

*First Quarter 2019*

## In This Issue

Director's Message.....1-2  
Mortgage Temporary Authority.....2  
New 3-Hr Mandatory Course.....3  
Rap Back.....4  
When A Licensee Owns Property..5  
Division Staff Spotlight.....7  
Commission & Board Information..7  
License & Disciplinary Action...8-11  
Rule Developments.....11  
Kagie's Korner.....12-13  
CARAVAN Information.....14  
2019 IDW Save The Date.....15  
New Commission Member.....15

## Director's Message Legislative Update

In the 2019 Legislative Session, Senator Kirk Cullimore and Representative Cal Musselman assisted the Division by running S.B. 140, Real Estate Amendments. The changes in this year's bill affect the real estate, mortgage, and appraisal industries. All changes were discussed with the Real Estate Commission, Mortgage Commission, and Appraisal Board.

The Division appreciates the support we received from Senator Cullimore, Representative Musselman, and the Utah Association of Realtors during the legislative process.

The changes made in S.B. 140 will go into effect on **May 14, 2019**. This article only provides highlights of the changes made; if you have questions, please read the exact language found in the bill or contact the Division.

Click [HERE](#) to access the bill.

### S.B. 140 – Summary of Changes

#### Changes Affecting All Industries

- Exempt the issuance of a citation from the Utah Administrative Procedures Act.

#### Residential Mortgage Practices and Licensing Act

**61-2c-201. Licensure required of person engaged in the business of residential mortgage loans and 61-2c-201.2. Temporary authorization to act as a mortgage loan originator.**

- In compliance with new federal law, S. 2155, Economic Growth, Regulatory Relief, and Consumer Protection Act, allow a licensed loan originator from another jurisdiction or a registered loan originator coming from a bank to obtain temporary authorization to originate residential mortgage loans for up to 120 days while waiting for approval of an application for licensure.



Jonathan Stewart

*continued from page 1*

## **Real Estate Licensing and Practices Act**

### **61-2f-204. Licensing fees and procedures – Renewal fees and procedures.**

- Require all licensees, active and inactive, to submit to a fingerprint background check and enroll in Rap Back. Please see Rap Back article on page 4.

### **61-2f-401. Grounds for disciplinary action.**

- Prohibit a licensee from taking or removing brokerage records from a main office or branch office.

## **Real Estate Appraiser Licensing & Certification Act**

### **61-2g-301. License or certification required.**

- Allow an appraiser to perform an evaluation while still complying with certain aspects of USPAP.

### **61-2g-304.5. Background Checks.**

- Require all licensees to submit to a fingerprint background check and enroll in Rap Back. Please see Rap Back article on page 4.

If you have any questions about these statutory changes, please contact the Division for additional information. We appreciate all those who provided feedback and suggestions that resulted in these changes.

## **Mortgage Licensing**

### **Temporary Authority To Operate (TAO)**

As mentioned in the Legislative Update Article, this year's Division Bill passed legislation that will allow a licensed mortgage loan originator or a registered mortgage loan originator to receive temporary authority to operate in Utah. This change is the result of a recently passed federal law, S. 2155, Economic Growth, Regulatory Relief, and Consumer Protection Act.

The legislation provides temporary authority for an individual to originate residential mortgage loans prior to obtaining a mortgage license. Before the temporary authorization is effective, the person must take certain required steps. The person seeking a temporary license must first become employed by a licensed Utah company. If coming from another state as a licensed loan originator, the applicant must have been licensed during the 30-day period before the day they submit the application to the Division. If the applicant is registered with a bank, the applicant must have been registered in the Nationwide Mortgage Licensing System and Registry as a loan originator during the 1-year period preceding the date the application is submitted to the Division. In order to qualify for the temporary authority to operate, the applicant cannot have had an application for a loan originator license denied or a loan originator license revoked or suspended in any jurisdiction. An applicant cannot have been subject to, or served with, a cease and desist order in connection with a residential mortgage loan transaction in any jurisdiction. In addition, an applicant cannot have been convicted of a felony that would preclude licensure under current Utah law.

If the applicant meets all of the requirements, the temporary authority to act as a loan originator in Utah would end on the earliest of the date the applicant withdraws their application, the day on which Utah denies or issues a notice of intent to deny the application, the day on which Utah issues a license, or 120 days after the application is received.

