

# Utah! DIVISION of REAL ESTATE NEWS

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

Gary R. Herbert, Governor • Francine A. Gianì, Executive Director • Thad LeVar, Acting Division Director

THIRD QUARTER 2009

## SAFE Mortgage Licensing Act Update

The intent of this article is to provide the latest information regarding mortgage licensing regulatory changes that are going into effect as a result of the federal SAFE Mortgage Licensing Act. You will continue to hold a Utah license, but many of the licensing functions will be performed through the Nationwide Mortgage Licensing System and Registry (NMLS&R). The changes required by SAFE are quite extensive and will affect nearly every aspect of your mortgage license.

All mortgage licensees (mortgage officers and principal lending managers) **who have renewed their Utah licenses** in either 2008 or 2009 have a license expiration date of December 31, 2010. **Licenses are not "automatically" renewed or extended. If you fail to renew your mortgage officer or PLM license, your license will expire.** Licensees who will be renewing their licenses from now through the end of 2009 will also have a license expiration date of December 31, 2010.

- Beginning November 1, 2010 all mortgage license **renewals** will be performed on the NMLS&R website.
- All new **mortgage officer applications** will register with NMLS&R as of January 1, 2010. **Initial PLM applications and subsequent renewals will still be processed through the state of Utah.** Under the provisions of the SAFE Act, a PLM license is a license that is unique to Utah and will be handled through our state only. However, to comply with the SAFE Act, a Utah PLM will have to simultaneously hold a mortgage officer license through NMLS&R.

The SAFE Act includes a number of specific requirements with which our licensees must comply. The following

are required of mortgage loan officers under the act:

- Never have had a loan officer/originator license revoked
- No felonies in the past seven years
- Never had a felony involving fraud, dishonesty, breach of trust, or money laundering
- An authorization for credit reports
- Licensees must input and maintain their personal record in NMLS&R for every state in which they are licensed (more information will be provided on this requirement in subsequent newsletters)
- "Inactive" licensees must still take 8 hours of continuing education every year to renew

Most of the changes for existing licensees will occur at the end of 2010 when you will be required to license on the new NMLS&R system. Below are summarized some of the most significant changes, based on current information.

*\*see CLIP & SAVE SAFE chart for additional information regarding SAFE time line on page 22*

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## From the Director's Desk



Mark B. Steinagel

### Does the Division Enforce Those Laws?

The Division of Real Estate is charged with enforcing laws related to your professional license. You probably remember many of those laws from your real estate, mortgage, and appraiser classes. Otherwise, you are hopefully reminded

of them in continuing education classes, or in the disciplinary section of this newsletter.

As Division Director, I am periodically asked whether the Division enforces all the laws it is charged to enforce. My guess is that each of you has observed a co-worker or other professional in your industry violate the laws. Perhaps when you saw the violation, you wondered whether the laws are enforced or whether the laws are enforced adequately.

Government agencies, much like you in your private and professional lives, have to prioritize limited time and resources and determine where to best focus its efforts. For instance, real estate licensees remember the days when the Division spent a significant amount of time dealing with blind ads. Lately, the Division has shifted its focus away from blind ads. Because our focus is shifted, it doesn't mean the law isn't enforced. It only means the Division staff is focusing on areas that have more potential to harm the public.

Many of you have had to shift your focus during challenging economic times to focus where the work is including short sales, loan modifications, and distressed properties. The Division also changes its focus from time to time depending on the greatest need.

Recently I met with a group of real estate professionals. They highlighted a growing trend of real estate

companies that are violating the state's laws governing exclusive brokerage agreements, found under Utah Code Section 61-2-27 (see article on page 4). The law was established so that real estate licensees would serve their clients in a way that ensures the public is protected in real estate transactions. Because the Division had only received a handful of complaints, we were grateful that this group of professionals highlighted the problem for us. We will be working with them and you to try to shine some light on this area. Your calls help us identify trends and make decisions about where to focus our efforts.

Your complaints do make a difference! As we shared in our meetings with you around the state in May, the Division was able to increase enforcement actions from 144 in fiscal year 2007, to 402 actions in fiscal year 2008. Are we perfect? Of course not! But your complaints help us find the bad individuals and learn of trends we need to address.

You are a great group of professionals! Thank you for what you do. I know that many of you are tired in this changing market. Hang in there! Good economic news is starting to surface, and the needed market corrections are resolving themselves. The Division will continue to increase its efforts to protect the public by focusing on weeding out the bad guys, but making it a little easier for the good guys.



Mark Steinagel has accepted a position with the Division of Occupational and Professional Licensing. The Division of Real Estate would like to thank Mark Steinagel for his dedicated work on behalf of the Division. We are sorry to see him leave us, but are grateful for the opportunity that each of us had to work with him in the trenches. He worked countless hours on behalf of the mortgage, real estate, and appraiser licensees. His favorite subject, and the one he will miss the most, is the new upcoming S.A.F.E Act. He spent many hours working to preserve current Utah licensees.



## SAFE Mortgage Licensing Act -Education Provider Information-

Mortgage education providers (both pre-license and continuing education) must be approved through the National Mortgage Licensing System and Registration (NMLS&R) if they desire to teach NMLS&R approved courses. In addition to being approved as a provider, individual pre-license and continuing education courses also must be approved through NMLS&R.

### Pre-license Courses

The Utah Residential Mortgage Regulatory Commission will require that all mortgage officers receive a total of 60 hours of pre-license education as of January 1, 2010. Beginning January 1, 2010 pre-license students are required to take and pass a 20-hour NMLS&R approved course **AND** a 40-hour Utah DRE approved course.

All 20-hour NMLS&R courses must be approved through NMLS&R no later than December 31, 2009, but can be offered as soon as approval is received. Utah DRE approved 20-hour pre-license courses may still be taught to students seeking to be licensed as mortgage officers **until the end of 2009. After January 1, 2010 all mortgage officer applicants will be required to take and pass a 20-hour NMLS&R approved course.**

Providers seeking to teach the 40-hour Utah pre-license course must be approved through the Utah DRE. Current providers may NOT teach the course until approved by DRE. A copy of the 40-hour curriculum is available on our website at [www.realestate.utah.gov](http://www.realestate.utah.gov).

