

Utah! DIVISION of REAL ESTATE NEWS

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

Jon M. Huntsman, Jr., Governor • Francine A. Giani, Executive Director • Derek B. Miller, Division Director

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What's In A Name?

Since the State began licensing mortgage officers (August 2000), there has been a gradual "evolution" in mortgage licensing requirements and regulations. Initially, licensing and supervising responsibilities were less well defined and more loosely interpreted. Today, all mortgage licensees must work for and be directly supervised and paid by a Principal Lending Manager (PLM) who is affiliated with a licensed mortgage entity.

According to Utah law, mortgage officers must:

- 1) Be paid by the PLM with whom the individual mortgage officer is licensed;
- 2) Conduct the business of residential mortgage loans in the business name under which the PLM is authorized by the Division to do business. (Utah Code 61-2c-201 (8)).

From time to time the Division is asked specific questions related to these two issues: a) Mortgage officer compensation, and b) Business names:

Question: Can an individual mortgage officer be compensated for originating mortgage loans by one person, and compensated for marketing/soliciting by a different person?

Answer: No. The statute makes no exception for receiving compensation for transacting the business of residential mortgage loans by anyone other than directly from the PLM with whom the mortgage officer is licensed.

continued on page 4

New Agent Sales Course Required For All New Real Estate Agents Beginning July 1, 2007

Real estate agents that receive their licenses on or after July 1, 2007, will now be required to complete a training course that has been prepared especially for them. The Utah Real Estate Commission approved this course after receiving public input as well as assistance from an education task force that was organized to consider the educational needs of real estate licensees. New agents are often challenged during the transition between initial licensure and the realities they are exposed to as a practicing sales agent.

continued on page 6

In This Issue

From the Director's Desk	2
Mortgage Record Keeping	3
New Continuing Education Rules	5
Appraiser Deadlines	5
Departing Commissioners	6
In The News.	8
Ameriquest Settlement	9
Pressuring Appraisers	9
Real Estate Record Keeping	9
Licensing Actions and Disciplinary Sanctions	10
Staff Spotlight	13
Administrative Rule Changes	14
Licensee Statistics.	15

From the Director's Desk



Derek B. Miller

One of the most important facets of regulation in the appraisal, mortgage and real estate industries is supervision by those with whom a licensee is affiliated. Each industry has legal requirements regarding “adequate” or “reasonable” supervision. Carrying out this supervisory responsibility is an important way that the goals of regulation (equal opportunity, honesty, consumer protection, and market integrity) are achieved.

In the appraisal industry, individuals training to become licensed appraisers are required by statute to work under the “direct supervision of a state-licensed appraiser or state-certified appraiser” (Utah Code Annotated 61-2b-2(1)(r)). State statute further requires that any assistance provided by a trainee in preparation of an appraisal report must be disclosed (Utah Code Annotated 61-2b-17(5)). Administrative rules require appraisal “trainees” to register with the Division and identify their supervisor(s) (R162-105.3.3.1). Supervisors are required to accompany residential appraiser trainees on the first 100 interior/exterior inspections and general appraiser trainees on the first 20 inspections (R162-105.3.5 – 3.6). Per federal requirements, effective January 1, 2008 only state-certified appraisers in good standing may supervise trainees, and then no more than three trainees at any one time. Failure to adequately supervise an appraisal trainee is deemed “unprofessional conduct” and a violation of state law (Administrative Rule R162-107.1.3).

In the real estate industry all active associate brokers and real estate agents must be supervised and paid by a licensed principle broker and an individual cannot be affiliated with more than one principal broker at the same time (Utah Code Annotated 61-2-10). The real estate statute requires the principal broker to supervise the activities of the affiliated licensees and the unlicensed office staff (Utah Code Annotated 61-2-11(14)). The statute specifically states that an unlawful act committed by an affiliated licensee or unlicensed staff is cause for disciplinary action against the principal broker (Utah Code Annotated 61-2-13). Administrative

rules help define how a broker can exercise reasonable supervision by creating a “safe harbor” for a broker who: has written legal compliance policies; establishes procedures for providing supervision; prevents or mitigates damage from the unlawful conduct; and did not know of, avoid learning about, or participate in the violation (Administrative Rule R162-6.2.8).

Legal supervisory requirements are relatively new to the mortgage industry in Utah. Effective May 2006, all mortgage officers are required to be supervised and paid by a licensed principal lending manager (PLM) and, like the real estate industry, mortgage officers cannot be affiliated with more than one PLM at the same time (Utah Code Annotated 61-2c-201(7) and (8)). The concept of supervision has evolved in the mortgage industry over the past few years. Prior to registration and subsequent licensing, mortgage brokers could work for themselves, for someone else, for a mortgage company, as a bank loan officer brokering loans on the side, and any combination or all of the above. Under the current regulatory framework, mortgage officers must work for one mortgage company, one PLM, conduct business in the name of the licensed mortgage company, and cannot work for both a bank/credit union and a mortgage company at the same time. The mortgage industry has adapted well to this new model, but a few “rouge” mortgage officers continue to appear before the Division and Mortgage Commission who don’t know their PLM, who don’t know their PLM’s name, who have never met their PLM, and who don’t understand the concept of working under a PLM. One way the Division is assisting the transition is by developing administrative rules (like those for the real estate industry) that detail what is expected of a PLM as he or she exercises “adequate supervision”. The goal is to make sure ALL are brought into compliance with the law – that mortgage officers know and work closely with their PLMs, that PLMs exercise adequate supervision over their mortgage officers, and that the purpose of supervision is realized in all three industries: appraisal, mortgage, and real estate.





