of whether the UPA works for a real estate or property management company, a

resounding NO! A UPA can make an appointment for a prospect to meet with a licensee only if the contact has been initiated by the prospect and not the unlicensed assistant. According to administrative rules, an unlicensed person cannot engage in any activity calculated to secure a prospect for a real estate transaction, including a sale or lease.

The following chart provides a summary of the applicable rules.

	Real Estate UPA	Property Mngmt UPA
Solicit Potential Clients	NO	NO
Provide client access to vacant properties	NO	Yes
Perform clerical duties	Yes	Yes
Quote predetermined rent and lease terms	NO	Yes
Complete pre-printed lease or rental agreements for tenant	NO	Yes
Collect rent	NO	Yes
Real estate sales activity	NO	NO
Sit at an open house without a licensee present	NO	NO
Secure public records	Yes	Yes

A licensee who hires a UPA must also take care to comply with the rules regarding compensation. A UPA must be compensated **at a predetermined rate, which is not contingent upon the occurrence of a transaction**; i.e., an hourly or piece rate.

The licensee who hires a UPA must first obtain the permission of the principal broker. Thereafter, the licensee is directly responsible for supervising the UPA's activities and must ensure that the UPA does not perform any activity that requires a real estate license. The principal broker and branch broker of both real estate brokerages and property management companies have the ultimate responsibility to supervise all activities of both licensed and unlicensed staff associated with their companies.

## **PROPERTY TAX APPEAL REPRESENTATIVES BEWARE**

With property values dropping, more and more property owners are appealing their property tax valuations as a way to reduce expenses – and they are turning to professional representatives to help them navigate the appeal process. While these appeals may be beneficial to the property owner, they may create problems for a representative who is unfamiliar with or chooses to disregard the licensing and professional conduct laws governing real property valuations. It is important for both non-licensees and licensees venturing into this area to become familiar not only with the laws governing property tax appeals, but also with the laws governing licensing and professional conduct.

### **To be or not to be licensed**

Sections 61-2g-102 and 61-2g-301 of the Utah Appraiser Licensing and Certification Act make it unlawful for persons to provide an analysis, opinion or conclusion regarding the value of real property unless they are licensed or certified with the Utah Division of Real Estate as an appraiser. While some may believe this requirement only applies if the person is providing an appraisal, this is not the case. Any analysis, opinion or conclusion of value requires licensure regardless of the type of valuation being provided or what the valuation may be called. It is not enough to avoid putting the valuation in writing; even an oral valuation or conclusion requires an appraiser license.

In the property tax appeal context, where the purpose of the appeal is to challenge the property's assessed value and provide an alternative valuation, an unlicensed person or entity may quickly run afoul of the State's licensing requirements. Property tax representatives who choose not to become licensed do so at their own risk.

While the statute contains a few exceptions to the licensing requirement— including exceptions for property owners who choose to represent themselves, persons who provide the valuation without compensation of any kind, and real estate agents who provide a price opin-

ion in specific situations – these exceptions are narrow and limited. Persons who do not hold an appraiser license should carefully review the exceptions and their limitations before assuming they may be exempt. The burden to prove an exemption under the statute falls squarely upon the party performing the work. Further, even if shown, an exemption may not necessarily mean the party is exempt from other professional conduct requirements. Exempt persons who provide unjustifiably low valuations at the request of a property owner may still face sanctions or disciplinary action by the State.

### **The case of the contingent fee**

Appraiser licensees representing property owners in a property tax appeal should also be cautious to ensure they comply with all professional conduct requirements, particularly those relating to contingency fees. Utah Code §§ 61-2g-406 and 61-2g-407 allow an appraiser to accept a contingent fee in a property tax appeal only in limited circumstances. Specifically, the licensee must disclose in any written or oral report that the opinion of value is being provided under a contingent fee arrangement. Further, the report may not be referred to as an appraisal, an appraisal report or in any other manner that would mislead a person to believe that the report was an appraisal or appraisal report. It is important that the report does not state or imply that the valuation is unbiased. If the report does not meet these requirements, but the licensee nevertheless accepts a contingent fee, the Division will consider the report to have been an appraisal and the licensee may be subject to disciplinary action for unlawfully accepting the contingent fee.

Appraiser licensees must also keep in mind that, even where these disclosures have been properly made, the report must still comply with all other requirements of the Uniform Standards of Professional Appraisal Practice (USPAP). A failure to comply with the USPAP provisions pertaining to consultation services may also subject a licensee to disciplinary action.