### Continuing Education Courses

Utah DRE or NMLS&R approved CE courses will be accepted for license renewal on or before December 31, 2010. **All Utah DRE approved CE courses will expire December 31, 2010.**

Beginning January 1, 2011, 8 hours of NMLS&R approved courses are required annually for all licensees. Only NMLS&R courses will be allowed for the mortgage officer license renewal period ending on December 31, 2011. CE must include 3 hours federal law and regulations, 2 hours of ethics (fraud, consumer protection, and fair lending practices), 2 hours non-traditional mortgages, and 1 hour elective.

We appreciate the superior quality and skills demonstrated by our Utah mortgage pre-license and continuing education providers. We appreciate your cooperation as we transition to the new SAFE Act requirements.



**[www.realestate.utah.gov](http://www.realestate.utah.gov)**  
**ON-LINE RELMS**

#### Available Online Services:

Renew License  
Change Address  
Change License Status  
Change Affiliation  
Manage Company Roster  
Order Duplicate License  
View CE Courses Taken  
View and Order License History

*\*\*It also shows banked  
non-certified continuing education\*\**

*The reality is that changes are coming...*

*They must come.*

*You must share in bringing them.*

*~John Hersey~*



## Exclusive Brokerage Agreement

The Division of Real Estate has received many calls recently indicating that some real estate licensees are not following through with their responsibilities and properly representing their clients. Some of these complaints have to do with common courtesies and business etiquette. That is a matter of training and education on the part of the licensee. Some of these complaints are licensing violations based on a licensee's duties and responsibilities to the client.

The real estate statute makes it clear that there are minimal duties and responsibilities that must be observed and provided by a real estate licensee to the client. The Utah code section 61-2-27 entitled EXCLUSIVE BROKERAGE AGREEMENT spells out these duties and responsibilities.

61-2-27(2)(a) Except as provided in Subsection (2)(b), a principal broker subject to an exclusive brokerage agreement shall:

- (i) accept delivery of and present to the client offers and counteroffers to buy, lease, or exchange the client's property;
- (ii) assist the client in developing, communicating, and presenting offers, counteroffers, and notices; and
- (iii) answer any question the client has concerning:
  - (A) an offer;
  - (B) a counteroffer;
  - (C) a notice; and
  - (D) a contingency.

If a principal broker enters into an agreement with a client and that agreement states that the brokerage will only provide certain real estate services to a client the principal broker's description of the services may be very limited. The principal brokerage must still provide those minimum services outlined in 61-2-27(2) (a).

The client and the principal broker cannot contract away those basic required services. Some brokerages

are of the opinion that the agreement between the client and the principal broker supersedes state law. That is not accurate. The real estate statute supersedes their agreement regarding minimum services in real estate transactions. It is the responsibility of the principal broker to make sure that the principal broker and the agents of the broker comply with real estate statutes.

The public and the client have the right to know what services real estate licensees will provide them. The state statute sets a minimum standard that all real estate licensees must provide. ❁

### Staff Spotlight

**Charles Smalley**

**Investigator**



The Division employee with the most years of service is Charles Smalley. Joining the Division Staff in August 1993, Charles was awarded Outstanding Division Employee in 1994. Along the way, Charles has earned his Certified Real Estate Investigator (CREI designation) through the Association of Real Estate Licensing Law Officials (ARELLO) and wrote the chapter on Trust Account Audits for ARELLO's Investigator Handbook, which is distributed to Enforcement offices nationwide. He has been certified as a Fraud Examiner (ACFE), has given the monthly trust account seminar for 13 years, and has answered thousands of questions from licensees and the public on real estate issues. In 2000, Charles won an award for his "acting" in a Division Core Course video on Double Contracts, and over the years he has seen the Division expand with the regulation of mortgage lenders, and the number of Division employees has nearly doubled. He considers his career with the Division "time well spent".

## Has Your License Expired?



It all starts from a telephone call to the Division that goes something like this:

- o “There has been a big mix up on my licensing....
- o I have been seriously ill (or I have been caring for a family member who is ill) and I just realized that my license has expired....
- o I have been out of the country and forgot to renew my license....
- o I received no notification to the fact that my real estate (or mortgage) license has expired....
- o The renewal of my license was either handled through my broker, administrative staff or I innocently forgot....
- o There simply was a mistake made....
- o I had no knowledge of this oversight....
- o Clearly I must have renewed my license because I completed my twelve hours of continuing education....
- o I have all of my old CE certificates...I did everything on my part.
- o I have been paying my Board dues for the past (umpteen) months and therefore I must have had my license....
- o I had no idea...I am willing to pay back due fees in order to restore my license. Can’t something be done to allow me to streamline the process of renewing my license?
- o Do I really have to go back to school and pass the state exam all over again?
- o Can I perform some kind of community service or pay a whopping big fine to avoid those requirements?”

This unfortunate story plays out in a similar fashion a handful of times every month. Considering the tens of thousands of licensees the Division regulates, the number of such calls presents a relatively small percentage, yet the situation is devastating to those who have allowed their licenses to lapse.

Recently the Utah State Legislature expanded the license reinstatement period from six months to one year for real estate licensees. Mortgage licensees were not provided additional reinstatement time due to upcoming SAFE Act requirements. Mortgage licensees currently have six months to reinstate an expired license. **Those licensees who fail to reinstate their licenses are required to reapply for an original license including all pre-license education, successful passing of examination, fingerprinting and initial application and fees.**

### How can this possibly happen?

Simple...if you overlook or discard the courtesy postcard that the Division sends you (approximately five to six weeks before your license expiration), you too could find yourself with an expired license.

***SEE A SAMPLE RENEWAL POSTCARD ON PAGE 23***

Please understand that no subsequent reminders or notifications are sent to inform you that your professional license has expired. As a licensee, you are responsible for regularly monitoring your own license status to ensure that your license is kept current. How do you know your license status? There are two ways to check your license status:

## New Real Estate Continuing Education Rules

As announced in the Second Quarterly Edition of the Utah Division of Real Estate News Letter, recent legislative changes have increased real estate licensee continuing education (CE) requirements from twelve to eighteen hours within a two-year renewal period. However, licensees renewing their licenses in 2009 will be required to complete only twelve hours of approved CE (including a minimum of six hours of approved core topic courses).