What are the Mortgage record keeping requirements?

R162-204.1

204.1.1 Entity Requirements. An entity licensed under the Utah Residential Mortgage Practices Act must maintain for the period set forth in Utah Code Section 61-2c-302 the following records:

- (a) Application forms;
- (b) Disclosure forms;
- (c) Truth-in-Lending forms;
- (d) Credit reports and the explanations therefor;
- (e) Conversation logs;
- (f) Verifications of employment, paycheck stubs, and tax returns;
- (g) Proof of legal residency, if applicable;
- (h) Appraisals, appraisal addenda, and records of communications between the appraiser and the registrant or lender;
- (i) Underwriter denials;
- (j) Loan approval; and
- (k) All other records required by underwriters involved with the transaction.

204.1.2. Principal Lending Manager Requirements. The principal lending manager of an entity shall be responsible to make the records set forth in Section 204.1.1 available to the Division as provided in Section 61-2c-302(3).



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Important Renewal Notice To Real Estate Licensees

Agents renewing their licenses will now need to have (at least), six hours (out of a total of 12 hours) of Division approved "Core Topic Courses" in order to renew their licenses. Those who have already taken "The Utah Division of Real Estate 2005-2007 Core Course" since their last license renewal will NOT need to take additional "Core Topic Courses" when they renew. Of course, each licensee still needs a total of 12 hours of continuing education to renew their license.

There are currently over sixty five courses that have been approved by the Division as "Core Topic Courses". You can find these courses highlighted in yellow at the following locations:

Traditional (live) Division approved "Core Topic Courses" for continuing education can be found at: www.realestate.utah.gov/realestate/educationFAQ's/realestateeducationcourses.

Distance (online) Division approved "Core Topic Courses" for continuing education can be found at: www.realestate.utah.gov/realestate/education/real_online_ce.html.



continued from page 1

What's In A Name?

Question: Can a mortgage officer establish an entity to receive payment from his/her PLM?

Answer: Mortgage lending is NOT currently listed as an “approved” profession for establishing a professional corporation (PC) under Utah Code Annotated 16-11 or a professional limited liability corporation (Professional LLC) under Utah Code Annotated 48-2c. Consequently mortgage officers cannot legally establish a PC or Professional LLC to receive payment from his/her PLM. However, there is no restriction for a mortgage officer setting up a “general” limited liability corporation (LLC) under Utah Code Annotated 48-2c. Consequently, a mortgage officer may establish an LLC **for the limited purpose of receiving payment** from his/her PLM. However, as you can see from the next question the individual licensee cannot conduct business in the name of their personal LLC.

Question: What business name must an individual licensee use to conduct the business of residential mortgage loans, including soliciting or marketing?

Answer: The statute makes no exception for conducting the business of residential mortgage loans other than in the business name under which the PLM is authorized by the Division to conduct business (i.e. the name of the **licensed mortgage company** with which the individual’s PLM is affiliated).

The meaning and purpose of the law is clear – that individual licensees conduct ALL business in the name of the licensed mortgage company, not their own name, or the PLM’s name, or the name of another company, or any other name.

Question: Can an individual licensee originate loans under the licensed mortgage company name, and perform marketing/soliciting in a different name?

Answer: No. As stated above ALL business of residential mortgage loans; including originating, marketing/soliciting, placing or negotiating loans, taking applications, or com-

municating with the borrower or lender; must be done in the name of the licensed mortgage company.

PLM’s and mortgage officers need to understand that the ONLY LEGAL COMPENSATION for having performed the business of residential mortgage lending is directly from the PLM with whom the individual mortgage officer is licensed and the ONLY LEGAL NAME under which the licensee can conduct business is the licensed company name with which the individual’s PLM is affiliated.

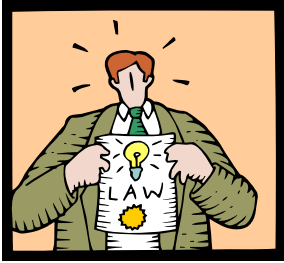
In the past mortgage activities were often conducted with less structured supervision than the law requires today. Occasionally mortgage lending practices were transacted under a variety of business relationships and names.