Any entity or principal lending manager that employs an individual working under temporary authority is still responsible for the loan originator's actions as if the loan originator was State-licensed in Utah. Any individual that has temporary authority as a loan originator in Utah is subject to the same laws as if the individual was State-licensed in Utah.

## NEW MANDATORY 3-HOUR CE COURSE

### **--SOON REQUIRED--**

## FOR ALL ACTIVE REAL ESTATE LICENSE RENEWALS



Beginning in January 2020, all active real estate licensees will be required to have completed a New Mandatory 3-Hour Continuing Education Course to renew their license.

Active real estate licensees will continue to require a total of 18 hours of continuing education to renew their license. As is currently required, a minimum of 9 of the 18 hours must be Core Topic Courses. However, commencing in January 2020, 3 of the 9 required Core Topic Course hours must be satisfied by completing the 3-Hour Real Estate Commission Approved Mandatory Course.

The “Mandatory Course” will be made available in three different versions:

- Residential
- Commercial, and
- Property Management

Licensees may select any of the three versions of the “Mandatory Course” that best meets their individual market specialty. Beginning in 2020, and continuing thereafter, at least one of the three “Mandatory Course” versions must be completed in each renewal cycle.

We anticipate that the Mandatory 3-Hour Course will be available for licensees to complete beginning sometime in July 2019. The Second Quarter Division Newsletter will have additional information regarding the details and availability of the course.

We are informing you of this upcoming procedural change now so that you will have advance notice of the new CE course requirement and you can plan and act accordingly.

The Division & Real Estate Commission are excited to in-

troduce the new Mandatory 3-Hour CE Course that will address current topics of industry concern, areas of confusion, common misconceptions, disciplinary actions (and how to avoid them), etc.

We thank the Real Estate Commission for their thoughtful involvement and wisdom in supporting and formulating this course, and for those individuals who worked on the objectives for this “Mandatory Course” as well as those who were actively engaged in the course outline preparation.

We are confident that requiring licensees to complete this specific course will not only help to address common areas of concern, but also introduce a universal and consistent training standard as the real estate industry continues to advance and evolve in the years to come.

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# Division of Real Estate

## Rap Back

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In the 2018 Legislative Session, the Legislature passed a law that allowed the Department of Commerce, which includes the Division of Real Estate, to enroll licensees in Rap Back. Rap Back is a system that allows authorized agencies to receive on-going status notifications of any criminal history reported to the FBI. After many months of discussion, the Real Estate Commission and Appraisal Board decided to propose to the legislature to require all real estate and appraisal licensees, active and inactive, to submit to a fingerprint background check and enroll in Rap Back. Mortgage Licensees currently are required to submit to a fingerprint background check every five years and will be required to enroll in Rap Back when NMLS 2.0 is released.

What does this mean for you? Starting January 1, 2020, all renewals and new applications for real estate and appraisal licensees will need to obtain a fingerprint background check and enroll in Rap Back. The cost for fingerprinting, processing, and enrolling in Rap Back will be \$45.00. The Division of Real Estate will be purchasing a Livescan fingerprinting machine that will be available for licensees during their renewal window. For real estate licensees the renewal window is 45 days before the license expires. For appraiser licensees the renewal window is three months before the license expires. We are also working with the Division of Occupational and Professional Licensing (DOPL), so that

licensees in Southern Utah can be fingerprinted at the DOPL St. George office. If licensees come to the Division of Real Estate or DOPL's St. George Office, there will not be any additional fee, just the \$45.00. We are in the process of contracting with other locations around the state where licensees will be able to go to be fingerprinted, but there will be an additional convenience fee for this service because they are contracted third-party vendors.

One of the advantages of enrolling all licensees in Rap Back is that the Division will be able to remove the 10-day reporting requirement when all licensees have been enrolled in the system. We know that enrolling in RAP Back will be an inconvenience, but we hope you understand the importance of our goal to protect the public and to promote the positive reputation of our licensed professions. Additional information will be available on our website, and in future newsletters.

## When A Licensee Owns Property

-Written by Chris Martindale, Real Estate Investigator

What are the requirements for a licensed agent who wants to lease or sell their own property, (whether held in their personal name or a legal entity)?