Licensees who renew their licenses beginning in 2010 will be required to complete eighteen hours of approved CE (including a minimum of nine hours of approved core topic courses). In addition to the increase in the number of CE hours to eighteen, the type of courses that will now be considered for core topic course approval has been expanded. The increased list of core subjects goes into effect immediately. Both the previous and current lists of topics considered for core topic course approval are listed below:

<b><i>OLD CORE TOPICS</i></b>	<b><i>NEW CORE TOPICS</i></b>
<b>State Approved Forms/Contracts</b>	<b>State Approved Forms/Contracts</b>
<b>Ethics</b>	<b>Other Industry Forms &amp; Contracts</b>
<b>Agency</b>	<b>Ethics</b>
<b>Prevention of Real Estate and Mortgage Fraud</b>	<b>Agency</b>
<b>Federal and State Real Estate Laws</b>	<b>Prevention of Real Estate and Mortgage Fraud</b>
<b>Brokers' Trust Accounts</b>	<b>Federal and State Real Estate Laws</b>
	<b>Administrative Rules</b>
	<b>Brokers' Trust Accounts</b>
	<b>Short Sales or Bank Owned Property Sales</b>
	<b>Property Management</b>
	<b>Environmental Hazards</b>

Education providers desiring that a currently approved CE course be reevaluated under the expanded list of core subjects have two options:

1. Submit a new application (including fee) requesting that the current CE course be considered for Core course approval. If approved by the Division, a new CE course certificate and number will be provided to the provider for distribution to students who attend the course **AFTER** receiving approval as a core course.
2. At the time of CE course renewal, submit the course for consideration as a core course.

The list of subjects considered for elective CE course approval has also increased. Some of the new subjects that are now available for elective CE are: courses on the preparation of a market analysis for your clients, the measurement of homes or buildings, property disclosure forms, computer courses that focus on real estate concepts and industry practices, and business calculator courses.

# Continuing Education Not Banked?

The additional subjects available for core and elective CE course approval will allow licensees greater options when choosing to complete their CE requirements. It is the belief of The Real Estate Commission and Division that licensees with a specific market focus will now be able to select courses that better suit their particular market specialty and unique interests, with an overriding objective to approve CE courses that will increase competency, knowledge, professionalism and expand their ability to protect and serve the public.

**Q:** Why are licensees required to complete continuing education by the 15th day of the month of their license expiration?

**A:** In order to become a licensed continuing education provider, a provider must upload all CE within 10 days after the end of a course offering. If you complete your CE later than the 15th it might not upload before the end of the month, and your license will expire.



**Utah!** **DIVISION of REAL ESTATE**  
NEWS

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**Administrative Rule R162-3.6.2.1**

**Continuing Education.** To renew a license on active status an applicant must submit to the division proof of having completed, during the previous license period and by the 15th day of the month of expiration, 12 hours of continuing education from courses certified by the division.

**Administrative Rule R162-9.1.16**

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.

**Q:** Why are your CE credits not banked then?

**A:** Usually, the most common reason your CE is not banked is that the course provider cannot read your handwriting in order to get your name and license number.

**Administrative Rule 162-9.1.16.1**

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.

**NOTE:** It would be in the best interest of all licensees **NOT** to wait until the last month (expiration month) to take their required CE hours.



## *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.*

BITTON, CHRISTIAN E., State-Certified Residential Appraiser, Riverton, UT. Agreed to pay a \$20,000.00 civil penalty, revocation of his State-Certified Residential Appraiser License, and not apply for any appraiser license or appraiser registration for a five year period in a March 25, 2009 Stipulation and Order. Mr. Bitton selected improper comparables and failed to correctly analyze certain subject property prior listing histories. He did not follow supplemental standards as required for use of the standard URAR form developed in each appraisal case. In reaching the appraised values for the properties, there were violations by not following Utah appraiser rules, Utah appraiser statutes, and applicable USPAP standards. In several instances, Mr. Bitton did not select or use closed sales comparables in the immediate subject property housing market area. In reaching the appraised value of another subject property, Mr. Bitton did not correctly or adequately analyze the immediate prior sale of the subject property. This sale was reported as being a “distressed sale”. Both the subject property listing agent and the subject property selling agent stated that the subject property was not a “distressed sale”. In reaching the appraised value for another subject property, Mr. Bitton stated on page one of the subject URAR report, the basement was 50% finished. In the comments on

the second page of the same URAR report, he stated that “the subject has reportedly had its basement finished...”. This was misleading to the report reader. Case# AP36405, AP41154, AP41155, AP43133, AP43136, AP43138.

BLACK, LESTER G., State-Certified Residential Appraiser, Hurricane, UT. Ordered to pay a \$17,500.00 civil penalty, the revocation of his state-certified residential appraiser license, and is prohibited from applying for any appraiser license, including appraiser trainee, for five years in a May 26, 2009 Order. Mr. Black may apply to become an appraiser trainee after meeting the terms of the Order. The Board reserves the right to hold a hearing before granting formal appraisal trainee status. Mr. Black violated several USPAP Standard Rules in which he consistently selected sales comparable properties from various neighborhoods, reflecting whatever size and quality variables needed to arrive at the predetermined opinion of value. This was done rather than selecting similar properties within the same neighborhood as the subject property. He consistently failed to properly analyze current and prior sales and listings, resulting in values in excess of market value. Mr. Black’s opinions and conclusions were consistently designed to conform to the needs of the client or borrower, even if it meant more than doubling the value from a previous sale. He breached the public trust by accepting and performing appraisal assignments to predetermined results, satisfying the perceived requirements of the client, with little or no thought to either market value or the consequences to the mortgage lending industry or the public. Case # AP36895, AP38971, AP38485.

COBURN, JAMES W., State-Certified Residential Appraiser, Bountiful, UT. Mr. Colburn submitted a letter dated May 12, 2009 with his original license to the Division voluntarily surrendering his State-Certified Residential Appraiser license indicating he had no desire to continue as an appraiser.

