

Division of Real Estate

Gary R. Herbert, Governor

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Fourth Quarter 2016

Director's Message

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As a regulatory agency, the Division of Real Estate is tasked with protecting the public, but we do not want to do this at the expense of promoting responsible business practices. We understand that there is an important balance between regulation and enhancing commerce. We continue to look at our statutes and rules and how we enforce them to determine how we can continue to protect the public while promoting responsible business practices and enhancing commerce. The Division looks for opportunities to help licensees understand the statutes and rules and how to best protect themselves from violating the law.



Jonathan Stewart

One principle that made an impression on me in an undergraduate criminology class was that for a punishment to deter future violations, the punishment cannot be more severe than the violation warrants. When punishments are too severe, the individual receiving the punish-



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ment only thinks about how unfair the punishment was instead of thinking about the behavior and how to avoid repeating it.

We work to make sure that whatever sanction we hand out, whether through a stipulation or an order issued by the Commission or Board, fits the violation committed. The Division looks for ways to educate licensees through the investigative process. When action is necessary, the Division and Commission/Board always consider the requirement of education in addition to--or instead of--a civil penalty. In scenarios where education makes more sense than a fine, that is something we consider. I believe education as part of resolving a case enhances commerce while simultaneously protecting the public. Education helps the person who is being sanctioned become better able to assist the public while avoiding future violations.

Although we look for ways to educate, when our investigations uncover evidence of intentional violations that defraud or harm consumers, we make sure that those are handled differently. We want to make it hard for the bad guys so there is an even playing field for all licensees. Please help us by reporting violations.

Thank you for all you do for your respective industries.

We wish you all a
Happy New Year.

Mortgage Uniform State Test (UST) Update

In the third quarter newsletter we informed licensees that the Mortgage Commission had voted to not adopt the UST. Several weeks following the vote, the idea of a compromise was proposed and additional discussion ensued. The Commission and Division discussed the possibility of adding a new continuing education requirement in exchange for adoption of the UST. Several lenders were present at this meeting and all spoke in favor of the proposed idea.

Originally it was proposed to add additional CE for all licensees. After much discussion, it was decided that the Commission and Division did not want to add an additional requirement on those who had already obtained their license. Those familiar with

the Real Estate requirements know that all new sales agents are required to complete a 12-hour new sales agent course prior to their first renewal.

This real estate post licensing CE requirement was discussed and the Commission and Division agreed and voted to adopt the UST with the addition of a new 3 to 6-hour new loan originator CE course that will be required prior to a loan originator's first renewal. The Division has already updated proposed legislation to include the adoption of the UST and rulemaking authority for the new CE course. In the next few months the Commission and Division will discuss the specific requirements for this new CE course. The adoption of the UST should take place in May of 2017.

Division of Real Estate

Utah! Division of Real Estate NEWS

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STAFF SPOTLIGHT



Kadee Wright is our “new” Chief Investigator! After 3 years as a Real Estate Investigator with the Division she began her new position as Chief Investigator in October of 2016. Prior to her employment with the Division Kadee obtained 9 years of experience in residential sales. Kadee earned her associate’s degree from Salt Lake Community College as a paralegal and has also worked as an investigator for both UTA and the Department of Workforce Services.

Outside of the office Kadee enjoys spending time outdoors, cooking and traveling with her husband and kids. At the office you can always tell when Kadee is around because she usually has a delightfully scented essential oil diffusing at her desk. Kadee loves all things real estate and investigation, we’re lucky to have her on our team!

Hillarie is among one of the newest of our Real Estate Licensing team! She began her position with the Division as a Real Estate Licensing Specialist in July of 2016.

Hillarie is a decedent from the Northern Ute Tribe, located in Fort Duchesne, Utah. Her favorite thing to do is travel. If you get the chance to talk to her, ask about her trips to Greece, Italy, Germany and Austria. Hillarie has participated in and held titles for numerous Native American pageants through her teen years. In 2014 she participated in the Miss Utah USA pageant! She was previously employed with the Ute Indian Tribe Grants Department for about 3 and a half years, first as a filing specialist and later as a Grant Specialist. She relocated to Oregon where she worked with Farmers Insurance for about 6 months before returning to Utah.

When asked about her position with the Division, Hillarie said she has enjoyed learning the different aspects of Real Estate, as well as interacting and assisting with various individuals throughout the Real Estate Industry.