Two important things to consider are: What disclosures are required, and whether the licensee wants to earn experience points toward qualifying to receive a broker's license.

First, and foremost, if you or your entity holds title to a property that you want to lease or sell, you would *always* be a principal in that transaction. Being a principal in the transaction requires certain disclosures before executing a binding agreement.

Let's look at Administrative Rule R162-2f-401a. An individual licensee shall: Subsection (6) prior to executing a binding agreement, disclose in writing to the clients, agents for the other parties, and unrepresented parties: (a) the licensee's position as a principal in any transaction where the licensee operates either directly or indirectly to buy, sell, lease, or rent real property; (b) the fact that the licensee holds a license with the division, whether the license status is active or

inactive, in any circumstance where the licensee is a principal in an agreement to buy, sell, lease, or rent real property; (c) the licensee's agency relationship(s);

These disclosures are straight forward and must be in writing. Disclosures can be included in an addendum to the contract, lease, or management agreement. It is important to note that even though you may not be running the transaction through your brokerage, you are still bound by the statutes and rules that govern written license disclosure. Knowing the affirmative duties required of all licensed individuals and making the proper disclosures helps you to protect the public, yourself, and informs all parties associated with the transaction of your role as a principal in the transaction.

In addition to the previously mentioned rules, other rules may apply depending on your situation and the transaction.

Administrative Rule R162-2f-401b discusses prohibited conduct for licensed individuals. Licensees should know and understand the significance of these very important rules.

Be advised, licensees cannot be a limited agent and a principal in the same transaction.

Please be aware of advertising rule R162-2f-401h(1) and (3) when advertising your own property:

### **R162-2f-401h. Requirements and Restrictions in Advertising**

(1) Except as provided for in subsections (2) and (3), a licensee shall not advertise or permit any person employed by or affiliated with the licensee to advertise real estate services or property in any medium without clearly and conspicuously identifying in the advertisement the name of the brokerage with which the licensee is affiliated.

(3) A licensee is not required to identify the name of the brokerage with which the licensee is affiliated if:

(a) the licensee advertises a property not currently listed with the brokerage with which the licensee is affiliated;

(b) the licensee has an ownership interest in the property; and

(c) the advertisement identifies the name of the individual li-

# Division of Real Estate

*continued from page 5*

censee as "owner-agent" or "owner-broker."

The second consideration when renting or selling your property is whether or not you want to accrue experience points towards qualifying for a principal broker's license. As a licensee, you are allowed to lease, sell, and manage your own property without running the transactions through your brokerage. The sale of property by an owner is a licensing exemption. In other words, you don't need a real estate license to sell or lease your own property. However, if you elect to NOT run personal property transactions through your brokerage, the transactions WILL NOT qualify for experience points to be counted toward your broker's license application.

To obtain points and receive credit for property management or sales, the transactions must run through your brokerage. The transactions must have proper agency representation and oversight of your broker. This is not negotiable. It is a common question the licensing staff receives. One of the requirements to becoming a principal broker is learning how "rules compliant real estate transactions" are performed, and how a brokerage works and operates. This ensures proper training and supervision and adds legitimacy to your working knowledge of the industry. Your brokerage can also properly account for the time and experi-

ence points you have earned when the time comes.

R162-2f-401a discusses the affirmative duties required of all licensed individuals in all transactions. Subsection (2) explains that licensees are required to have a written agency agreement that defines the scope of the licensee's agency in all transactions:

(2) for the purpose of defining the scope of the individual's agency, execute a written agency agreement between the individual and the individual's principal, including:

- (a) seller(s) the individual represents;
- (b) buyer(s) the individual represents;
- (c) buyer(s) and seller(s) the individual represents as a limited agent in the same transaction pursuant to this Subsection (4);
- (d) the owner of a property for which the individual will provide property management services; and
- (e) a tenant whom the individual represents;

R162-2f-401a(10) explains that all purchase contracts need to include language confirming the agency agreement previously entered into (R162-2f-401a(2)):

- (10) when executing a binding agreement in a sales transaction, confirm the prior agency disclosure:
  - (a) in the currently approved Real Estate Purchase Contract; or
  - (b) in a separate provision with

substantially similar language incorporated in or attached to the binding agreement;

(11) when executing a lease or rental agreement, confirm the prior agency disclosure by:

- (a) incorporating it into the agreement; or
- (b) attaching it as a separate document;

Potential Broker License candidates should be aware of R162-2f-501(3), which explains that experience points towards becoming a broker are only awarded for transactions that require a real estate license and comply with the rules in R162-2f-401a described above:

(3) When calculating experience points from Tables 1 and 2, experience points are limited to points for those activities and which require a real estate license comply with R162-2f-401a.