JOHNSON, PAMELA, State-Certified Residential Appraiser Renewal Applicant, Draper, UT. Renewal application for state-certified residential appraiser was extended until June 30, 2009 in a December 10, 2008 Order. Ms. Johnson provided the Division an appraisal

log of all appraisals completed by her between January 1, 2007 and December 10, 2008, and further submitted to the Division the complete work files for four appraisal assignments requested by the Division. A member of the Appraiser Experience Review Committee reviewed the work files and determined that the work files were acceptable. On recommendation of the experience review committee member, the Board approved the application for Ms. Johnson to renew her state-certified residential appraiser license.

LANG, TERIANNE TOVEY, State-Certified Residential Appraiser, Saratoga Springs, UT. In a May 26, 2009 Default Order, it was ordered that Ms. Lang's state-certified residential appraiser license be revoked, pay a \$22,000.00 civil penalty, be prohibited from applying for any appraiser license, for a five year period, and if Ms. Lang should apply for any appraiser license with the Division, the application will be reviewed by the Board. In Ms. Lang's review of three properties, she misrepresented the actual values of the properties and inflated the values of the properties by using inappropriate or misleading comparable properties which violates Utah Code Annotated 62-2b-29(2)(c). In rendering her market opinion on each of the three appraisals, she violated USPAP Standards in the following ways: failing to employ recognized methods and techniques, committing substantial errors of omission or commission, rendering appraisal services in a careless or negligent manner, failing to collect, verify, and analyze necessary information, failing to analyze all agreements of sale options and listings, failing to analyze all sales of properties occurring within three years of the appraisal, and failing to clearly and accurately set for the appraisal in the written property appraisal report. Ms. Lang also failed to comply with the October 9, 2008 Order of the Board requiring her to produce certain documents within 30 days, which violated Utah Code Annotated 61-2b-29920(i). Case#AP37648,AP42647,AP36784.

LOUDERMILK, BONITA, State-Certified Residential Appraiser, Vernal, UT. Agreed to pay a \$1,000.00 civil penalty and take and pass a 15 hour USPAP

course within 90 days in a March 25, 2009 Stipulation and Order. Ms. Loudermilk violated USPAP Standard 1-1(c) and USPAP Standard 2-1(a) in which she failed to research the sewer system of the subject. The city sewer line runs by the subject but is not connected. She also reported the subject as having 5 rooms, 2 bedrooms, and 1.75 baths in the improvement section of the URAR. In the grid section, Ms. Loudermilk reported the subject as having 4 rooms, 2 bedrooms, and 1 bath. She reported the subject's actual age at 71 and the effective age at 30. Ms. Loudermilk failed to explain in the appraisal work file, the process at arriving at the effective age of the subject. Other minor errors in the report were determined to be inconsistent from page one of the report to the other and make the report misleading. Case # AP41777.

PARKER, KELLY NEIL, State-Certified Residential Appraiser, St. George, UT. Agreed to pay a \$3,000.00 civil penalty and take and pass a cost approach class within one year in a March 4, 2009 Stipulation and Order. Mr. Parker violated USPAP Standards in which his work file had nothing to support the site value or the cost approach figures used in the report. Mr. Parker used price per square foot figures that differed from Cost Handbook, with no explanation in report or work file. He reported a HUD that was dated after the appraisal report and failed to state the date of the report. Case # AP27736.

ROBERTS, MONTE D., State-Certified Residential Appraiser, Woods Cross, UT. Agreed to pay a \$5,000.00 civil penalty and take and pass a 15 hour USPAP Course in a March 4, 2009 Stipulation and Order. Mr. Roberts violated USPAP and Appraisal Statutes. In his appraisal report, he reported the client as Chase Lending. His work file did not show an engagement letter from Chase Lending or any correspondence from the lender. The only correspondence in the file was between the owner and Mr. Roberts, making the report unclear as to the intended user of the appraisal. Mr. Robert's data source used in the first three comparables were private sales and based on HUD's. The use of HUD's does not reflect the definition of market value. Sales and listings from the subject's neighborhood

*Disciplinary Sanctions Continued from page 9*

were available from the WFRMLS. Mr. Roberts reported and verified the comparables did transfer title. He failed to analyze the comparables as per definition of market value. The HUD comparables were not a good indication of value from the subject's neighborhood. The URAR was also misleading in determining who the client was and the intended user. Case # AP42180.

## 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.*

BARRETT, MATTHEW, Mortgage Officer License Renewal Applicant, South Jordan, UT. In an April 29, 2009 Order, renewal application for mortgage officer license granted but placed on probation for the entire renewal period due to numerous driving-related convictions.

BENCHMARK HOME MORTGAGE, Mortgage Lender Company Renewal Applicant, Dallas, TX. In an April 20, 2009 Order, renewal application for mortgage lender company denied due to licensing actions in Georgia, Nebraska, and Virginia.

BROSIG, ALIXANDER L., Mortgage Officer License Renewal Applicant, Draper, UT. In a May 6, 2009 Order, renewal application for mortgage officer license granted, immediately suspended for a period of 30 days, placed on probation for the term of the license, due to Mr. Brosig's pleading guilty to a charge of criminal mischief and thereafter violating the conditions of probation.

COLEMAN, JAMES RYAN, Mortgage Officer License Applicant, Sandy, UT. In a March 11, 2009 Stipulation and Order, agreed to a \$2,500.00 fine

and revocation of his mortgage officer license for a three-year period. Mr. Coleman manufactured a fraudulent verification of deposit for a loan in response to an underwriting condition requiring proof that the borrower had the funds to close. Case # MG 40966.

DALRYMPLE, FERNANDA E., Mortgage Officer License Renewal Applicant, Holladay, UT. In an April 22, 2009 Order, renewal application for mortgage officer license granted but placed on probation for the entire renewal period due to a conviction for alcohol-related reckless driving.

GERMAIN, JEFF, Mortgage Officer License Applicant, Heber City, UT. In a March 3, 2009 Order, application for mortgage officer license granted but placed on probation for the entire initial licensing period due to numerous convictions including wanton destruction of wildlife.