FOURTH 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

HOKANSON, JESSE N., certified residential appraiser, South Jordan, Utah. In a stipulated order dated November 23, 2016, Mr. Hokanson admitted to having violated the Uniform Standards of Professional Appraisal Practice, in that he failed to: 1) determine and perform the scope of work necessary to develop credible assignment results, 2) employ methods and techniques necessary to produce a credible appraisal, and 3) failed to accurately disclose all hypothetical conditions used in the assignment. Mr. Hokanson agreed to pay a civil penalty of \$3000 and to complete seven hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-16-80577

MORTGAGE

DAN BAIRD, mortgage loan originator, Ogden, Utah. In an order dated September 15, 2016, Mr. Baird's license was granted and placed on probation until December 31, 2017 due to criminal history. Case number MG-16-85930

BRYANT, ANDRE JOSEPH, mortgage loan originator, Chandler, Arizona. In an order dated October 25, 2016, Mr. Bryant's

license was granted and placed on probation due to a pending criminal matter. Case number MG-16-86670

REAL ESTATE

AGUILAR, TIMOTHY D., sales agent, South Ogden, Utah. In an order dated November 15, 2016, Mr. Aguilar's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16-87087

AVERETT, BRAYDEN, sales agent, Centerville, Utah. In an order dated November 8, 2016, Mr. Averett's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16-86961

BESS, LINDEE M., principal broker, North Ogden, Utah. In a stipulated order dated September 21, 2016, Ms. Bess admitted to having failed to obtain a written agency agreement and having failed to obtain informed consent of the parties prior to providing real estate services as a limited agent. Ms. Bess agreed to pay a civil penalty of \$1500. Case numbers RE-14-72836 and RE-14-72837.

BILLINGS, JASON TODD, sales agent, Highland, Utah. In an order dated November 10, 2016, Mr. Billings's license was granted and

placed on probation for the initial licensing period due to criminal history. Case number RE-16-86991

BLUTH, BRANDON, sales agent, St. George, Utah. In an order dated September 6, 2016, Mr. Bluth's license was granted and immediately suspended for criminal history and for failing to pay child support. Mr. Bluth may apply for the removal of his license suspension after one year. Case number RE-16-84844

CARTWRIGHT, BRET, associate broker, Sandy, Utah. In a stipulated order dated September 21, 2016, Mr. Cartwright admitted to representing a buyer in a transaction in which the subject property was owned by a company owned and managed by Mr. Cartwright. Mr. Cartwright entered into a limited agent consent agreement with the buyer; however, Utah law prohibits a licensee from acting as a limited agent in any transaction in which the licensee is an officer, director, partner, member, employee, or stockholder of the entity in the transaction. Mr. Cartwright agreed to pay a civil penalty of \$3500. Case number RE-12-60416

CARTWRIGHT, MARVIN, associate broker, American Fork, Utah. In a stipulated order dated September 21, 2016, Mr. Cartwright admitted to having paid a licensee a

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sales commission after the licensee attempted to affiliate with Mr. Cartwright's brokerage but failed to complete the affiliation process. In addition, Mr. Cartwright allowed another licensee affiliated with his brokerage to act as both a limited agent and the principal in two transactions. As the agent's broker, Mr. Cartwright was responsible to actively supervise the agent. Mr. Cartwright's actions are in violation of Utah law. Mr. Cartwright agreed to pay a civil penalty of \$4000. Case numbers RE-12-58665 and RE-12-58668

CHATWIN, ROBERT A., principal broker, West Jordan, Utah. In an order dated November 30, 2016, Mr. Chatwin's application to renew his license to practice as a principal broker was granted and his license placed on probation for one year due to criminal history. Case number RE-16-87349

ECHLIN, JONATHAN D., sales agent, Salt Lake City, Utah. In a stipulated order dated September 21, 2016, Mr. Echlin admitted to continuing to represent buyers and sellers in several transactions after his license had expired and before his license was later reinstated, in violation of Utah law. Mr. Echlin agreed to pay a civil penalty of \$7000. Case number RE-13-67773

GIVENS, SARAH STEPHANIE, sales agent, Taylorsville, Utah. In an order dated November 16, 2016, Ms. Givens's license was granted and placed on probation for the initial licensing period due

to criminal history. Case number RE-16-87086

GRAHAM, JAMES D., sales agent, Herriman, Utah. In a stipulated order dated November 16, 2016, Mr. Graham admitted to facts which constitute the following violations of Utah law: 1) failing to obtain written informed consent prior to representing both parties as a limited agent; 2) failing to follow the instructions of his principal; and 3) failing to exercise reasonable care and diligence. Mr. Graham agreed to pay a civil penalty of \$1500 and to complete nine hours of continuing education on the topics of contract law (3 hours), ethics (3 hours), and agency law (3 hours) in addition to the continuing education required for his next license renewal. Case number RE-13-66586

HAMMON, BRANDI, principal broker, Eden, Utah. In a stipulated order dated October 19, 2016, Ms. Hammon admitted to having failed to execute a written agency agreement prior to providing property management services, in violation of Utah law. Ms. Hammon agreed to pay a civil penalty of \$1000 and to complete a three hour course in agency law in addition to the continuing education required for her next license renewal. Case number RE-14-68828

HEALEY, DAVID JAMES, sales agent, Pleasant Grove, Utah. In an order dated October 26, 2016, Mr. Healey's license was granted and placed on probation for one year due to criminal history. Case number RE-16-86702

HEITZ, JASON A., sales agent, West Jordan, Utah. In an order dated October 26, 2016, Mr. Heitz's license was renewed and placed on probation for the renewal period due to a pending criminal matter. If Mr. Heitz is found to be not guilty, the probation may be lifted. However, if Mr. Heitz is convicted, his license will be suspended for the remainder of the renewal period. Case number RE-16-86701