In the end, it is your choice how to structure and operate your personally owned properties, so long as the statute and rules that govern your license are applied to your conduct. If you are looking to become a principal broker in the industry, be sure to structure the transaction to work to your benefit and run it through your brokerage. This will ensure that you receive credit for the points resulting from your own transactions.

# Division of Real Estate

Mary Martinez is the Division's Board Secretary. She joined the team in December of 2018. Her previous state experience includes the Department of Workforce Services Appeals Division and also, a roving administrative assistant for five agencies.

To quote Mary herself: "I cannot believe how lucky I am to have joined the Division of Real Estate team. With the friendly atmosphere, it has been easy to make friends. I thoroughly enjoy working with my co-workers. It is a pleasure to come to work each morning. Except the commute, I need a beam up Scotty device for that."

Mary is a born and raised Utahan. With her husband she has six grown children, his and hers, yes the Brady bunch. She also has six wonderful grandsons and five beautiful granddaughters. She loves to cheer them on at their swim meets, baseball games, motocross, playing the guitar and the list goes on. She loves to spend time with family and friends--she includes good books as friends!

One of Mary's passions is writing. With so many imaginary friends she has a lot of characters to draw from. She is a multi-published hybrid author of 13 full length novels of multiple genres.

Mary and her husband love to travel, especially to the Caribbean for relaxing, and Italy for the wine. And most recently she discovered she was Irish and Scottish, of course they had to visit Ireland and Scotland. Mary fell in love with both, but the green hills of Ireland felt like home.

They are avid concert goers and attend as many during the warmer months as possible. Mary and her husband are also enthusiastic University of Utah fans. They have season tickets to the Red Rocks Gymnastics and UTES Football where they tailgate every game. In fact, they love tailgating so much, that they were married at a tailgating in 1999. GO UTES!



Mary Martinez

## STAFF Spotlight

### Utah! Division of Real Estate

### NEWS

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# Division of Real Estate

## FIRST QUARTER LICENSING and DISCIPLINARY ACTIONS

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

### **APPRAISAL**

There were no disciplinary actions in the appraisal industry in the first quarter.

### **MORTGAGE**

GRIFFIN, GREGORY HUGHES, mortgage loan originator, Grosse Pointe, Michigan. In an order dated January 3, 2019, Mr. Griffin's license was granted and placed on probation for the initial licensing period due to criminal history. Case number MG-19-106359

STONE, STEVEN M., principal lending manager, Fair Haven, New Jersey. In a stipulated order dated January 2, 2019, Mr. Stone admitted to having mailed letters to prospective borrowers that were false or misleading advertisements, in violation of Utah law. Mr. Stone agreed to pay a civil penalty of \$1,000. Case number MG-17-91603

### **REAL ESTATE**

BARKER, JOHN L., associate broker, Ogden, Utah. In an order dated January 9, 2019, Mr. Barker's license was renewed and placed on probation for the renewal period due to criminal history. Case number RE-19-106533

BECK, SARA J., sales agent, Riverton, Utah. On December 17, 2018, the Division issued a citation to Ms. Beck for advertising without displaying her brokerage information. The citation assessed a fine in the amount of \$150. Citation # DREC-18-19

CHRISTENSEN, ANALISA, sales agent, Draper, Utah. In an order dated December 11, 2018, Ms. Christensen's license was renewed and placed on probation for the renewal period due to criminal history. Case number RE-18 105772

CHRISTENSEN, CARI F., associate broker, Salt Lake City, Utah. In an order dated February 28, 2019, Ms. Christensen's license was renewed and placed on probation for the renewal period due to criminal history. Case number RE-19 107855