*continued on page 12*

## PROPERTY TAX APPEAL REPRESENTATIVES BEWARE

Non-licensees and appraiser licensees alike should do their homework before accepting an assignment to represent a property owner in a property tax appeal. The requirements under the Utah Appraiser Licensing and Certification Act, the Uniform Standards of Professional Appraisal Practice and other applicable statutes will be strictly enforced by the Utah Division of Real Estate. Unwary non-licensees and licensees may find themselves facing a cease and desist order issued by the Division, a civil penalty of up to \$5,000 per violation, and/or an action taken against their license, including probation, suspension or revocation of the license.

**Disclaimer: the Utah Division of Real Estate has provided articles in this newsletter for general informational purposes only. It is not intended as professional advice or legal counsel and should not be used as such. You should contact your attorney to obtain advice with respect to any particular issue or problem.**

## FOURTH QUARTER LICENSING & DISCIPLINARY ACTIONS

HACKING, LINDA B., State-certified residential appraiser credential, Vernal, UT. In an October 26, 2011 stipulation and order, Ms. Hacking agreed to pay a \$2,500 civil penalty and to have her credential as a state-certified residential appraiser revoked and replaced with a credential as a state-licensed appraiser. In violation of the USPAP ethics rule and Utah Administrative Code §§ R162-105.3.5, R162-105.3.10, and R162-105.3.10.1 (now been recodified as Utah Administrative Code § R162-2g-311), Ms. Hacking signed a trainee's experience log, but failed to personally inspect the majority of the first 100 residential properties reported in the log. Case number AP-10-48814.

JORGENSEN, GENE C., State-certified residential appraiser credential, South Jordan, UT. In a September 28, 2011 stipulation and order, Mr. Jorgensen agreed to pay a \$1,000 civil penalty. In violation of Utah Code § 61-2g-313(1)(a), Mr. Jorgensen failed to accurately answer two application disclosure questions regarding criminal history. Case number AP-11-55505.

MEIER, GOLDEN, State-certified residential appraiser credential, Holladay, UT. In an October 20, 2011 default order, it was determined that Mr. Meier misrepresented the actual values in multiple appraisals, failed to maintain adequate work files, failed to respond to a notice of complaint by the Division, failed to properly report the listing history for multiple properties, and violated numerous sections of USPAP, for a total of 78 separate violations of applicable laws and standards. Mr. Meier's credential as a state-certified residential appraiser was revoked, and he was assessed a \$1,000 fine for each violation. Case numbers AP-40825, AP-40826, and AP-47429.

O'FARRELL, ANDREW, State-certified residential appraiser credential, Salt Lake City, UT. In a November 9, 2011 stipulation and order, Mr. O'Farrell agreed to pay a \$250 civil penalty. In violation of Utah Code § 61-2g-306(3)(a)(ii), Mr. O'Farrell failed to report a misdemeanor plea in abeyance to the Division within ten business days. Case number AP-11-57334.



KOPLIN, RICHARD W., State-certified residential appraiser credential, Salt Lake City, UT. In a December 14, 2011 stipulation and order, Mr. Koplin agreed to pay a \$2,000 civil penalty. Mr. Koplin reported the above-grade square footage of a subject property as being 10% greater than it actually was. These circumstances constitute violations of USPAP Standards Rules 1-1 and 2-1. Case number AP-09-47278.

## ***MORTGAGE***

AMERISAVE MORTGAGE CORPORATION, Mortgage entity license, Atlanta, GA. In a September 7, 2011 stipulation and order, entity agreed to pay a \$2,500 civil penalty. In violation of Utah Code § 61-2c-201, the company allowed an unlicensed employee to originate a mortgage loan in Utah. Case number MG-10-50566.

BARNES, BRENT VICTOR, Mortgage loan originator applicant, Salt Lake City, UT. In a September 29, 2011 order, license granted on probation until December 31, 2012 due to Mr. Branes's having agreed to voluntarily resign his position as a police officer in order to resolve allegations that he used an information database for a personal purpose and made improper use of an unmarked police vehicle. Case number MG-11-56879.