HUNTER, CHRISTOPHER RODNEY, sales agent, Nibley, Utah. In an order dated September 15, 2016, Mr. Hunter's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16-85927

JOHNSON, BRANDON, sales agent, Riverton, Utah. In a stipulated order dated September 21, 2016, Mr. Johnson admitted to having failed to include the name of his real estate brokerage on a sign displayed in the rear window of an automobile, in violation of Utah law. Mr. Johnson agreed to pay a civil penalty of \$150. Case number RE-14-73304

LOPEZ, MAYRA, sales agent, Lehi, Utah. In a stipulated order dated November 16, 2016, Ms. Lopez admitted to failing to follow the instructions of her principal, in violation of Utah law. Ms. Lopez agreed to pay a civil penalty of \$750 and to complete four hours of continuing education, two hours in agency law and two hours in contracts, in addition to the continuing education required for her

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next license renewal. Case number RE-14-72619

MADSEN, JEFFREY DARRELL, sales agent, Orem, Utah. In an order dated September 20, 2016, Mr. Madsen's license was renewed and placed on probation for the renewal period due to a pending criminal matter. If Mr. Madsen is found to be not guilty, the probation may be lifted. However, if Mr. Madsen is convicted of a felony, his license will be immediately revoked and if he is convicted of a misdemeanor, his license will be immediately suspended. Case number RE-16-86007

MOSS, SHAWN, sales agent, Syracuse, Utah. In an order dated October 25, 2016, Mr. Moss's license was granted and placed on probation due to criminal history and unpaid civil judgments including tax liens and a child support lien. After the initial licensing period, Mr. Moss may renew his license on probation if he has a payment plan in place for the tax liens and has made regular and substantial payments on the child support lien. Case number RE-16-86654

NELSON, ERIC, sales agent, Park City, Utah. In a stipulated order dated September 21, 2016, Mr. Nelson admitted that in 2012, he made a substantial misrepresentation while representing his client and failed to act competently in order to safeguard the interest of the public, in violation of Utah law. He had self-reported the violation and asserted that the violations

were the result of a medical condition. Mr. Nelson voluntarily paid restitution to the affected parties, agreed to pay a civil penalty of \$15,000, and agreed to have his license placed on probation for the remainder of the two year license term. Case number RE-12-62849

OLSON, BRANDON, sales agent, Salt Lake City, Utah. In an order dated November 15, 2016, Mr. Olson's license was granted and placed on probation for one year due to criminal history. Case number RE-16-87083

PAYNE, TED L., branch broker, St. George, Utah. In an order dated October 20, 2016, Mr. Payne's license was renewed and placed on probation due to a pending criminal matter. If Mr. Payne is found to be not guilty, the probation may be lifted. However, if Mr. Payne is convicted, his license will remain on probation for the renewal period. Case number RE-16-86598

REBER, COLTON LYN, sales agent, Far West, Utah. In an order dated November 8, 2016, Mr. Reber's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16-86958

RIDD, NICHOLAS JAMES, sales agent, Salt Lake City, Utah. In a corrected order dated November 16, 2016, Mr. Ridd's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16-86989

ROGERS, DOUGLAS, sales

agent, Woods Cross, Utah. In an order dated September 16, 2016, Mr. Roger's license was renewed and placed on probation for the renewal period due to criminal history. Case number RE-16-85965

ROUNKLES, BLAKE D., sales agent, Kaysville, Utah. In a stipulated order dated September 21, 2016, Mr. Rounkles admitted that he did not include his brokerage information in direct mail and electronic advertising, in violation of administrative rule. Mr. Rounkles agreed to pay a civil penalty of \$150. Case number RE-14-72547

SIMONSEN, SCOTT, sales agent, Cottonwood Heights, Utah. In a stipulated order dated September 21, 2016, Mr. Simonsen admitted to continuing to represent a client in a transaction after his license had expired and before his license was later reinstated, in violation of Utah law. Mr. Simonsen agreed to pay a civil penalty of \$2,500 and to complete a one hour course in the Real Estate Licensing Management System in addition to the continuing education required for his next license renewal. Case number RE-13-67771

SMITH, CARLOS M., sales agent, Salt Lake City, Utah. In an order dated September 26, 2016, Mr. Smith's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16-86105

TANNER, BRADY T., sales agent, Salt Lake City, Utah. In a stipulated order dated October 19, 2016, Mr. Tanner admitted to having failed to

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timely provide a cancellation notice in a transaction and to having failed to inform the sellers' agent that the buyer had not deposited a portion of the agreed upon earnest money. Mr. Tanner agreed to pay a civil penalty of \$500 and to complete three hours of continuing education on the topic of contracts in addition to the continuing education required for his next license renewal. Case number RE-13 68255

TATOM, KEVIN B., sales agent, Herriman, Utah. In an order dated October 28, 2016, Mr. Tatom's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16-86762

TELAROLI, DALLIN, sales agent, Saratoga Springs. In an order dated November 17, 2016, Mr. Telaroli's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16 87157