CONTRERAS, MICHAEL, unlicensed, Murray, Utah 84107. In a Final Default Order dated February 27, 2018, a permanent order was entered requiring that Mr. Contreras cease and desist from engaging in the practice of real estate. Case number RE-13-67772, Docket No. RE-2017-028

COLLINS, TRENT E., branch broker, St. George, Utah. In a stipulated

order dated March 21, 2018, Mr. Collins admitted that between October 1, 2013 and May 13, 2014, he practiced as a real estate professional despite his license having expired. He signed a number of property management agreements and received a salary for his services as a real estate agent during this period of unlicensed activity, in violation of Utah law. Mr. Collins agreed to pay a civil penalty of \$5,000. Case number RE-13-68385 and Docket No. RE-2018-003

FARNSWORTH, DANIEL LAMAR, sales agent, Vernal, Utah. In an order dated January 29, 2019, Mr. Farnsworth's license was renewed and placed on probation for one year due to criminal history. Case number RE-19 107062

GLOVER, BECKY L., sales agent, Kanab, Utah. On December 19, 2018, the Division issued a citation to Ms. Glover for advertising without disclosing her brokerage information and in a misleading manner. The citation assessed a fine in the amount of \$150. Citation # DREC-18-20

GUARD RIGHT PROPERTY MANAGEMENT LLC, unlicensed entity, Erda, Utah. In a stipulated order dated March 21, 2018, Ms.

# Division of Real Estate

*continued from page 8*

Cynthia W. Toone admitted that she conducted real estate activities through Guard Right Property Management LLC (“GRPM”), an unlicensed entity. There was no principal broker affiliated with GRPM. Ms. Toone and GRPM agreed 1) to pay a civil penalty of \$7,000; 2) that GRPM would cease and desist from managing real estate in the state of Utah; and that Ms. Toone would complete three hours of continuing education in addition to the continuing education required for her next license renewal. Case numbers RE-14-71502, RE-15 75085, and RE-15-76519

HEWLEN, ZAHZ, sales agent, West Jordan, Utah. In an order dated December 27, 2018, Mr. Hewlen’s license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18 106219

HOOKER, DWIGHT, sales agent, Sandy, Utah. In an order dated December 17, 2018, Mr. Hooker’s license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-105958

HORROCKS, BRENT R., principal broker, Sandy, Utah. In a stipulated order dated February 13, 2019, Mr. Horrocks admitted that between 2014 and 2016, both he and the agents supervised by him failed to obtain written buyer-broker agency agreements, in viola-

tion of Utah administrative rules. Mr. Horrocks agreed to pay a civil penalty of \$5,000 and to complete six hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-15 77618

KLAWE, CLAUDIA J., branch broker, Sandy, Utah. In a stipulated order dated December 19, 2018, Ms. Klawe admitted to having participated as an undisclosed buyer in a REPC. The named buyer in the REPC and the agents representing the named buyer were agents supervised by Ms. Klawe. The REPC was cancelled and did not close. Ms. Klawe’s conduct was in violation of Utah administrative rules. Ms. Klawe agreed to pay a civil penalty of \$1,000 and to complete three hours of continuing education in addition to the continuing education required for her next license renewal. Case number RE-16 83443 and Docket No. RE-2018 050

LEARNED, JAMES T., sales agent, Sandy, Utah. On December 14, 2018, the Division issued a citation to Mr. Learned for advertising on social media without disclosing his brokerage information and in a misleading manner. The citation assessed a fine in the amount of \$150. Citation # DREC-18-18

MAY, AMANDA GRACE, sales agent, Roy, Utah. In an order dated January 30, 2019, Ms. May’s license was granted and placed on

probation for the initial licensing period due to criminal history. Case number RE-19-107099

MCCORD, CHARLES ANDREW, sales agent, Bountiful, Utah. In an order dated February 5, 2019, Mr. McCord’s license was granted and immediately suspended for 30 days for failure to disclose criminal history in his application for licensure. Case number RE-19-107294

MORTENSEN, GILES DAYNE, sales agent, West Valley City, Utah. In an order dated February 5, 2019, Mr. Mortensen’s license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-19-107270