HADLOCK, JAMES RYAN, Mortgage Officer License Renewal Applicant, Cedar Hills, UT. In a May 27, 2009 Order, renewal application for mortgage officer license granted but placed on probation for the entire renewal period due to two convictions for child abuse/neglect. Mr. Hadlock must notify each principal lending manager he associates with of his criminal probation.

HEEDLEY, KRYSTAL M., Principal Lending Manager Renewal Applicant, Canoga Park, CA. In a May 6, 2009 Order, renewal application for principal lending manager granted but placed on probation for the entire renewal period due to Ms. Heedley's entering a plea in abeyance to a charge of driving under the influence.

HONEYWELL, STEVE, Principal Lending Manager, Park City, UT. In a June 3, 2009 Stipulation and Order, agreed to a pay a \$5,000.00 civil penalty. In violation of Utah Administrative Rule R162.1.4, Mr. Honeywell charged for services not actually performed when he charged a \$5,000.00 fee for arranging a hard-money loan that was not closed through his office. Case # 43397.

HUNT-LOVELESS, JERAMY D., Mortgage Officer License, Holladay, UT. In a June 3, 2009 Stipulation and Order, agreed to pay a \$2,500.00 fine. In violation of Utah

Code Annotated 61-2c-301(1), Mr. Hunt-Loveless allowed a submitted loan to remain in process with the lender after he learned that the income reported on the loan application was incorrect. Case # MG 44549.

JONES, SUSANNE, Mortgage Officer License, West Jordan, UT. In an April 1, 2009 Stipulation and Order, agreed to pay a \$5,000.00 fine and perform 20 hours of community service with a Division-approved organization. In violation of Utah Code Annotated 61-2c-30, Ms. Jones knowingly allowed a borrower to misrepresent his income and employment on the 1003 for a stated income loan. Case # MG 41939.

KIMBALL, KRIS, Mortgage Officer License Renewal Applicant, Riverton, UT. In a May 6, 2009 Order, renewal application for mortgage officer license granted but placed on probation for the entire renewal period due to Mr. Kimball's entering a plea in abeyance to a charge of illegal possession or use of a controlled substance and subsequently failing to comply with the terms of the plea agreement.

KRELLE, SCOTT G., Principal Lending Manager Renewal Applicant, Irvine, CA. In a March 3, 2009 Order, renewal application for Principal Lending Manager license granted but placed on probation for the entire renewal period due to a DUI conviction.

LAWSON, JASON H., Mortgage Officer License, Park City, UT. In an April 1, 2009 Stipulation and Order, agreed to a \$2,500.00 fine. In violation of Utah Code Annotated 61-2c-105, Mr. Lawson continued to engage in the business of residential loans after his license expired on 9/30/2008. He closed at least one loan without being actively licensed. Case # MG 43273.

LYMAN, JAMES A., Mortgage Officer License Renewal Applicant, Salt Lake City, UT. In a May 11, 2009 Order, renewal application for mortgage officer license granted but placed on probation for the entire renewal period

OLSON, BRYCEL., Mortgage Officer License, Riverton, UT. In a March 11, 2009 Stipulation and Order, agreed to a \$5,000.00 fine and the revocation of his mortgage officer license for a period of five years. In violation of Utah Code Annotated 61-2c-301, Mr. Olson overstated his income and falsified information about his employment on his 2006 application for a loan. Case # MG 43715.

POTTER, TIM, Mortgage Officer License Applicant, Tremonton, UT. In a May 27, 2009 Order, application for mortgage officer license granted but placed on probation for the entire initial licensing period due to multiple DUI convictions and violation of a protective order.

QUINTERO, NORMAN A., Principal Lending Manager Applicant, Rockwall, TX. On November 20, 2008, conditional license that had been granted on May 28, 2008 was automatically revoked for failure to disclose a past criminal history. In a March 31, 2009 Post Revocation Order, the Division affirmed the automatic revocation on a finding that Mr. Quintero did not have a reasonable good faith belief at the time of application that there was no criminal history to disclose.

RUPLE, MATTHEW D., Mortgage Officer License Renewal Applicant, Washington Terrace, UT. In a March 2, 2009 Order, renewal application for mortgage officer license granted but placed on probation for the entire renewal period due to a conviction for wanton destruction of protected wildlife.

SANCHEZ, RICARDO M., Mortgage Officer License Renewal Applicant, West Valley City, UT. In a March 2, 2009 Order, renewal application for mortgage officer license granted but placed on probation for the entire renewal period due to a conviction for alcohol-related reckless driving.

SCHNEIDER, KIMBERLY J., Principal Lending Manager Applicant, South Jordan, UT. In an April 13, 2009 Order, application for principal lending manager license denied due to Ms. Schneider's having had a default judgment entered against her on December 10, 2007 on charges of

*Disciplinary Sanctions Continued from page 11*

breach of fiduciary duty, intentionally or fraudulently misrepresenting investments, fraud, securities violations, and conducting a pattern of unlawful activity.

SCHOMBURG, E. TIMOTHY, Mortgage Officer License Applicant, Salt Lake City, UT. In a May 6, 2009 Order, application for mortgage officer license granted but placed on probation for the entire initial licensing term due to Mr. Schomburg's entering a plea of nolo contendere to a charge of disorderly conduct and, additionally, due to the revocation of his license to practice as an unarmed security officer after he failed to report this plea in an application for renewal.

SUTHERLAND, TYLER, Mortgage Officer License Renewal Applicant, Draper, UT. In a March 3, 2009 Order, renewal application for mortgage officer license granted but placed on probation for the entire renewal period due to a conviction for public intoxication.

THOMAS, JOE D., Principal Lending Manager, Salt Lake City, UT. In a March 11, 2009 Stipulation and Order, agreed to pay a \$2,500.00 fine. In violation of Utah Code Annotated R162-205.2.1. Mr. Thomas allowed a loan officer in his company to continue to work on loans after the loan officer's license had expired. Case #MG 43716.