TERRY, ALICIA J., sales agent, Highland, Utah. In a stipulated order dated November 16, 2016, Ms. Terry admitted to having advertised a property for sale approximately one week after the property had sold. In addition, Ms. Terry failed to disclose the full name of the brokerage in the advertisement. Ms. Terry agreed to pay a civil penalty of \$500 and to complete three hours of continuing education on the topic of agency in addition to the continuing education required for her next license

renewal. Case number RE-14 72257

THOMPSON, DEBRA J., sales agent, Salt Lake City, Utah. In an order dated October 4, 2016, Ms. Thompson's license was denied due to the prior sanction of Ms. Thompson's title insurance license. Case number RE-16-85267

TIPPETTS, NANCY DIANE, sales agent, Layton, Utah. In an order dated October 4, 2016, Ms. Tippetts's application for licensure as a real estate sales agent was denied due to several unsatisfied civil judgments. Case number RE-16 85266

TORRES, KATY, sales agent, Taylorsville, Utah. In an order dated September 16, 2016, Ms. Torres's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16-85963

VAN EKELENBURG, THOMAS JEFFREY, sales agent, Sandy, Utah. In an order dated November 3, 2016, Mr. Van Ekelenburg's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16-86888

VARGA, SEBASTIAN FERNANDO, sales agent, Stansbury Park, Utah. In an order dated November 22, 2016, Mr. Varga's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16-87131

WEAKLEY, MARION CLARK,

sales agent, Santa Clara, Utah. In an order dated October 20, 2016, Mr. Weakley's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16 86596

WILLIAMS, BRIAN C., sales agent, Midvale, Utah. In a stipulated order dated November 16, 2016, Mr. Williams admitted to having failed to execute a written agency agreement prior to offering to sell property for the owner, in violation of Utah law. Mr. Williams agreed to pay a civil penalty of \$1000 and complete three hours of continuing education on the topic of agency in addition to the continuing education required for his next license renewal. Case number RE-14-70361

WILSON, ALLISON, sales agent, Ogden, Utah. In an order dated November 18, 2016, Ms. Wilson's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-16-87167

TIMESHARE

CROWELL, RORY B., timeshare sales person, Midvale, Utah. In an order dated November 29, 2016, Mr. Crowell's application for timeshare sales person was denied due to his criminal history and for filing an application with misleading information. Mr. Crowell's application contained misleading information as he failed to fully disclose the extent of his criminal history. Case number TS-16-87313

Division of Real Estate

RULE DEVELOPMENTS Since October 1, 2016

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

Appraisal Management

In April 2016, the Appraiser Board, acting with the Division of Real Estate, established a rules committee to consider possible amendments to the administrative rules relating to the manner by which an appraiser may be removed from an AMC's appraiser panel and how appraisal assignments are offered to appraisers by an AMC. The Appraiser Board considered the recommendation of the rules committee and approved the filing of a proposed rule amendment consistent with the recommendation. A proposed rule amendment has been filed and a period for public comment on the proposed rule is open through January 17, 2017. Please see the associated newsletter article on page 12 for details of the proposed rule amendment. A public hearing is scheduled for January 25, 2017 to allow anyone interested in this matter to comment on the proposed rule amendment.

Appraisal

There are no proposed rule amendments under consideration for the appraisal rules.

Mortgage

The Mortgage Commission is currently considering an administrative rule addressing licensees signing on behalf of another. Nothing has been voted on at this time.

Real Estate

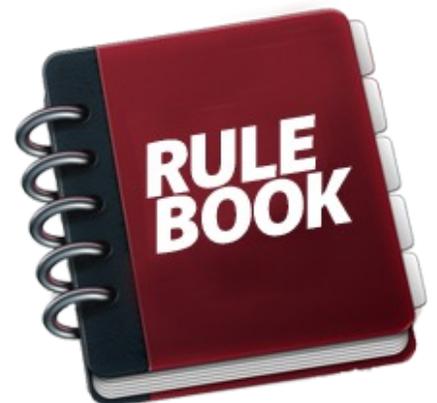
1. A rule amendment that adds the topic of Fair Housing as a core topic for real estate continuing education and makes changes to the broker experience requirements became effective in December. This rule clarifies the broker experience points that a licensee representing a client under a written property management agreement may accumulate.

2. In April 2016, the Real Estate Commission, acting with the Division of Real Estate established a rules committee to consider possible amendments to the advertising rule. The committee met numerous times and presented a recommendation to the Commission to amend the advertising rule. The Commission considered the recommendation of the committee and authorized the filing of a proposed rule amendment consistent with the recommendation. In addition

to the proposed amendment to the advertising rule, the Commission approved another possible amendment to the broker experience rules. This amendment would limit broker experience points for experience resulting from a non-exclusive broker agreement. The public comment period for the proposed rule amendment ends January 3, 2017. Please see the associated newsletter article on page 13 for details of the proposed rule amendment.