BOLINDER, KEN, Unlicensed individual, Cottonwood Heights, UT. In a November 2, 2011 stipulation and order, Mr. Bolinder agreed to pay a \$10,000 civil penalty. In violation of Utah Code § 61-2c-301(1)(v)(i), Mr. Bolinder originated and participated in the negotiation of loan modifications without being licensed. Case number MG-11-56269.

BRANTLEY, STEVEN DONALD, Mortgage loan originator applicant, South Jordan, UT. In a November 2, 2011 stipulation and order, Mr. Brantley agreed to the denial of his pending application and to the revocation of the conditional license issued by the Division on or about January 1, 2011 pending receipt of his criminal background check. Mr. Brantley falsified two applications he filed with the Division. In addition, given actions he took in his past employment as a title and escrow officer, he was unable to demonstrate the good moral character, honesty, integrity, truthfulness, and competence required for licensure. Case number MG-10-50762.

CROW, LORI, Mortgage loan originator license, Draper, UT. In a November 2, 2011 stipulation and order, Ms. Crow agreed to pay a civil penalty of \$5,000 and to complete an NMLS-approved two-hour course on ethics. In violation of Utah Code § 61-2c-301(1)(l), Ms. Crow entered into a loan modification contract with two different borrowers, guaranteeing each a 100% refund should the modification not be approved. Neither was approved, and Ms. Crow failed to honor her money-back guarantee. Case numbers MG-11-55712 and MG-11-55222.

HERNANDEZ, RUBEN, Unlicensed individual, Taylorsville, UT. In a November 2, 2011 stipulation and order, Mr. Hernandez agreed to pay a \$1,000 civil penalty, a portion of which will be permanently suspended if Mr. Hernandez reimburses his victim. In violation of Utah Code §§ 61-2c-301(1)(iv) and (v)(i), Mr. Hernandez collected an up-front fee for a loan modification and began the loan modification process without being licensed. Case number MG-11-56850.

IWASAKI, FUMIKO, Mortgage loan originator applicant, Salt Lake City, UT. In an October 7, 2011 order, license granted on probation until Ms. Iwasaki demonstrates to the satisfaction of the Division that she has filed delinquent tax returns and made arrangements to pay any amounts that might be deemed as owing under those filings. Case number MG-11-56981.

JESSOP, ALMA LEROY, Mortgage loan originator applicant, Hildale, UT. In an October 18, 2011 order, license granted on probation until Mr. Jessop demonstrates to the satisfaction of the Division that he has fully resolved two criminal cases. Case number MG-11-57094.

MASON, DAN, Unlicensed individual, Mission Viejo, CA. In a September 7, 2011 stipulation and order, Mr. Mason agreed to pay a \$7,500 civil penalty. In violation of Utah Code § 61-2c-201, Mr. Mason originated two mortgage loans in Utah without being licensed. In violation of Utah Code § 61-2c-301, Mr. Mason represented on the application that a former employee of his company, who is licensed in Utah as a loan officer, originated the loan. Case number MG-11-55299.

MAUER, DANIEL, Principal lending manager license, Heber City, UT. In a September 7, 2011 stipulation and order, Mr. Mauer agreed to pay a \$1,000 civil penalty. In violation of Utah Code § 61-2c-301(1)(a) and Utah Code § 61-2c-209(4)(b), Mr. Mauer submitted a mortgage loan file to another mortgage company and accepted a broker fee from the loan closing as compensation for the referral. Case numbers MG-11-54984 and MG-11-51475.

ROE, ASHLIE JAWN, Mortgage loan originator applicant, Sandy, UT. In an October 6, 2011 order following an application hearing before the Commission, license granted on probation until such time as Ms. Roe demonstrates that she has satisfied all restitution and other fines or fees ordered by the court in a misdemeanor or criminal proceeding. Case number MG-11-56444.

SANCHEZ, MORONI RICARDO, Mortgage loan originator license, West Valley, UT. In a September 7, 2011 default order entered by the Commission, license suspended until such time as Mr. Sanchez demonstrates that he satisfied all terms of his plea in abeyance in a misdemeanor criminal proceeding. Case number MG-11-55323.

SCHMIDT, TED, Unlicensed individual, Sandy, UT. In a November 2, 2011 stipulation and order, Mr. Schmidt agreed to pay a \$5,000 civil penalty, a portion of which will be permanently suspended if he obtains his mortgage loan originator license by December 31, 2011. In violation of Utah Code§ 61-2c-301(1)(v)(i), Mr. Schmidt negotiated loan modifications without being licensed. Case number MG-11-57090.