To whatever extent you may have believed that these practices were still permitted, this article is for you. The Division enforcement staff is actively enforcing the responsible supervision of mortgage officers by their PLM. All business activities requiring a license (involving the business of transacting residential mortgage loans) must be conducted under the licensed entity with which the PLM is affiliated. Any mortgage lending activity (marketing, telephone solicitation, etc.), that is not conducted in the name of the PLM’s licensed entity is strictly prohibited and will result in appropriate enforcement action.

IMPORTANT ADVISORY: This article only discusses the statutory authority to compensate mortgage officers for performing the business of residential mortgage loans. This article does not address the important issue of the status of mortgage officers viewed for tax purposes as either employees or independent contractors. The Division recognizes that the Utah Department of Workforce Services and the IRS make this determination. We advise you to speak with your tax advisor and appropriate authorities regarding this matter.



Commission and Division Adopt Changes To Real Estate Continuing Education Rules



Significant rule changes go into immediate effect. Beginning with July real estate renewals, the “2005 – 2007 Division Core Course” has expired and is no longer available to be viewed as a core course. Instead of producing a “Division Core Course”, the Division will now certify privately developed courses as “Core Topic Courses”. The subject matter of these courses is: a) State approved forms and contracts; b) Ethics; c) Agency; d) Fraud Prevention; e) Federal and state real estate laws; and f) Broker’s trust account. The Commission and Division

view this change as an improvement that will enable licensees to obtain education that is more timely, personally relevant and readily accessible. As of the writing of this article there are sixty-six “Core Topic Courses” available for licensees. Other “Core Topic Courses” are likely to be approved once submitted. We believe that licensees will now be better able to select courses that meet their individual needs and interests, rather than being required to take a “one-size-fits-all” Division Core Course.

Beginning July 1, 2007 renewal of an active license will require a minimum of 6 hours of Continuing Education (out of the total 12 hours) from certified “Core Topic Courses”. A listing of approved “Core Topic Courses” (both traditional “live” education or distance education), are found on the Division website at www.realestate.utah.gov.

Important Exception to this rule: To facilitate transition to the new CE requirements, licensees who have already taken the “2005 – 2007 Division Core Course” prior to July 1, 2007 may use that credit for renewal (if the course was taken during their current two-year license renewal cycle).

We are very excited about this important change to continuing education!



Appraiser Qualifications Deadline Looms

Educational requirements for appraisers are significantly increasing on 1/1/08 (that is less than six months away)! Appraisers wishing to upgrade their licenses now (before the educational requirements increase), need to submit their **complete initial applications** early (**no later than September 1st**) in order to have them processed, reviewed, approved by the appraiser board, pass the exam, and submit their completed licensing application before the end of the year.

Those appraisers who desire to submit a **segmented application** only need to submit their segmented initial application (which would include qualifying education but no experience log). This can be done until close of business on December 31st since only qualifying education is being evaluated.

A more detailed description of the segmented application process is found in the April 2007 Division newsletter.



continued from page 1

New Agent Sales Course Required For All New Real Estate Agents Beginning July 1, 2007

The outline for this course has been approved for use by the Real Estate Commission. Private education providers are being certified to present this class. Certified providers of the "New Agent Sales Course" can be found at www.realestate.utah.gov, go to "Real Estate", then "Education".

This 12-hour course is a requirement for all new sales agents who license beginning July 1, 2007. New licensees need to complete this course during the two years of their original licensure. The Division and Commission are optimistic that new licensees will take advantage of attending this course soon after they begin working in the industry. Brokers may wish to encourage some of the licensees that they supervise to also attend this course early in their careers. Those licensed prior to July 1, 2007 may also take this course to fulfill their entire 12 hour CE requirement including the required "Core Topic Courses".

Subjects covered in this course include agency, disclosure forms and a discussion of the fiduciary duties owed by licensees to their clients. Examples of ethical challenges will be considered. Recommended customer relation skills will be introduced along with suggested communication techniques to be used with both customers and fellow licensees.

Several hours will be spent on the proper use of forms and contracts. Completion of the REPC and addenda will occur in the course as well as two hours on the proper pricing of properties. A review of applicable federal and state laws (including possible ways in which licensees frequently get "into trouble") will be presented. The insidious consequences of mortgage and real estate fraud will be explored.

Will a day and a half course guarantee that a new licensee will competently handle all circumstances they may encounter in a profession as complex as real estate?

Likely not. However, this course will enlighten our newest licensees regarding a plethora of timely and significant real estate issues. The course is also intended to expose new licensees to situations they are likely to encounter as well as inform them of proper methods and practices before bad habits are established.



**Thanks To
Commissioners
For Their
Hardwork & Dedication
To The Mortgage
Industry**



The Division of Real Estate would like to thank both of our departing commissioners for their hard work and outstanding service to the mortgage industry. They have worked diligently to make major changes to the mortgage industry for the betterment of the public and the industry itself.

PIERRE ALLEY MORTGAGE CHAIR



A lot has transpired since that initial Utah Residential Mortgage Regulatory Commission Meeting. As the solitary, public attendee for the first several years, I am certain my appearance was the consummate, prickly thorn in everyone's side. In 1999, my chosen career faced an uncertain future with new regula-

tions. It was time for me to get involved or find another career path. Not wanting to throw away those first 15 years, I decided it was time to join in and add my two cents worth. As payback for my earlier deeds, my pronounced sentence was to serve the Utah public the past four years on that very Commission.