Timeshare and Camp Resort

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



Division of Real Estate



Kagie's Korner

The Division occasionally receives calls from licensees wanting to know if, as an investor, they can represent the other side of a real estate transaction. The Division informs these callers that if they did so, they would be in violation of the following Administrative Rules:

R162-2f-401a(1) (An individual licensee shall) uphold the following fiduciary duties in the course of representing a principal:

- (a) loyalty, which obligates the agent to place the best interests of the principal above all other interests, including the agent's own;

R162-2f-401b(15) (An individual licensee may not) 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;

The Division has seen an increase of complaints involving a licensee who is a principal in a transaction and also represents the other side. Here are a few examples to help clarify the issue:

Scenario 1 – Agent Slick finds a property that is in default and contacts the distressed owner. After some discussion, the licensee ends up getting a listing agreement and presents the owner an offer from Slick Solutions LLC. Mr. Slick is the sole owner of Slick Solutions. He discloses his interest in an addendum while also acting as a licensed Utah real estate professional representing the seller in the transaction.

Scenario 2 - Agent Sly is an investor and is the seller of an investment property. An unrepresented buyer views the property and calls back the next day wanting to write an offer on the property. Mr. Sly tells the unrepresented buyer that he can represent him and enters into an exclusive buyer agency agreement. A Real Estate Purchase Contract is then drafted

by Mr. Sly, given to the buyer who signs it, returns it to Mr. Sly who then accepts the offer. Three months later, just before closing, Mr. Sly sends the buyer an addendum disclosing that he is a licensee and owner of the property.

Any licensee who is a principal in a transaction and attempts to represent the other party is in violation of the above referenced administrative rules. The rules preclude a licensee from representing the other side of a transaction when the licensee has a personal interest in the property. Any agent attempting to do so would breach his or her fiduciary duty to the client. In addition, the licensee would potentially subject themselves and their brokerage to legal scrutiny, and sanctions or disciplinary action from the Division.



Division of Real Estate

2016-17

MORTGAGE LICENSE RENEWAL



The year 2016 has come to an end, and so too has the mortgage license renewal process for 2017. This year applicants seeking to renew their mortgage licenses were not required to authorize a criminal background check (CBC) or credit history in conjunction with their 2017 license renewal. The only Utah specific requirement this year is the 2 hour Utah Law Course. This 2 hour course is in addition to the 8 hour NMLS CE required nationally for all renewing mortgage licensees.

All in all, this year's renewal process has been relatively calm, with fewer industry phone calls, e-mails, and live chats regarding state specific renewal requirements. At the time of this writing 88% of our licensees have requested renewal and 88% of those requested have been approved. There are 359 renewals on pending status due to outstanding deficiencies. There are 267 applicants whose applications are awaiting processing. Some minor delays are a result of pending uncleared deficiencies on individual or entity licenses.

If you have not received an email confirmation through the NMLS system that your license renewal is approved and you requested renewal more than two weeks ago, please log into your NMLS account and see if there are defi-

ciencies on your license (license items) that are holding up the approval. If you requested renewal prior to the December 31, 2016, deadline, you can continue to use your license according to your license status as of October 31, 2016, while we review your application. In addition to receiving a confirmation email from the NMLS stating that your renewal has been approved, you will also receive an email from the Division of Real Estate with your Mortgage license attached (please allow up to 10 business days from the day your renewal is approved to receive the DRE email). You may print your license at your convenience.

For those who have not received an email indicating that your renewal has been approved, please check your NMLS account in the following manner. Log in to your NMLS account: Under "composite view," click on "license/registration status," and then click on "license items" next to your Utah License. Generally, there are corrections or additions required in your NMLS account that you can take care of fairly easily. Mostly, they are for updating your employer history, completing the Utah 2 Hour CE course, or failing to authorize or provide required documentation. If you see a deficiency for failure to complete the Utah 2 Hour Law course and you know you completed it, you may send a copy of your certificate of completion by

email or fax and we will clear the deficiency and quickly renew your license. Please send emails to: realestate@utah.gov or faxes to 801-526-4382.

If you failed to request your renewal before year end, you should immediately discontinue any activity that requires a mortgage license until you have a renewal approved by the Division. You will need to submit a late renewal application before February 28, 2017.

If you find that you have not requested renewal prior to the end of the year and you still wish to maintain your mortgage license, you can reinstate your license prior to February 28, 2017. You will need to complete the continuing education requirement, the 2016 Late CE, and the Utah 2 hour law course, request your renewal through the NMLS, pay the renewal fee and a **\$50 late fee**. If you completed your CE prior to the end of the year, but did not request renewal, you will not need additional CE, you will just need to request renewal and pay the renewal and late fee through NMLS prior to February 28, 2017.

Please note the importance of the February 28, 2017 deadline. After that date, licensees who wish to reinstate their license will have additional requirements and fees.