PSARRAS, ANTHONY, principal broker, Reno, Nevada. In a stipulated order dated February 13, 2019, Mr. Psarras admitted that he had represented a relative in a real estate transaction without a written agency agreement. Mr. Psarras made an offer on behalf of the relative to purchase a property. The seller rejected the offer. Mr. Psarras made a second offer to purchase the property. The second offer was placed in a secondary position to purchase the property. Mr. Psarras then filed suit in an attempt to force the sale of the property to his relative and filed a notice of lis pendens on the property. His conduct in this matter was in violation of Utah law and administrative rules. Mr. Psarras agreed to pay a civil penalty of

# Division of Real Estate

*continued from page 9*

\$2,000 and to complete six hours of continuing education in addition to the continuing education required for his next license renewal. Case number RE-17-91875

OLSEN, CHRISTIAN FLINDERS, sales agent, Park City, Utah. In an order dated February 28, 2019, Mr. Olsen's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-19-107859

ORTIZ, TIFANY EVELYN, sales agent, Salem, Utah. In an order dated February 26, 2019, Ms. Ortiz's license was renewed and placed on probation for the renewal period due to criminal history. Case number RE-19-107781

ROBERT, BENJAMIN DAVID, sales agent, Sandy, Utah. In an order dated December 19, 2018, Mr. Robert's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-106084

SHEPHERD, DANNA, unlicensed, Hurricane, Utah. On November 1, 2018, the Division issued a citation to Ms. Shepherd for conducting property management services without a license. The citation assessed a fine in the amount of \$1,000. Citation # DREC-18-16

SIMONSEN, CAMERON T., sales agent, Salt Lake City, Utah. On September 24, 2018, the Division

issued a citation to Mr. Simonsen for online advertising without disclosing his brokerage information. The citation assessed a fine in the amount of \$150. Citation # DREC-18-8

SNOW, ELIZABETH A., sales agent, Roosevelt, Utah. In an order dated January 23, 2019, the Real Estate Commission found that Ms. Snow had engaged in unlicensed activity over a period of approximately 20 months. Ms. Snow had been previously licensed and when she learned that her license had not been renewed as she believed at the time, she applied for re-licensure and was relicensed. During the time that her license was expired, Ms. Snow participated in and received commissions from the completed transactions. Ms. Snow was ordered to pay a civil penalty of \$5,000 and to complete three hours of continuing education in addition to the continuing education required for her next license renewal. Case number RE-14-73285 and Docket No. RE-2018-044

STOREY, ROBERT E., principal broker, Salt Lake City, Utah. In an order dated January 31, 2019, Mr. Storey's license was renewed and placed on probation for the renewal period due to criminal history. Case number RE-19-107190

SUNDSTROM, DAVID J., principal broker, Salt Lake City, Utah. In an order dated December 13, 2018, Mr. Sundstrom's license was granted and placed on probation for the initial licensing period due

to criminal history. Case number RE-18-105894

TOONE, CYNTHIA W., sales agent, Erda, Utah. In a stipulated order dated March 21, 2018, Ms. Toone admitted that she conducted real estate activities through Guard Right Property Management LLC ("GRPM"), an unlicensed entity. There was no principal broker affiliated with GRPM. Ms. Toone and GRPM agreed 1) to pay a civil penalty of \$7,000; 2) that GRPM would cease and desist from managing real estate in the state of Utah; and that Ms. Toone would complete three hours of continuing education in addition to the continuing education required for her next license renewal. Case numbers RE-14-71502, RE-15-75085, and RE-15-76519

TRAN, NHU LIEU THI, sales agent, Midvale, Utah. On December 17, 2018, the Division issued a citation to Ms. Tran for advertising without disclosing her brokerage information and in a misleading manner. The citation assessed a fine in the amount of \$150. Citation # DREC-19-2

VIRGEN, BARBARA, sales agent, West Jordan, Utah. In an order dated December 11, 2018, Ms. Virgen's license was granted and placed on probation for the initial licensing period due to criminal history. Case number RE-18-105773

WEBER, ZACHARY, sales agent, Lehi, Utah. In an order dated February 21, 2019, Mr. Weber's li-

*continued on page 11*

continued from page 10

cense was granted, immediately suspended for three months, and then placed on probation for the remainder of the initial licensing period for failure to disclose criminal history in his application for licensure. Case number RE-19-107665