Soon after the passage of the 1999 Mortgage Practices Act, I conducted a survey for the Utah Mortgage Lender's Association. It was our desire to get the pulse of not only our industry but also that of our real estate friends on our new regulations. The response was overwhelmingly in favor. Ideas such as pre-licensing education, testing, licensing, continuing education requirements and better management control were discussed and recommended. It's been a work in progress but I can report that over the past four years everything required of the Division and the Commission by Statute has been accomplished.

The required tasks and time line to comply with the statute were enormous. Most industry licensees have no idea the amount of time and effort required to accomplish these goals. I would like to thank the two Division Directors, Dexter Bell and Derek Miller for their outstanding leadership, input and guidance. They are both true friends to our industry. To Mark Fagergren, you have the patience of Job. He spent countless number of days in committee meetings, planning outlines and curriculum for the Pre-licensing and PLM examinations. The successful implementation of the two mortgage examinations are to his credit. To the Division Enforcement Directors, the

retired Jon Brown and now Dee Johnson I say your case work load is overbearing but you're making headway as you assist our industry by removing the bad. Unfortunately, Utah leads the nation in areas that it should not. Working together we can rid our industry of these criminals. To all of the remaining staff, thank you for keeping the Commission and me on track.

The past four years have been a very rewarding. The experience will be forever cherished. I have rubbed shoulders with industry giants. Thank you Commissioners for making me a better person. Once again, I can now rejoin the ranks of the public attendees.

ALAN BOWYER MORTGAGE VICE CHAIR



It has always been important for me to give something back to the mortgage industry in Utah. I am very much an advocate for the borrowers and mortgage consumers in Utah and I want to make sure they are treated fair.

It is likewise, just as important to me to see that the laws and statutes are implemented and followed with an impartial judgment. Hopefully, my work on the commission has been as beneficial to the Division as it has been enjoyable to me.

I wish the very best to my fellow commissioners, investigators and division staff.



In The News....



Utah Men Sentenced for Equity Skimming Scheme

Mark Neusch and **Michael Davis** were sentenced in connection with an equity skimming scheme. **Neusch** pled guilty to one count of equity skimming and one count of bankruptcy fraud. **Davis** pled guilty to one count of equity skimming.

Neusch and **Davis** engaged in a scheme whereby they acquired numerous residential properties by making misrepresentations to property owners to induce them to sign over title to **Neusch** and **Davis**. They then rented the homes to uninformed third parties and converted receipts and security deposits paid by renters to their own use while allowing the mortgages on the property to go into default or remain in default and eventually go to foreclosure.

Neusch and **Davis** would research the **Salt Lake City, Utah** property records to find properties in various stages of foreclosure. They would then contact the homeowners who were experiencing difficulty making their loan payments and lead them to believe that their homes would be saved from foreclosure and they would be able to maintain their credit. They represented they would make the mortgage payments, and rent or sell the properties by negotiating short sales and then sharing the profits with homeowners. The homeowners would then quitclaim their property to **Neusch** and **Davis**, who either lived in the properties or, more commonly, advertised the properties for rent with **Rental Express** (a local residential rental company).

Renters would be required to pay a first and last month's rent and a security deposit. In many instances, **Neusch** and **Davis** did not tell the renters that the properties were in foreclosure, rather they kept the rental income and security deposits and did not make the mortgage payments. The properties were foreclosed and the renters were evicted.

Neusch and **Davis** acquired title to approximately 14 properties, allowing the mortgages to go into default while the defendants collected rental income and deposits.

In order to avoid foreclosure on some of the properties, **Neusch** and **Davis** would transfer them to various entities and file voluntary bankruptcy petitions. The bankruptcies would cause the foreclosure proceedings to be delayed or stayed. Entities that took title the properties, according to the indictment, included: **M&M Properties, Reliable Properties** and **DBK Properties**.

As a result of his plea, **Neusch** was sentenced to 18 months imprisonment, 36 months supervised release, and was ordered to pay restitution of \$143,000. As a result of his plea, **Davis** was sentenced to 15 months imprisonment, 36 months supervised release, and was ordered to pay \$143,000 restitution jointly and severally with **Neusch** and an additional \$34,000 restitution for which he is individually liable.



Utahns Will Get \$1.9 Million From Ameriquest Settlement

More than two thousand Utahns will be notified this week if they are eligible to receive money from a \$325 million national settlement involving alleged unlawful lending practices by Ameriquest Mortgage Company. The Utah Attorney General's Office began sending letters and claim forms this week to 2,635 eligible Utah consumers who will share approximately \$1.9 million in restitution.