SLIZEWSKI, APRIL, Mortgage loan originator applicant, Sandy, UT. In a September 22, 2011 order, license granted on probation until Ms. Slizewski demonstrates that she has formalized a plan with the IRS and with applicable state tax officials for satisfying tax arrearages. Case number MG-11-56771.

VANDERLAAN, STEVEN R., Associate lending manager license, Riverton, UT. In a November 2, 2011 stipulation and order, Mr. Vanderlaan agreed to pay a \$1,000 civil penalty and to com-

plete five hours of continuing education. In violation of Utah Code§ 61-2c-301(1)(h), Mr. Vanderlaan failed to disclose a judgment for civil fraud in two prior license applications. In violation of Utah Code§ 61-2c-205(4)(a)(i), he failed to comply with the ten-day reporting requirement regarding a misdemeanor plea in abeyance.

## ***REAL ESTATE***

AIRMET, TIM, Sales agent license, Kamas, UT. In a September 22, 2011 order following a disciplinary hearing before the Commission, Mr. Airmet assessed a \$500 civil penalty for failure to respond to the Division's investigation into allegations that he engaged in unlicensed activity in Idaho. Case number RE-10-52239.

BAUER, DEBY, Sales agent license, St. George, UT. In an October 19, 2011 stipulation and order, Ms. Bauer agreed to pay a \$250 civil penalty and to have her license placed on probation for one year. In violation of Utah Code§ 61-2f-301, Ms. Bauer failed to report a misdemeanor plea in abeyance to the Division within ten business days. Case number RE-11-56120.

BLAKE, ALEXANDER, Sales agent license, Cedar City, UT. In a November 16, 2011 stipulation and order, Mr. Blake agreed to pay a \$1,000 civil penalty. In violation of Utah Code§ 61-2f-401(4)(a), Mr. Blake made a material misrepresentation when, after closing a transaction, he created a new agency agreement, adding \$495 to the broker fee that was agreed to by the client at the beginning of the transaction, and back-dated the form to the date of the original agency agreement. Case number RE-11-56298.

BROADHEAD, CHRISTOPHER D., Sales agent license, Woods Cross, UT. In a September 21, 2011 stipulation and order, Mr. Broadhead agreed to pay a \$500 civil penalty and to have his license placed on probation for the remainder of his current licensing period. In violation of Utah Code§ 61-2f-301, Mr. Broadhead failed to report a misdemeanor plea in abeyance to the Division within ten business days. Case number RE-11-54312.

BURY, CLINT R., Sales agent applicant, St. George, UT. In an October 26, 2011 order, license suspended for 30 days and, thereafter, placed on probation for the remainder of the initial licensing period due to Mr. Bury's failure to disclose three criminal issues as part of his application. Case number RE-11-57216.

CANO, EMMA, Sales agent applicant, Orem, UT. In a September 12, 2011 order, license denied due to Ms. Cano's failure to demonstrate that she is authorized to work in the United States. Case number RE-11-56466.

CARTWRIGHT, BRET R., Sales agent license, Draper, UT. In a November 16, 2011 stipulation and order, Mr. Cartwright agreed to pay a \$750 civil penalty. In violation of Utah Administrative Code § R162-2f-401b(3), Mr. Cartwright failed to disclose a misdemeanor charge on an application for renewal. In violation of Utah Code § 61-2f-301(1)(a)(i), Mr. Cartwright failed to report the resulting criminal conviction to the Division within ten business days. Case number RE-11-56232.

CHAMBERLAIN, CODY, Sales agent applicant, Salt Lake City, UT. In an October 7, 2011 order, license granted on probation due to misdemeanor criminal history spanning the years 2006 through 2011. Case number RE-11-56973.

DASTRUP, KRISTYN., Sales agent applicant, South Jordan, UT. In an October 3, 2011 order, license granted on probation due to Ms. Dastrup's failure to disclose the full extent of her criminal history. Case number RE-11-56936.

DELQUADRO, DOUGLAS D., Sales agent license, Salt Lake City, UT. In a November 16, 2011 stipulation and order, Mr. Delquadro agreed to pay a \$750 civil penalty. Mr. Delquadro's license was on probation when he suffered a misdemeanor conviction. In addition, he failed to report his conviction to the Division within ten business days as required by Utah Code § 61-2f-301(1)(a)(i). Case number RE-11-57208.