WILLIAMS, DONN S., sales agent, Washington, Utah. In an order dated February 26, 2019, Mr. Williams's license was renewed and placed on probation for the renewal period due to criminal history. Case number RE-19-107813

## **TIME SHARE**

CHRISTENSEN, STEWART M., timeshare sales person, Salt Lake City, Utah. In a stipulated order dated February 21, 2019, Mr. Christensen admitted to having failed to fully disclose his criminal history in his application for registration, in violation of Utah law and administrative rules. Mr. Christensen agreed to pay a civil penalty of \$500. Case number TS-18-107609

JUDD, JUSTIN JOSEPH, timeshare salesperson, Sandy, Utah. In an order dated December 7, 2018, Mr. Judd's application for registration was denied for filing an application for registration that contains untrue or misleading information with regard to his criminal history. Case number TS-18-105701

## **- Rule Developments -**

*Since January 1, 2019*

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

### **Appraisal Management Company Rules**

There are no recently adopted or proposed rule amendments under consideration for the Appraisal Management Company rules.

### **Appraisal**

There are no recently adopted or proposed rule amendments under consideration for the Appraisal rules.

### **Mortgage**

The Division has approved filing a proposal to amend the Mortgage administrative rules by including the mandatory CE course for new mortgage loan originators to applicants applying for reinstatement of their license. The rule was previously amended in 2017 to require the mandatory course for new licensees applying to renew their license. If the proposed rule becomes effective, it would be extend the requirement to complete the mandatory CE course to reinstatement applicants. This requirement is in response to the replacement of the Utah specific test by the Uniform State Test. Please look to the next quarterly newsletter for more information.

### **Real Estate**

On January 23, 2019, a Real Estate rule amendment became ef-

fective. The rule amendment: 1) expands the definition of principal to include the manager of an entity; 2) clarifies that certain disclosure obligations of a real estate licensee must be made prior to the execution of a purchase or lease agreement; 3) clarifies that competing real estate schools are prohibited from making misrepresentations about other schools, their personnel, courses of instruction, or business practices; 4) allows for a student to obtain credit for completing an online course even if the course is not completed within one year of the date the student registered for the course; and 5) corrects the approval date of certain state approved forms.

The Division has approved the filing of a proposal to amend the Real Estate administrative rules by adding a mandatory three-hour CE course. The proposal would not add additional hours of continuing education for renewal, but the required course would satisfy three hours of core CE. Please look to page 3 for more information.

### **Timeshare and Camp Resort**

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



## KAGIE'S KORNER

### What Are Licensees Required to Report to the Division?

**Real Estate Licensees:** The Division would like to remind real estate licensees that they are required by Utah Code 61-2f-207(1) to report to the Division within 10 business days any change of:

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

Real estate licensees also must report a change in e-mail address (Utah Administrative Code R162-2f-207)

**Mortgage Licensees:** Mortgage licensees are required by Utah Code 61-2c-205(3) to report to the Division within 10 days of the date there is a change in:

- (a) a name under which the licensee transacts the business of residential mortgage loans in this state;
- (b) if the licensee is an entity, the business location of the

- licensee;
- (c) if the licensee is an individual, the home and business addresses of the individual;
- (d) the principal lending manager of the entity; and
- (e) the entity with which an individual licensee is licensed to conduct the business of residential mortgage loans.

**Appraiser Licensees:** are required by Utah Code 61-2g-402 to notify the Division within 10 business days of a change of the person's principal business location or home address. Utah Administrative Code R162-2g-306b requires notice to the Division of the creation or termination of an affiliation, (with limited exceptions), and any change of name or business, home, mailing, or e-mail address.

#### How should you report these changes?

Real estate and appraiser licensees may make these changes and report them to the

Division within the Real Estate Licensing Management System (RELMS).

Mortgage licensees may use the National Mortgage Licensing System (NMLS) to make required changes and report them to the Division.

Please be aware if you have multiple licenses with the Division you will have to make separate change notifications to the Division for each specific license type. The Division recommends that all licensees check their license changes after making a change in order to ensure that the change occurred and was accurately recorded.