"Unlawful lending practices rob equity from families and destabilize neighborhoods," says Attorney General Mark Shurtleff. "This settlement helps many families and sends a strong message to all lenders to treat their customers fairly." Assistant Attorneys General Blaine Ferguson and Perri Babalis represented Utah in settlement negotiations. The allegations against Ameriquest and its affiliates include: misrepresenting or failing to disclose the terms of home loans, such as whether a loan carried a fixed or an adjustable rate; and improperly inflating appraisals used to qualify borrowers for loans.

To participate in the settlement and receive restitution, consumers must mail completed and signed forms to the settlement administrator by September 10, 2007. The forms will indicate the minimum payment the consumer can expect to receive. However, the exact amount could be larger, depending on how many eligible Utah consumers decide to participate in the settlement.

Consumers who opt to receive the restitution payments relinquish their right to file lawsuits against Ameriquest over the loans covered by the settlement. Consumers may want to consult with a private attorney, or a legal services attorney if they qualify, before deciding whether to participate in the settlement. However, consumers who participate in the settlement do not give up any claim they may otherwise raise if their home goes into foreclosure.

Restitution payments are available to more than 481,000 customers of Ameriquest Mortgage Company, Town and Country Credit Corporation, and AMC Mortgage Services, Inc. (formerly known as Bedford Home Loans) who took out loans between January 1, 1999 and December 31, 2005.

Consumers can also obtain detailed information about the settlement and their eligibility for restitution by going to the settlement administrator's web site: The settlement administrator can also be reached by phone at 800-420-5875. (Hearing impaired persons may call 866-494-8274.) Provided by the Office of the Utah Attorney General



What are the Real Estate record keeping requirements?

R162-4.1

4.1. The principal broker must maintain in his office and make available for inspection and copying by the Division all records pertaining to a real estate transaction for a period of at least three calendar years following the year in which an offer was rejected or the transaction either closed or failed.

4.1.1. Location of Records. Unless otherwise authorized by the Division in writing, the business records of the principal broker shall be maintained at his principal business location or, where applicable, at the branch office. If a brokerage closes its operation the principal broker must, within ten days after the closure, notify the Division in writing of where the records will be maintained in order to comply with R162-4.1 above. If a brokerage files for bankruptcy, the principal broker must, upon filing, notify the Division in writing of the filing and the current location of brokerage records.



Ohio Sues Lender For Pressuring Appraisers

(COLUMBUS)- The Ohio Attorney General's office has sued 10 mortgage lenders, contending they pressured appraisers to come up with inflated home values that matched what buyers could qualify for.

As a result, the office says, many new home owners cannot sell their homes for what they paid and the loans cannot be refinanced. The state is asking that the lenders refund up to \$25,000 per loan.

continued on page 15

Licensing Actions and Disciplinary Sanctions

APPRAISER



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.

JOHNSON, JONATHAN L., State-Licensed Appraiser, Draper, UT. Agreed to pay a \$2,500.00 civil penalty, and complete a course on the appraisal of manufactured housing, and that he will not do any further manufactured housing appraisals until he has completed the class, for violating USPAP by performing an appraisal in an area with which he and his trainee were unfamiliar, by failing to employ the recognized techniques necessary to produce a credible appraisal, by failing to analyze such comparable cost data as were available, and by failing to clearly and accurately set forth an appraisal in a manner that would not be misleading. Case #AP25916, AP30124.

FORSYTH, MICHAEL C., State-Certified Residential Appraiser, Sandy, UT. Agreed to pay a \$3,000.00 civil penalty and complete a 7-hour USPAP Update Course for violating USPAP by making a series of mistakes that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of the results. Mr. Forsyth maintains that he accidentally finalized the wrong report when financing was switched to a HUD loan and thereby failed to report all of the items of concern about the subject property. Case # AP25892.

MORTGAGE



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.

ELDREDGE, KIERSTIN, Mortgage Officer Applicant, Lehi, UT. Application for mortgage officer license approved but then immediately suspended in an April 2, 2007 Order because of a 1997 misdemeanor in which the fine has not yet been paid. The suspension will last until the fine has been paid in full.

FALK, MICHAEL, Mortgage Officer, Park City, UT. Application to renew his mortgage officer license granted but the license then immediately suspended in a March 14, 2007 Order because of past misdemeanor convictions and/or pleas and the failure to disclose criminal history to the Division. The suspension will last until Mr. Falk provides evidence to the Division that he has completed all terms and conditions imposed by the court and that he has been released from criminal probation.

HARTLEY, KIM, Mortgage Officer Applicant, Logan, UT. Application for Mortgage Officer license denied in a June 14, 2007 Order because of a past conviction of two counts of Second Degree Felony Forcible Sex Abuse.

LOVELESS, MATTHEW, Mortgage Officer Applicant, Syracuse, UT. Application for mortgage officer license denied in a March 27, 2007 Order because of past criminal history including recent convictions involving moral turpitude. He may not reapply for one year from the date of the Order.

WILSON, ROBERT, Mortgage Officer Applicant, Provo, UT. Application for mortgage officer license approved on probationary status in a March 27, 2007 Order because of past disciplinary action against his Utah appraiser certification. During the two years that his license will be on probationary status, he will be required to provide a copy of the order approving his application to any principal lending manager with whom he affiliates.