THOMAS, MATTHEW E., Mortgage Officer License Renewal Applicant, Salt Lake City, UT. In a May 19, 2009 Order, renewal application for mortgage officer license granted but placed on probation for the entire renewal period due to Mr. Thomas's entering into plea in abeyance agreements with regard to two charges of possession of alcohol by a minor.

TIMPSON, DAVID D., Mortgage Officer License Applicant, Colorado City, AZ. In a March 2, 2009 Order, application for mortgage officer license granted but placed on probation the entire initial licensing period due to a DUI conviction.

WALDO, BRUCE, Mortgage Officer License Renewal Applicant, Holladay, UT. In a March 3, 2009 Order, renewal application for mortgage officer license granted

but placed on probation for the entire initial licensing period due to a conviction for interfering with an arrest and a plea in abeyance for possession of drug paraphernalia.

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

Name	Revocation Date
CAWLEY, MICAH A.	05/18/2009
ELDREDGE, KIERSTIN D.	04/13/2009
KALIKAKIS, KRISTEN M.	06/01/2009
MADRIL, ANDRES J.	04/21/2009
POPE, KIMBERLEY	05/18/2009

**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.*

ADAMS, LONNYE., Sales Agent Applicant, Kaysville, UT. In an April 22, 2009 Order, application for sales agent license granted but placed on probation for the entire initial licensing period due to a conviction for driving without a license.

ALLEN, RHETT D., Sales Agent Renewal Applicant, St. George, UT. In a May 6, 2009 Order, application for renewal granted but placed on probation for the entire renewal period due to Mr. Allen's entering a plea in abeyance with regard to a charge of operating a liquor-related business outside of the permitted hours of operation.

BELCHAK, THOMAS A., Principal Broker Renewal Applicant, West Jordan, UT. In a December 11, 2008 Order, application for renewal granted but placed on probation due to a conviction for a charge of violating use regulations and a plea in abeyance with regard to a charge of criminal trespass. The Real Estate Commission heard Mr. Belchak's appeal on May 20, 2009. In a May 27, 2009 Order, the Commission upheld the December 11, 2008 Order.

BENSON, LADONNA M., Sales Agent Renewal Applicant, Spanish Fork, UT. In an April 22, 2009 Order, renewal application for sales agent license granted but placed on probation for the entire renewal licensing period due to a conviction for reckless driving.

CALABRESE, HEDY, Principal Broker, Salt Lake City, UT. In a March 18, 2009 Stipulation and Order, agreed to pay a \$1,500.00 civil penalty. In violation of Utah Code Annotated 61-2-11(7), Ms. Calabrese wired a commission for real estate transaction(s) to an individual who had acted as a principal in the transaction(s) and had arranged the transaction(s), but who was not a licensee in her brokerage and was not licensed under this chapter. Case # RE 43786.

CAPUTO, DOUGLAS J., Principal Broker Renewal Applicant, Central, UT. In a March 3, 2009 Order, renewal application for principal broker license granted but placed on probation for the entire renewal period due to Mr. Caputo's entering pleas in abeyance to charges of simple assault and intoxication.

COPANO, JUAN A., Sales Agent Renewal Applicant, Sandy, UT. In a March 31, 2009 Order, renewal application for sales agent license granted but placed on probation for the entire renewal period due to Mr. Copano's entering a plea in abeyance to a charge of shoplifting.

DAWSON, MICHAEL E., Principal Broker Renewal Applicant, Park City, UT. On December 8, 2008 Mr. Dawson filed a Notice of Agency Review to request that the Division reverse its November 6, 2008 Default Order. The Default Order revoked Mr. Dawson's license to practice as a real estate broker after he failed to appear for two separate hearings. In a March 23, 2009 Order, the Division affirmed its decision due to Mr. Dawson's inability to substantiate his claim that the Division had failed to give him notice of those hearings. Case # RE 31157, RE 21076.

DUKE, LINDA LEE, Sales Agent Renewal Applicant, Moab, UT. In a March 31, 2009 Order, renewal application for sales agent license granted but placed on

probation for the entire renewal period due to Ms. Duke's entering a plea in abeyance to a charge of disorderly conduct.

EVES, AMBERLYN JOY, Sales Agent, Orem, UT. In a March 18, 2009 Stipulation and Order, agreed to pay \$2,000.00 in remaining fines from a July 16, 2008 Stipulation and Order. Ms. Eves also agreed to have her sales agent license revoked for a period of 30 years, to observe a minimum waiting period of 30 years before applying for any type of license with the Division, and to abstain from working for or having any type of involvement with any property management company in the State of Utah. Ms. Eves violated the July 16, 2008 Stipulation and Order by failing to be actively supervised by her principal broker as to her duties with Rose Hollow Property Management Company and failing to pay the fine she was assessed. Additionally, in violation of Utah Code Annotated 61-2-11 (2007), Ms. Eves made a substantial misrepresentation and pursued a continued and flagrant course of misrepresentation by opening mail from the Division that was addressed to her principal broker and then withholding it from him, nearly causing him to miss a deadline for submitting in-compliance trust reconciliations. Case # RE 43099.

GARRETT, RYAN K., Sales Agent Renewal Applicant, St. George, UT. In a May 6, 2009 Order, application for renewal granted but placed on probation for the entire renewal period due to Mr. Garrett's entering a guilty/no contest plea to a charge of driving while impaired.

GUNDERSON, TIGH K., Sales Agent Renewal Applicant, Cedar Hills, UT. In a May 1, 2009 Order, application for renewal denied by the Real Estate Commission upon a finding that Mr. Gunderson lacks the qualifications required for licensure in light of proceedings taken against his Mortgage Officer license by the Utah Residential Mortgage Regulatory Commission for his falsification of mortgage documents.

HITE, TRACY, Sales Agent Renewal Applicant, Salt Lake City, UT. In a May 19, 2009 Order, application

*Disciplinary Sanctions Continued from page 13*

for renewal granted but placed on probation for the entire renewal period due to a DUI conviction and Ms. Hite's failure to inform the Division of her conviction within ten days as required by statute.