Division of Real Estate

Knowledge is the
KEY

- Chris Martindale
Real Estate Investigator



The mission of the Utah Division of Real Estate is to protect the public and promote responsible business practices

through education, licensure, and regulation of real estate, mortgage, and appraisal professionals. With this mission in mind, licensees venture into the world to assist the public with the purchase and sale of their homes and other properties. Real estate sales can be a fun, lucrative, and a rewarding business. From the first transaction fresh out of licensing school to the painstaking responsibilities of running a brokerage, every transaction is a different experience. With every transaction you learn something new and, hopefully, beneficial to your life and business. But, such is life, not every transaction goes as hoped or as planned. Mistakes can be made and details can be overlooked and a transaction can go belly up. People get upset or are harmed and a complaint is filed with the Division of Real Estate.

The Division receives complaints from all over the state from licensed agents, loan officers, appraisers, and the general public. We examine each complaint closely to determine if the statutes and administrative rules were followed. On occasion, licensees under investigation justify their actions based on the advice of an attorney. Keep in mind the Division has specific statutes and rules that require consideration. If advice is given without consideration for these statutes and rules, a small problem could quickly become a big

problem. It is essential to ensure that the statutes and rules are being considered by your attorney.

Knowledge is the key! Located on the home page of the Division of Real Estate website are tabs for each industry. Under each industry tab there is a section titled "Statutes and Administrative Rules." These statutes and rules govern our actions in this industry. They are not just a set of boring laws. They are a compilation of valuable information regarding licensing procedures, document requirements, trust account provisions, rules regarding personal conduct in a transaction, and much more. You do not have to memorize these rules and statutes, but as a licensee, you should know what is in them and where to find them. The more you study and familiarize yourself with the statutes and rules, the more fine-tuned your business will become. Nearly every question the Division receives is answered by referring to these statutes and rules. It would take you far less time to read through and develop a solid understanding of them, than it took you to obtain your license. The combination of your practical knowledge and experience, with a solid understanding of the statutes and rules, will help to make you the best agent you can be. Call us anytime if you need assistance in how to apply a specific statute or rule to your situation. The Division would certainly rather have a conversation with you prior to a violation occurring than work the next case file with your name on it.

Division of Real Estate

Proposed **AMC** Rule Amendment

In April 2016, the Appraiser Board, acting with the Division of Real Estate, established a rules committee to consider the possible amendment of the AMC administrative rules relating to the manner by which an appraiser may be removed from an AMC's appraiser panel and how appraisal assignments are offered to appraisers by an AMC. The following individuals were appointed to serve on the AMC Rules Committee:

1. Appraiser Board members, Kristin Coleman-Nicholl and Daniel Brammer;
2. AMC Representatives, Michael Jorgensen of Home Base Appraisal Management and Greg Bernstein of Value Trend Solutions;
3. Appraisers, Matthew Frentheway and Keven Ewell; and
4. Staff members of the Division of Real Estate, Jeffrey Nielsen and Justin Barney.

The committee met in nine meetings over a period of approximately five months to consider the issues for which the Rules Committee was formed. Matthew Frentheway was appointed and served as the chair of the Rules Committee. Over the course of the nine meetings the Rules Committee discussed the issues and prepared a written recommendation for possible rule

amendment. The Division appreciates the members of the Rule Committee who volunteered their time in this process.

The Rules Committee presented its recommendation to the Appraiser Board on September 27, 2016. The Board discussed the recommendation and asked the Rules Committee to consider a further amendment relating to the rank and tier models used by some AMCs and to consider whether in the event that a time calculation is used by an AMC to rank an appraiser or to establish tiers of appraisal panels, the AMC should only use business days in the calculation. The Rules Committee considered these issues and updated its recommendation to the Board.

The Appraiser Board considered the updated recommendation of the Rules Committee and approved the filing of a proposed rule amendment consistent with the recommendation. For exact language, we suggest reading the rule amendment found here:

<http://www.rules.utah.gov/public/bulletin/2016/20161215/41024.htm>

The intent of the proposed rule amendment is to:

- a. provide clarity and transparency in communications between an

AMC and an appraiser with regard to disclosures and notices from the AMC to the appraiser;

- b. provide an assumption of compliance for an AMC that its appraisal fees are customary and reasonable as required by law if the AMC pays an appraiser consistent with the United States Department of Veterans Affairs fee schedule;

- c. clarify the manner by which an AMC may offer an appraisal assignment to an appraiser which cannot include offering the assignment to a group of two or more appraisers by broadcasting a simultaneous electronic communication; and

- d. specify that if an AMC uses delivery time for completion of an appraisal report for a tiered panel model or when ranking an appraiser, the AMC shall only use business days in the time calculation.

On November 17, 2016, the proposed rule amendment was filed with the Office of Administrative Rules. The public including members of the appraisal management and appraisal industries may comment on the proposed rule amendment until January 17, 2017. A public hearing is scheduled for January 25th, 2017 to allow anyone interested in this matter to comment on the proposed rule amendment.