The following is a list of individuals whose mortgage officer licenses were revoked for failure to accurately disclose their criminal background on their initial applications.

<u>Name</u>	<u>Revocation Date</u>
Bryan Kemsley	October 4, 2006
Justin Manikowski	January 30, 2007
Norman L. Cuff	May 15, 2007
John K. Blake	May 15, 2007

REAL ESTATE



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.

ALLRED, DOUGLAS P., Associate Broker, Tremonton, UT. Agreed to pay a \$300.00 civil penalty for violating Utah Code Ann. Section 61-2-9(2)(a)(i)(B), which requires completion of 12 hours of approved education in order to renew a license. When the Division audited Mr. Allred's continuing education, he submitted proof that he had taken 12 hours of continuing education in the past two years, but two of the courses he submitted were duplicates. Taking the same course twice in the same renewal period is not approved for continuing education credit. Mr. Allred took an additional 3-hour course after his renewal. #RE33800.

ANDERSEN, BRIAN, Sales Agent Applicant, Provo, UT. Application for sales agent license approved in a June 12, 2007 Order but his license was then suspended until Mr. Andersen provides proof to the Division that he has paid in fine in full in a criminal infraction case.

BARNETT, JANETTE, Sales Agent, Ogden, UT. Agreed to pay a \$1,000.00 civil penalty for violating Utah Code Ann. § 61-2-1(1) by acting as a sales agent after the expiration of her license on May 31, 2006. On March 9, 2007, Ms. Barnett obtained a new sales agent license. #RE33090

CARTWRIGHT, MARVIN R., Branch Broker, American Fork, UT. Agreed to pay a \$500.00 civil penalty and complete an agency course for violating Administrative Rule R162-6.1.8, by acting in a manner failing to conform to accepted standards of the real estate sales industry. Mr. Cartwright entered into a buyer agency agreement with a buyer who was a family friend and, after a seller declined to accept the buyer's offer in part because there would be real estate commission to be paid to Mr. Cartwright, Mr. Cartwright continued to help the buyer for free but did not terminate the agency relationship in writing. After the buyer purchased a home, she complained to the Division that Mr. Cartwright had not properly represented her as her real estate broker. #RE30688.

CCIM UTAH CHAPTER and NAIOP UTAH CHAPTER, Continuing Education Providers, Salt Lake City, UT. Agreed to pay a \$1,000.00 civil penalty for violating Administrative Rule R162-103.7.5, which provides that courses that are approved for real estate continuing education credit are not acceptable for appraiser continuing education credit unless the courses have been approved by the Appraisal Qualifications Board (the "AQB"). CCIM/NAIOP gave continuing education certificates to a number of appraisers for attending a 2007 Symposium that had not been approved by the AQB. In mitigation, CCIM and NAIOP were unaware that Rule R162-103.7.5 had recently gone into effect, and that, as a result, their annual symposium, which had previously been acceptable for appraiser continuing education credit, would no longer qualify.

DELAROSA, JESUS, Sales Agent Applicant, West Jordan, UT. Application for sales agent license approved in a June 14, 2007 Order but the license was then suspended until Mr. Delarosa successfully completes his pleas in abeyance in misdemeanor cases. Once the license suspension is over, his license will be placed on probationary status for the balance of the initial licensing period. While his license is on

continued from previous page

probationary status, Mr. Delarosa shall provide to any broker with whom he proposes to license a copy of the Order placing his sales agent license on suspension and then on probation.

DENSLEY, DEANN, Sales Agent, Salt Lake City, UT. Agreed to pay a \$1,000.00 civil penalty and complete a REPC course for breaching a fiduciary duty to a licensee in a real estate transaction. In the summer of 2006, Ms. Densley represented buyers who did not receive the Seller Property Condition Disclosure form until settlement. Ms. Densley maintains in mitigation that she thought the buyers had received the disclosures and that prior to closing the buyers did have the property inspected by a professional home inspector. #RE30852.

HARRIS, MICHAEL J., Sales Agent, Salt Lake City, UT. Agreed to pay a \$500.00 civil penalty and complete an agency course for violating Administrative Rule R162-6.1.4, which requires a licensee completing a listing agreement to make reasonable efforts to verify the accuracy and content of the listing. Mr. Harris listed a home at 2,558 square feet, based on information in County records. The seller thereafter complained that the home should be listed at 2,975 square feet based on an appraisal he claimed to have, so Mr. Harris increased the square footage in the listing to 2,975 square feet. #RE31978.

JAUSSI, DALE, Principal Broker, Salt Lake City, UT. Agreed to pay a \$1,000.00 civil penalty to the Division and complete an agency course for violating Administrative Rule R162-6.1.11.3.1, which prohibits acting as a limited agent in a transaction in which the licensee is also a principal in the transaction. Mr. Jaussi agreed to act as a limited agent in a transaction in which Dale Jaussi Construction was the builder of the home. #RE30882.