HOLMES, MICHAEL R., Sales Agent Renewal Applicant, Sandy, UT. In a March 3, 2009 Order, renewal application for sales agent license granted but placed on probation for the entire renewal period

HOLMGREN, JASON, Sales Agent Renewal Applicant, Bear River, UT. In a May 6, 2009 Order, application for renewal granted but placed on probation for the entire term of the license due to a conviction of driving with an open container while on an alcohol-restricted license and Mr. Holmgren's failure to inform the Division of his conviction within ten days as required by statute.

HUMAN, BRYAN, Sales Agent Applicant, Salt Lake City, UT. In an April 22, 2009 Order, application for sales agent license granted but placed on probation for the entire initial licensing period due to Mr. Bryan's entering a plea in abeyance to charges of unlawful detention and battery.

JOHNSON, DEVIN CLYDE, Sales Agent Applicant, Sandy, UT. In an April 22, 2009 Order, application for sales agent license granted but placed on probation for the entire initial licensing period due to Mr. Johnson's failure to disclose his criminal history, including a watershed violation and failure to appear on a citation.

JONES, BRYCE, Principal Broker, West Jordan, UT. In a March 18, 2009 Stipulation and Order, agreed to pay a \$2,500.00 civil penalty. In violation of Utah Code Annotated 61-2-11, Mr. Jones made a substantial misrepresentation by authoring a draft of a recruiting e-mail that gave the impression that the Division endorsed his brokerage. This e-mail was sent to at least one recipient at another brokerage for the purpose of inducing other licensees to place their real estate licenses with Mr. Jones. Case # RE 43456.

KENNEY, SHAWN B., Principal Broker, Sandy, UT. In a March 17, 2009 Stipulation and Order, agreed to pay a \$2,500.00 fine. In violation of Utah Code § 61-2-11, Mr. Kenney failed to exercise reasonable supervision of the activities of his licensees and unlicensed staff by allowing records that had exceeded the prescribed period of time for retention remain unsecured and unattended by unlicensed staff while waiting for retrieval by an independent shredding contractor. Case # RE43723.

KOSKAN, CAROLYN J., Principal Broker Renewal Applicant, Smithfield, UT. In a May 6, 2009 Order, application for renewal granted but suspended for 60 days and thereafter placed on probation for the term of the license due to a conviction for alcohol-related reckless driving and a plea in abeyance to a charge of operating a vehicle with alcohol in her body on a conditional license, compounded by Ms. Koskan's failure to inform the Division of her conviction and plea within ten days as required by statute.

LEDINGHAM, MATTHEW G., Sales Agent Renewal Applicant, Salt Lake City, UT. In a May 6, 2009 Order, application for renewal granted but placed on probation for the entire term of the license due to a conviction for aiding and abetting the attempted entry of an illegal alien.

LIDDIARD, JERI LYN, Sales Agent Applicant, South Jordan, UT. In a May 6, 2009 Order, application for sales agent license granted but placed on probation for the entire initial licensing period due to the revocation of Ms. Liddiard's airman medical certificate, airline transport pilot certificate, airplane single engine land rating, and airplane single engine rating upon a finding that she acted as a crew member of a civil aircraft while having a prohibited drug in her system.

MACRI, JULIA A., Sales Agent Renewal Applicant, Salt Lake City, UT. In a March 3, 2009 Order, renewal application for sales agent license granted but placed on probation for the entire renewal period due to Ms. Macri's entering a plea in abeyance to a charge of disturbing the peace.

MILLIRON, VAUGHN S., Sales Agent Applicant, Salt Lake City, UT. In an April 15, 2009 Stipulation and

Order, agreed to pay a civil penalty of \$10,000.00, to have his sales agent license revoked, and to wait at least five years before applying for a new license. Mr. Milliron acted as a real estate agent by negotiating offers and handling purchase contracts prior to being licensed with the Division in 2008. Mr. Milliron fraudulently received approximately \$89,000.00 by inflating the cost of four properties. He also forged the name of a buyer on an addendum to a REPC. These activities constitute violations of Utah Code Annotated 61-2-11(1), 61-2-11(17), 61-2-11(18) and Utah Administrative Rule R162-6-1.1. Case # RE 36390.

MORGAN, JAY R., Sales Agent Renewal Applicant, West Jordan, UT. In a May 19, 2009 Order, renewal application granted but placed on probation for the entire renewal period due to Mr. Morgan's entering a plea in abeyance to a charge of simple assault.

MORSE, GLEN B., Sales Agent, West Valley City, UT. In an April 15, 2009 Stipulation and Order, agreed to pay a \$5,000.00 civil penalty. In violation of Utah Code Annotated 61-2-10, Mr. Morse accepted a fee from a client in the amount of \$6,000.00 for negotiating a lease agreement with a third party on the client's behalf. Case # RE 43321.

NGUYEN, GARY, Principal Broker Renewal Applicant, West Jordan, UT. In a March 31, 2009 Order, renewal application granted but placed on probation for the entire renewal period due to a conviction on a charge of accessory after the fact.

NOTMAN, ROBERT S., Sales Agent, El Cajon, CA. In a May 4, 2009 Stipulation and Order, agreed to a fine of \$2,500.00. In violation of Utah Administrative Rule R162-6.1.11.3.1, Mr. Notman acted as a limited agent in a transaction in which he was a principal. Mr. Notman simultaneously represented himself (seller/owner) and a buyer in the sale of his own property. Case # RE 39653.

OBAD, NICHOLAS J., Sales Agent Renewal Applicant, Sandy, UT. In a March 2, 2009 Order, renewal application granted but suspended for 30

days and then placed on probation for the duration of the renewal period due to numerous drug-related convictions.

PARKS, R. BRENT, Sales Agent Renewal Applicant, Cedar Hills, UT. In a May 6, 2009 Order, renewal application granted but placed on probation for the entire renewal period due to Mr. Parks' entering a plea in abeyance to a charge of disorderly conduct and, subsequently, entering into a 12-month diversion agreement in the case.

PATRICK, CORBY W., Sales Agent Applicant, Springville, UT. In a May 27, 2009 Order, application granted but immediately suspended for 30 days and thereafter placed on probation for the remainder of the initial licensing period due to Mr. Patrick's entering a plea in abeyance to a charge of attempting to issue a bad check.