Division of Real Estate



Real Estate ADVERTISING RULES

As mentioned in the third quarter newsletter, a committee made up of representatives from the Commission, industry, and the Division have been reviewing real estate advertising rules. During the Real Estate Commission meeting on October 19th, the Committee presented a proposal to the Real Estate Commission. The Commission voted in favor of submitting the proposal for public comment. The public comment period will run from December 4 through January 3. The following is a brief description of the changes. For exact language, we suggest reading the rule amendment found here:

<http://www.rules.utah.gov/publicat/bulletin/2016/20161201/40952.htm>

- All advertisements shall clearly and conspicuously identify the name of the brokerage with which the licensee is affiliated;
- When it is not reasonable to
 - identify the brokerage in an electronic advertisement, the electronic advertisement must directly link to a display that clearly and conspicuously identifies the brokerage name;
 - Licensees are not required to identify the brokerage if:
 - Advertising a property not listed with the brokerage and,
 - Licensee has an ownership interest in the property and the property is not listed and,
 - Identifies the individual as “owner-agent” or “owner-broker” and the property is not listed
 - The brokerage name must be the name of the brokerage on Division records;
 - Teams, groups, or other marketing entities are subject to the same advertising requirements
- as an individual;
- If advertising a guaranteed sales plan, the advertisement must include, in a clear and conspicuous manner:
 - A statement that costs and conditions may apply; and
 - Information about how to contact the licensee to obtain the disclosures required under R162-2f-401a(23).
 - Any radio or television advertisement of a guaranteed sales plan shall include a conspicuous statement advising of any conditions or limitations.

This administrative rule filing also includes changes to the Appendices section, R162-2f-501. These changes relate to calculating experience points to become a broker when using an agency agreement other than an exclusive brokerage agreement as defined under R162-2f-308(1)(d).

Division of Real Estate

2016 Department of Commerce DIVISION OF REAL ESTATE ANNUAL REPORT

2016 SUCCESS Goals

In fiscal year 2016, the Division of Real Estate continued following the Governor's challenge to increase efficiency. Although the number of new license applications increased from fiscal year 2015, Division licensing staff was able to maintain a more efficient processing time than the baseline.

	Baseline	Fiscal Year 2016
Average Applications received per month	194.4	288.58
Percentage processed within five days.	74.9%	85.04%

Licensing

The Division renews real estate and appraisal licenses on a biennial basis (two years following initial application) and mortgage licenses annually from November 1 through December 31. Licensees are sent an email license renewal reminder notification 45 days, 30 days, and 14 days prior to license expiration and 2 days following expiration. These notices cease following the renewal of a license.

For a number of years Real Estate Brokers, both Principal and Branch, have desired and requested some method of Broker Notification to provide an easy means of tracking licensees that are affiliated with their brokerage. A system has now been introduced that allows the Broker to easily account for those licensees whose licenses will soon be, or that have expired.

Since January of 2016, all Principal and Branch Brokers began receiving a monthly email notification

from the Division with timely information regarding all licensees affiliated with their brokerage or branch.

Those affiliated individuals whose licenses are set to expire in the next 45 days, are highlighted in yellow so that the broker will easily be able to see whose licenses will be expiring as well as the current number of Continuing Education hours that the licensees have completed (as of the date of the Division email notification). Brokers are now better able to monitor their licensees and encourage them to renew prior to expiration.

If an individual has allowed their license to expire, the expired (now formerly affiliated licensee's) license appears highlighted in red. Brokers should take steps to immediately have this licensee discontinue performing anything that requires a license until they complete the renewal process.

This new notification system better enables Principal and Branch Brokers to be aware of the license status of their licensees and encourage their timely license renewal.

Education

The Division conducts an annual Instructor Development Workshop to assist professional instructors of real estate, mortgage, and appraisal education. The annual workshop helps educators refine and improve their instructional skills. State licensees benefit from having knowledgeable, well trained educators that not only know their subject matter, but also have enhanced delivery skills to heighten the learning experience of prospective and established licensees.

Division of Real Estate

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The following tables give historical data as to the number of certifications issued by the Division, as well as the number of prelicensing examinations that have been administered:

Certifications Issued

	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016
Educational Programs	36	32	31	39
Real Estate Pre-Licensing Instructors	38	35	32	29
Real Estate CE Courses	1,102	1,215	1,007	741
Real Estate CE Instructors	390	426	452	568
Mortgage Pre-Licensing Instructors	8	7	7	5
Mortgage CE Courses	0*	6*	7*	7*
Mortgage CE Instructors	0*	6*	7*	4*
Appraisal CE Courses	455	479	425	448
Appraisal Instructors	41	34	63	68
Appraisal Pre-Licensing Instructors	18	53	23	33

*Under the licensing program that has been adopted across the country in order to comply with the federal S.A.F.E. Act, continuing education (CE) courses for mortgage professionals are now reviewed and approved at the national level by the Nationwide Mortgage Licensing System (NMLS). In fiscal year 2014, the Division implemented a state-specific CE course that is handled outside of the NMLS.

Pre-licensing Examinations Administered

	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016
Real Estate Agent Exams	795	1,388	2,673	3,029	3559
Real Estate Broker Exams	124	144	272	304	275
Mortgage PLM Exams	242	79	179	144	123
Appraiser Exams	44	27	46	57	32

* Mortgage Loan Originator exams are now scheduled and administered through Nationwide Mortgage Licensing System.