LITTELL, BRIAN A., Sales Agent, Sunset, UT. Agreed to pay a \$500.00 civil penalty for violating Administrative Rule R162-3.6.1.4, which prohibits misrepresentation in an application for renewal. Mr. Little affirmed at the time of renewal that he had completed 12 hours of qualifying continuing education when he had only completed 7 hours. Several days after his renewal, he completed 3 more hours of continuing education. Mr. Littell is also required by the terms of the

settlement agreement to promptly complete the balance of 2 hours of continuing education that were required to renew. #RE29776.

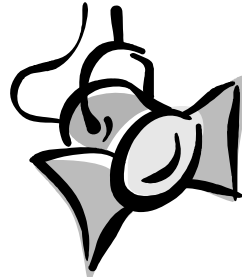
MCCRAE, BRADLEY, Sales Agent Applicant, Salt Lake City, UT. Application for sales agent license approved on probationary status in an April 6, 2007 Order because of past misdemeanors. During the two years that his license will be on probationary status, he will be required to provide a copy of the order approving his application to any principal broker with whom he affiliates.

MERRILL, GARY PAUL, Sales Agent, Ogden, UT. Agreed to pay a \$100.00 civil penalty for violating Utah Administrative Code Section R162-3.6.1.4, which provides that any misrepresentation in an application for renewal is grounds for disciplinary action. Mr. Merrill had completed 11 hours of continuing education instead of the required 12 hours at the time that he renewed his license and affirmed that he had completed the required 12 hours. Mr. Merrill took an additional 3-hour course after his renewal. #RE26881.

MONTEMURRO, MARCELA P., Sales Agent, Sandy, UT. Agreed to pay a \$2,500.00 civil penalty to the Division and take a Utah Law class for violating Administrative Rule R162-6.1.12 by signing a document for a principal without a duly executed power of attorney from the principal. Ms. Montemurro signed the seller's name to an addendum extending the settlement deadline. Ms. Montemurro maintains in mitigation that she was a new sales agent at the time, that she was reassured by the mortgage officer that it would be acceptable for her to sign for a principal, and that the parties had already signed settlement documents and the addendum was never submitted to the loan underwriter. #RE31853.

PEARSON, BLAINER., Sales Agent, Ogden, UT. Agreed to pay a \$500.00 civil penalty for violating Administrative Rule R162-3.6.1.3 by failing to maintain original course completion certificates for his continuing education. Mr. Pearson agreed to complete the Division's core course, which will be applied retroactively to his license renewal. #RE29367.

Staff Spotlight



Jody Colvin Mortgage Licensing Technician



Jody Colvin has worked for the Division of Real Estate since June 2005 as a Mortgage Licensing Technician. Jody's main job responsibilities include processing licenses for mortgage officers, companies and principle lending managers. She also handles annual renewals, change cards and reviewing experience documentation forms with principle lending manager applications (not to mention fielding countless phone calls). In addition, to her licensing duties Jody assists with the front counter and compiles weekly and monthly management report.

Before joining the Division Jody worked at a local credit union as an Assistant Branch Manager, a teller and a loan processor. She and her husband of six years love to be outdoors. On her off time Jody enjoys camping, riding horses and scrap booking. They have two dogs Quigley and Mistique that she adores.

She says the best thing about working for the Division is her fellow employees. The Division employees are here to help the licensee and she believes they do a great job. The advice she would give a licensee is simple; read the directions and call if you have questions.

Jody has taken on the role of the "welcoming committee" at the Division. She enjoys making sure that new employees have everything they need. Whether it is gathering supplies and the necessary equipment or showing them to the nearest pop machine (obviously the most important supply). Her friendliness and willingness to help others is a great asset to the Division.

RYAN, TRACY, Sales Agent, Syracuse, UT. Agreed to pay a \$300.00 civil penalty for violating Utah Code Ann. § 61-2-9(2)(a)(ii)(B) by failing to complete 3 hours of the continuing education required to renew prior to applying to renew. Mr. Ryan completed 3 hours of his 12 continuing education hours 21 days after his renewal. #RE28275.

SCHOENBERGER, JOSEPH, Sales Agent Applicant, Vernal, UT. Application for sales agent license granted on probationary status because of past misdemeanors in a June 12, 2007 Order. While his license is on probation, Mr. Schoenberger shall provide to the Division a written acknowledgement signed by any broker with whom he proposes to license, acknowledging that his license has been issued on probationary status.

SHARIFAN, MARSHALL, Principal Broker, Ogden, UT. Agreed to pay a \$1,000.00 civil penalty for violating Utah Code Section 61-2-11(14) by failing to exercise reasonable supervision over the activities of his licensees. The license of one of Mr. Sharifan's sales agents expired on May 31, 2006, and the sales agent was still representing his brokerage as a sales agent in August, 2006. #RE33189.