DIXON, CHELSEA M., Sales agent license, Tooele, UT. In an October 19, 2011 stipulation and order, Ms. Dixon agreed to pay a \$350 civil penalty. In violation of Utah Code § 61-2f-301, Ms. Dixon failed to report a misdemeanor conviction to the Division within ten business days. Case number RE-11-56119.

HARRIS, MICHAEL J., Sales agent license, Herriman, UT. In a November 16, 2011 stipulation and order, Mr. Harris agreed to have his license placed on probation and to pay a \$1,000 civil penalty. Mr. Harris's license was on probation when he entered into a misdemeanor plea in abeyance. In addition, he failed to report his plea to the Division within ten business days as required by Utah Code § 61-2f-301(1)(a)(i), and he failed to disclose it as part of his renewal application. Case number RE-11-56925.

HART, CARL F., Sales agent license, Smithfield, UT. In an October 19, 2011 stipulation and order, Mr. Hart agreed to pay a \$500 civil penalty and to have his license placed on probation. In violation of Utah Code § 61-2f-301, Mr. Hart failed to report a misdemeanor conviction to the Division within ten business days. In violation of Utah Administrative Code § R162-2f-401(b)(3), Mr. Hart failed to disclose his conviction in response to the renewal application questionnaire. Case number RE-11-56922.

HAWKER, SCOTT, Sales agent applicant, Draper, UT. In a September 14, 2011 order, license granted on probation due to misdemeanor criminal history and compounded by Mr. Hawker's failure to disclose the full extent of his record. Case number RE-11-56643.

HAZLEHURST, TERRANCE, Sales agent applicant, Roy, UT. In an October 20, 2011 order following an application hearing before the Commission, license granted on probation for one year due to Mr. Hazlehurst's failure to disclose the full extent of his criminal history. Case number RE-11-56644.

HIMMELMAN, DEAN R., Sales agent license, Boise, ID. In an October 19, 2011 stipulation and order, Mr. Himmelman agreed to have his license placed on probation. In violation of Utah Code § 61-2f-301, Mr. Himmelman failed to report a withheld judgment (misdemeanor) to the Division within ten business days. Case number RE-11-56251.

HOLMES, MICHAEL R., Principal broker renewal applicant, Bountiful, UT. In an October 31, 2011 order, license granted on probation for the pendency of court proceedings in a felony criminal case. Case number RE-11-57266.

HOWELL, STEPHEN A., Sales agent renewal applicant, Salt Lake City, UT. In an October 24, 2011 order, license granted on probation for the pendency of court proceedings in a misdemeanor criminal case. Mr. Howell's license was on probation for prior criminal conduct when he was charged. He was thereafter convicted, but failed to report the conviction to the Division within ten business days as required by Utah Code § 61-2f-301. Therefore, in a November 16, 2011 stipulation and order, Mr. Howell agreed to have his license remain on probation and to pay a \$500 civil penalty. Case number RE-11-57173.

LARSEN, KORY, Sales agent applicant, Duchesne, UT. In a November 8, 2011 order, license granted on probation due to misdemeanor or criminal history. Case number RE-11-57374.

LOVELESS, JENNY S., Sales agent license, Salt Lake City, UT. In a September 21, 2011 stipulation and order, Ms. Loveless agreed to have her license placed on probation for the remainder of her current licensing period. In violation of Utah Code § 61-2f-301, Ms. Loveless failed to report a misdemeanor plea in abeyance to the Division within ten business days. Case number RE-11-55741.

MARTINEZ, ESTEBAN, Sales agent applicant, Salt Lake City, UT. In an October 24, 2011 order, license granted on probation due to criminal history, a portion of which Mr. Martinez failed to disclose in response to the license application questionnaire. Case number RE-11-57174.

MORGAN, THOMAS LUKE, Associate broker renewal applicant, Salt Lake City, UT. In a November 17, 2011 order following an application hearing before the Commission, license granted on probation for the remainder of the licensing period due to misdemeanor or criminal history. Should Mr. Morgan be found in violation of his criminal probation conditions, his license shall be suspended for the duration of the criminal probationary period. Case number RE-11-56110.