#### Criminal Conviction Reporting:

All real estate, mortgage, and appraisal licensees, are also required to notify the Division by sending the Division a signed statement within 10 business days of:

# Division of Real Estate

*continued from page 12*

- a) A conviction of, or the entry of a plea in abeyance to:
  - 1) a felony; or
  - 2) a misdemeanor involving financial services or a financial services-related business, fraud, a false statement or omission, theft, or wrongful taking of property, bribery, perjury, forgery, counterfeiting, or extortion;
- b) the potential resolution of a felony or of a misdemeanor described in (a)(2) above by:
  - 1) a diversion agreement; or
  - 2) another agreement under which a criminal charge is held in suspense for a period of time;
- c) the suspension, revocation, surrender, cancellation, or denial of a license, certification, or registration of the licensee that is necessary to engage in an occupation or profession, regardless of whether the license or registration is issued by this state or another jurisdiction; or
- d) the entry of a cease and desist order or a temporary or permanent injunction:
  - 1) against the licensee by a court or licensing agency; and
  - 2) on the basis of:
    - A) conduct or a practice involving the business of real estate (for real estate licensees), the business of residential mortgage loans (for mortgage licensees), or appraisal of real property) for appraisers; or
    - B) conduct involving fraud, misrepresentation, or deceit.

Real Estate principal brokers are required to notify the Division in writing of a personal or brokerage bankruptcy.

The Division would like to inform all licensees that once the Rap Back system has been fully implemented, two years from January 2020, the Division plans to propose to the Legislature to remove criminal disclosure requirements from statute. However, until all licensees have been enrolled in the Rap Back System, criminal disclosures will continue to be required. (See Rap Back article on page 4 of this newsletter for additional information).

Reporting of Non-criminal disclosure matters will continue to be required by all licensees as outlined in this article.

## **Bankruptcy Reporting:**

Mortgage licensees are required to notify the Division in writing of the filing of a personal bankruptcy or bankruptcy of a business that transacts the business of residential mortgage loans.



**Vernal**

**April 16, 2019**

**9:00am – 12:00pm**

**Springhill Suites Marriott  
1205 W Highway 40**

**Park City**

**May 2, 2019**

**9:00am – 12:00pm**

**Park City Marriott  
1895 Sidewinder Dr.**

**Cedar City**

**May 16, 2019**

**9:00am – 12:00pm**

**Springhill Suites Marriott  
1477 S Old Hwy 91**

**Layton**

**April 23, 2019**

**9:00am - 12:00pm**

**Davis Convention Center  
1651 N 700 W**

**Moab**

**May 14, 2019**

**9:00am – 12:00pm**

**Grand Center  
182 N 500 W**

**St George**

**May 17, 2019**

**9:00am – 12:00pm**

**Dixie State University  
Browning Learning Center  
Dunford Auditorium  
225 S 700 E**

**Provo**

**April 30, 2019**

**9:00am – 12:00pm**

**Utah Valley  
Convention Center  
220 W Center St**

**Richfield**

**May 15, 2019**

**9:00am – 12:00pm**

**Sevier County  
Administration Building  
250 N Main St**

**Logan**

**May 21, 2019**

**1:00pm – 4:00pm**

**Bridgerland Technology  
College  
1301 N 600 W**

**- [Click HERE to Register Online](#) -**

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

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

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

Seating is limited, reserve your seat early. Stand-by seating is NOT guaranteed.



## SAVE THE DATE!

### Utah Division of Real Estate Instructor Development Workshop

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Wednesday & Thursday  
October 23<sup>rd</sup> & 24<sup>th</sup>

IDW will be held in Salt Lake City this year,  
location and additional details to come!

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Rick Southwick

Welcome our newest Real Estate Commission Member, Rick Southwick! Rick has been licensed in the Real Estate industry for 34 years and became a broker 10 years ago. He is currently Principal Broker for eXp Realty. He also served as President of the Northern Wasatch Association of Realtors in 2010 and President of the Utah Association of Realtors in 2014. Rick resides in Northern Utah and enjoys skiing, mountain biking and road biking in his spare time. The Division is excited to have Rick on the Commission and to benefit from his knowledge and expertise in the Real Estate industry. Welcome to the Commission, Rick!