STEPHENS, LARRY S., Associate Broker, St. George, UT. Agreed to pay a \$500.00 civil penalty for violating Administrative Rule R162-9.1.2 by renewing his license and affirming that he had completed 12 hours of qualifying education including the Division's Core Course when he had not completed the Core Course. After the Division's audit of his continuing education, Mr. Stephens completed the Division's Core Course. #RE24861.

The following is a list of individuals whose sales agent licenses were revoked for failure to accurately disclose their criminal background on their initial applications.

<u>Name</u>	<u>Revocation Date</u>
Brenda Porter	February 6, 2007
Sven Cole	January 30, 2007



Real Estate Rule Changes

Complete list of administrative rules can be found

on the DRE website www.realestate.utah.gov

R162-1-2. Definitions.

1.2.9. Credit hour: 50 minutes of instruction within a 60 minute period.

1.2.10. DBA (doing business as): The authority issued by the Division of Corporations and Commercial Code to transact business under an assumed name.

1.2.11. Distance Education: education in which the instruction does not take place in a traditional classroom setting, but through other interactive instructional methods where teacher and student are separated by distance and sometimes by time, including computer conferencing, video conferencing, interactive audio, interactive computer software, Internet-based instruction, and other interactive online courses.

1.2.19. Provider: any person, professional organizations, or other entity that is approved by the Division of Real Estate to teach Division-approved continuing education courses.

1.2.24. School: For the purposes of Rules R162-8 and R162-9, "school" includes:

(a) Any college or university accredited by a regional accrediting agency which is recognized by the United States Department of Education;

(b) Any Community college, vocational-technical school, state or federal agency of commission;

(c) Any nationally recognized real estate organization, any Utah real estate organization, or any local real estate organization which has been approved by the Real Estate Commission;

(d) Any proprietary real estate school.

1.2.25 Traditional Education: education in which instruction takes place between an instructor and students where all are physically present in the same classroom.

R162-3-6. Renewal and Reinstatement.

3.6.1 Licenses are valid for a period of two years. A licensee may be renewed by submitting all forms and fees required by the Division prior to the expiration date of the current license. License not properly renewed shall expire on the expiration date.

3.6.1.1 A license may be reinstated for a period of thirty days after expiration by complying with all requirements for a timely renewal and paying a non-refundable late fee.

3.6.1.2 A license may be reinstated after thirty days and within six months after expiration by complying with all requirements for a timely renewal and paying a non-refundable reinstatement fee and submitting proof of having completed 12 hours of continuing education in addition to the 12 hours of continuing education required to renew a license on active status.

3.6.1.3 A license that has been expired for more than six months may not be reinstated and an application must apply for a new license following the same procedure as an original license.

3.6.2 Renewal Requirements.

R162-9-1. Course Application for Certification.

9.1 Continuing education credit shall be given to students only for courses that are certified by the Division at the time the courses are taught. Course sponsors shall apply for course certification by submitting all forms and fees required by the

Division not less than 30 days prior to the course being taught.

9.1.16 A signed statement agreeing to upload, within 10 days after the end of a course offering, to the database specified by the Division, the course name, course certificate number assigned by the Division, the date the course was taught, the number of credit hours, and the names and license numbers of all students receiving continuing education credit;

9.1.16.1 A course sponsor is not responsible for uploading information for students who fail to provide an accurate name or license number registered with the Division.

9.1.16.2 Continuing education credit will not be given to any student who fails to provide to a course sponsor an accurate name or license number registered with the Division within 7 days of attending the course

R162-9-2. Determining Fitness for Course Certification.

9.2 The Division shall certify courses based on intellectual and practical content and whether the course increases the licensee’s knowledge, professionalism and ability to protect and serve the public.

9.2.1 Courses in the following subjects may be certified as “core”: state approved forms/contracts, ethics, agency, prevention of real estate and mortgage fraud, federal and state real estate laws, and brokers’ trust accounts.



Licensee Statistics

As of July 2007

• REAL ESTATE

Sales Agents.	16,155
Principle Brokers.	2,293
Associate Brokers.	1,272
Branch Brokers.	236
Dual Brokers	77
Property Management Brokers	21
Real Estate Companies.	2,308
Pre-license Schools.	16
Pre-license Instructors.	53
CE Instructors	476
CE Providers.	385
CE Courses.	815
Inactive Individuals	4,507

• MORTGAGE

Mortgage Lending Officers.	7,204
Principal Lending Managers.	1,265
Associate Lending Managers.	214
Mortgage Companies.	1,268
Pre-license Schools.	18
Pre-license Instructors.	46
CE Providers.	72
CE Instructors.	143
CE Courses.	395
Inactive Individuals	1,506
Inactive Entities.	511

• APPRAISERS

Certified General Appraisers.	375
Certified Residential Appraisers.	684
Licensed Appraisers.	211
Trainees.	524

continued from page 9

Pressuring Appraisers

According to Attorney General Marc Dann, the lenders put pressure on appraisers to come up with specific values. In some cases, he said, lenders used pre-printed forms that included a line that said “valued needed” or provided a price range the appraiser should meet.



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