MOTT, RYAN D., Principal broker license, Vernal, UT. In a November 16, 2011 stipulation and order, Mr. Mott agreed to pay a \$1,000 civil penalty. Mr. Mott's license was on probation when he was charged with criminal misdemeanors. Thereafter, he suffered two convictions and entered into a plea in abeyance, but failed to notify the Division of these outcomes within ten business days as required by Utah Code § 61-2f-301. Case number RE-11-56197.

NELSON, KRISTIE LYNN, Sales agent license, Syracuse, UT. In a September 21, 2011 stipulation and order, Ms. Nelson agreed to pay a \$250 civil penalty and have her license placed on probation for one year. In violation of Utah Code § 61-2f-301, Ms. Nelson failed to report a misdemeanor plea in abeyance to the Division within ten business days. Case number RE-11-56121.

O'BRIEN, CHARLES, JR., Sales agent license, Draper, UT. In an October 19, 2011 stipulation and order, Mr. O'Brien agreed to pay a \$250 civil penalty. In violation of Utah Code § 61-2f-301, Mr. O'Brien failed to report a misdemeanor conviction to the Division within ten business days. Case number RE-11-56919.

O'FARRELL, ANDREW, Sales agent license, Salt Lake City, UT. In a November 16, 2011 stipulation and order, Mr. O'Farrell agreed to pay a \$250 civil penalty. In violation of Utah Code § 61-2f-301(1)(a)(ii), Mr. O'Farrell failed to report a misdemeanor plea in abeyance to the Division within ten business days. Case number RE-11-57333.

RASMUSSEN, WARD, Sales agent license, Sandy, UT. In a September 21, 2011 stipulation and order, Mr. Rasmussen agreed to pay a \$350 civil penalty. In violation of Utah Code § 61-2f-301, Mr. Rasmussen failed to report a misdemeanor conviction to the Division within ten business days. Case number RE-11-56122.

SHIELDS, MICHAEL V., Principal broker license, Salt Lake City, UT. In a September 21, 2011 stipulation and order, Mr. Shields agreed to pay a \$2,000 civil penalty and to complete a two-hour Utah law continuing education course. In violation of Utah Code § 61-2f-401(4)(a), Mr. Shields failed to deposit earnest money into his real estate trust account as required under the REPC. Case number RE-11-56249.

SORENSEN, MICHAEL C., JR., Sales agent applicant, Woods Cross, UT. In an October 24, 2011 order, license granted on probation due to criminal history spanning the years 2008 through 2009. Case number RE-11-57176.

STEPHENS, DEE T., Sales agent license, South Jordan, UT. In a September 21, 2011 stipulation and order, Mr. Stephens agreed to pay a \$1,000 civil penalty. In violation of Utah Code § 61-2f-201, Mr. Stephens continued to practice real estate after allowing his license to expire. Case number RE-11-54093.

TUCKER, KIMBERLY, Sales agent renewal applicant, Sandy, UT. In a November 28, 2011 order, license granted on probation pending the outcome of an ongoing criminal case. Case number RE-11-57588.

VANDERLAAN, STEVEN R., Principal broker license, Riverton, UT. In an October 19, 2011 stipulation and order, Mr. Vanderlaan agreed to pay a \$1,000 civil penalty and to complete five hours of continuing education. In violation of Utah Code § 61-2f-401(1)(a), Mr. Vanderlaan failed to disclose a judgment for civil fraud in two prior license applications. In violation of Utah Code § 61-2f-301(1)(a)(ii), he failed to comply with the ten-day reporting requirement regarding a misdemeanor plea in abeyance. Case number RE-11-56058.

VENTURA, VINCENT, Sales agent license, Salt Lake City, UT. In a November 16, 2011 stipulation and order, Mr. Ventura agreed to pay a \$250 civil penalty. In violation of Utah Code § 61-2f-301, Mr. Ventura failed to report a misdemeanor conviction to the Division within ten business days. Case number RE-11-57324.

WARNICK, HAYLIE SUE, Sales agent renewal applicant, Sandy, UT. In a September 13, 2011 order, license granted on probation due to Ms. Warnick's failure to accurately disclose a regulatory action taken against her (Idaho) in response to the license application questionnaire. Case number RE-11-56623.

WHYTE, REID J., Associate broker license, Midvale, UT. In a September 21, 2011 stipulation and order, Mr. Whyte agreed to pay a \$250 civil penalty. In violation of Utah Code § 61-2f-301, Mr. Whyte failed to report a misdemeanor conviction to the Division within ten business days. Case number RE-11-55737.