Support Services

The Division has well trained and helpful licensing specialists that professionally assist the public and licensees in resolving questions about the licensing or renewal process, rules and regulations, or general industry practices for the real estate, mortgage, and appraisal professions. Communication by phone call, easily accessible website information, and live chat conversations are conducted by accommodating, service oriented experts.

Total Number of Licenses/Registrations

	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016
Real Estate	21,559	20,754	18,198	21,739	22,858	24,745
Mortgage	4,308	4,241	4,840	4,358	5,276	5,786
Appraiser	1,457	1,393	1,384	1,396	1,314	1,415
Appraisal Management Companies (AMCs)	133	143	147	140	148	142
Subdivision/Timeshare	400	393	566	657	643	558
Total	27,857	26,924	25,135	28,290	30,239	32,646

New Licenses/Registrations Issued

	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016
Real Estate	1,362	1,401	1,042	2,197	2,479	2,600
Mortgage	853	665	1,113	1,174	949	1,112
Appraiser	196*	236*	145*	255*	252*	267*
Appraisal Management Companies (AMCs)	50	26	21	16	12	12
Timeshare	71	115	276	211	220	164
Total	2,532	2,443	2,597	3,853	3,912	4,154

*Includes temporary permit and reciprocal licenses.

Licenses/Registrations Renewed

	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016
Real Estate	8,388	8,475	8,229	8,998	8,060	8,950
Mortgage	3,704	4,137	4,045	5,752	4,603	4,915
Appraiser	626	597	651	694	691	603
Timeshare	36	63	194	72	125	130
Total	12,754	13,272	13,119	15,516	13,479	14,598

Division of Real Estate

2016 Instructor Development Workshop IDW RECAP

In the last week of October the annual 2016 Instructor Development Workshop (IDW) was held in Park City. Those in attendance included education representatives and practicing licensees of the Real Estate, Mortgage, and Appraisal industries.

Day One –The Division was fortunate to have Justin Harding, the Governor’s Chief of Staff speak to the attendees of the IDW. He launched the program by sharing his insight regarding the rapidly growing business sector of our state. He shared his thoughts regarding the real estate industry and the important role it plays in our state’s economy. Next, the workshop included Director Stewart’s discussion of proposed legislative changes and overall challenges and opportunities fac-



Justin Harding

ing our professions. Mark Fagergren, Licensing and Education Director, presented information on industry exams (pass rates, content outline changes, and recent examination changes). Kadee Wright, introduced as the New Chief Investigator of the Division, spoke to attendees along with investigators Marv Everett and Craig Livingston about enforcement and disciplinary issues that they have recently been experiencing.

Eric B. Storey and Tage Flint presented a very informative and insightful three hour CE course entitled “The Flow of H₂O – Utah Water Issues.” Mr. Storey is the Senior Vice President and Manager of Corporate Properties for Zions Bank in Salt Lake City, overseeing property management, construction/project management, and purchase/leasing of bank properties. He is a licensed Real Estate Broker, Certified General Appraiser, and Continuing Education Instructor in the state of Utah. Eric Storey and Tage Flint (General Manager of Weber Basin Water), are considered to be industry leaders in understanding and addressing Utah water rights issues and challenges.

Day Two – Included a full-day of instructor development principles taught by Eric Storey regarding

how instructors, above all, need to love their listeners, love the subject, and love to teach. If any of these three fundamentals are missing, your presentation will not be very successful.



Eric taught about the principles of memory and learning. He presented information on how our brains encode information and how that information is stored and later recalled. The importance for learners to pay attention, concentrate, and avoid distractions was explained. He taught how motivated learners will store information if they rehearse and “overlearn” the material they are studying. The fundamentals of practice, application, repetition, and re-learning help students to be able to store and retrieve studied information. We were taught that learning by our students is improved if we implement three basic actions as an instructor. These actions are to Learn, Act, and Share.

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Eric explained that when puppies are trained, they have three things on their mind: Food, Fun, and Safety. People experience these same thoughts and concerns as they participate in a presentation. In many cases, presentations are intended to train people and people react in much the same way as pets. People wonder if there is going to be any fun, food, or reward involved. Is it going to be fun or interesting, and am I going to be safe physically and psychologically?

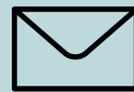
Eric discussed the fundamentals of organizing a successful presentation with ideas of how to enhance and significantly improve teaching (the beginning, the main body, and the ending of your course).

Finally, Eric discussed ten tips for success for presenters:

1. Be genuine, and natural. Be yourself.
2. Less is more. Keep it simple and get to the point.
3. Share your passion. Inspire with enthusiasm.
4. Be sensitive. Give physical and mental breaks.
5. Listen responsively.
6. Have a sense of humor.
7. Don't read from Power Point slides. Don't overload slides with material.
8. Provoke participation.
9. Encourage reflection.
10. Be humble.

We thank all workshop presenters and participants and especially Eric B. Storey for making our annual IDW a great success!

QUESTIONS ? COMMENTS ? CONTACT US!



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