PERRY, GREG M., Sales Agent Reinstatement Applicant, Logan, UT. In a May 27, 2009 Order, the Real Estate Commission denied Mr. Perry's appeal for reinstatement of his license due to his having entered a guilty plea on July 22, 2008 to a felony charge of possession of a controlled substance. Mr. Perry's plea fell within the statutory look-back period for criminal behavior; the Commission determined that his reinstatement was precluded under the statute.

ROBINSON, MICHAEL S., Sales Agent, Sandy, UT. In a May 19, 2009 Stipulation and Order, agreed to a three-year revocation of his sales agent license, a civil penalty of \$5,000.00, and a hearing to determine his fitness for licensure should he seek re-licensing after three years. In violation of Utah Administrative Rules R162-6.2.7, R162-6.2.13, R162-6.2.6, and Utah Code Annotated 61-2-11(8), Mr. Robinson negotiated offers on multiple properties but failed to report these transactions or provide copies of the REPC's to his principal broker. Additionally, he failed to disclose to his clients in writing the existence or possible existence of "due-on-sale" clauses. Case # RE 25939.



### Disciplinary Sanctions Continued from page 15

SAFONOV, GEORGE G., Sales Agent Reinstatement Applicant, Provo, UT. In a March 3, 2009 Order, reinstatement application for sales agent license granted but placed on probation for the entire term of the license due to Mr. Safonov's entering a plea in abeyance to charges of theft of services.

SITTNER, JOHN C., Principal Broker, Salt Lake City, UT. In a May 12, 2009 Stipulation and Order, agreed to pay a civil penalty of \$1,200.00. Mr. Sittner failed to retain original course completion certificates for three years following renewal and produce those certificates when audited by the Division. Case # RE 32964.

STONE, MICHAEL P., Associate Broker Renewal Applicant, Salt Lake City, UT. In a May 6, 2009 Order, renewal application granted but placed on probation for the entire renewal period due to a conviction of alcohol or drug-related reckless driving and Mr. Stone's failure to report his conviction to the Division within ten days as required by statute.

TOVAR, LUIS E., Sales Agent Renewal Applicant, Riverton, UT. In a March 3, 2009 Order, renewal application for sales agent license granted but placed on probation for the entire renewal period due to a DUI conviction.

UNDERHILL, SAYRA L., Sales Agent, Lehi, UT. In a March 18, 2009 Stipulation and Order, agreed to a civil penalty of \$25,000.00, revocation of her sales agent license for a five-year period, and a waiting period of five years before applying for any license with the Division of Real Estate. In violation of Utah Code Annotated 61-2-11(8), 61-2-11(17), and Utah Administrative Rule R162-6.1.1, Ms. Underhill, in her capacity as a principal lending manager, knowingly allowed an unlicensed individual to originate in excess of 90 residential mortgage loans. If Ms. Underhill chooses to reapply for a license after five years, a hearing shall be held to determine whether the license should be granted or denied. Case # RE 40720.

WILSON, DAVID M., Principal Broker Reciprocal Applicant, Olympic Valley, CA. In an April 22, 2009 Order, application for reciprocal license granted but placed on probation for the entire term of the license due to two instances of failure to maintain errors and omissions insurance as required by the Idaho Real Estate Commission.

The following is a list of individuals whose real estate licenses were revoked for failure to accurately disclose their criminal background on their initial applications:

Name	Revocation Date
BOWEN, MARCIA	04/21/2009
FERRIS, KIP ALLEN	04/09/2009
HO CHING, BEAVER TAITULIATU	05/18/2009
JONES, JENNIFER M.	05/18/2009
LENOFF, GARY S.	03/02/2009
YOUNG, WARREN	05/18/2009





## Online Forms Available

- License History
- Duplicate License Request
- Non-Certified Continuing Education Application
- Broker Experience Documentation Form
- Broker Transaction Log
- CE Banking Complaint Form
- Real Estate Purchase Contract (REPC)
- Blank Addendum
- Social Security Verification Form
- PLM/ALM Experience Documentation Form
- Continuing Education Course Application

## KAGIE'S KORNER

### What can a Real Estate Agent have an Unlicensed Personal Assistant do?

Investigator Van Kagie gets many questions on this topic over the course of a month, which usually start as, *“How can I compensate my personal assistant? Can they sit at an open house for me? Can they put a sign on the property and run errands? Can they call or solicit prospective clients for me?”*

A Licensee may compensate an unlicensed personal assistant only at a predetermined rate which is not contingent upon the occurrence of a transaction (i.e. an hourly or piece rate.) And the Licensee may not share commissions with unlicensed persons who have assisted in a transaction by performing the services listed in Administrative Rule R162-6.2.14

Van often gets calls where a Licensee needs to go out of town and would like to have their unlicensed assistant sit an open house or model home for them while they're gone. The answer is always a resounding **NO!** A personal assistant can only be at an open house or sit a model home so long as the Licensee is present and the unlicensed person only hands out preprinted material and does not become involved with the negotiating or filling out of contracts. If the Licensee is not available to sit an open house or model, the Broker or another Licensee with the listing brokerage must be present in order for the assistant to be there.

Personal assistants can do a number of activities such as delivering documents, picking up keys, placing signs, securing public documents or other courier services as long as they do not engage in any discussion of, or filling in of, the documents.

The most common question asked is, “Can an unlicensed assistant solicit or cold call a prospective client for the Licensee?” Once again the answer is a resounding **NO!** An assistant can make an appointment for a prospect to meet with a Licensee only if the contact has been initiated by the prospect and not the unlicensed assistant. According to administrative rule, an unlicensed person cannot engage in any activity calculated to secure a prospect for a real estate transaction.

The Licensee who hires an unlicensed person with the permission of the Principal Broker is responsible for the supervising of the unlicensed person's activities and shall ensure that the unlicensed assistant does not cross the line and do any activity that would require them to have a Real Estate License. A Principal Broker or Branch Broker still has the responsibility to supervise all activities of both licensed and unlicensed staff associated with the office.

Van Kagie is an experienced investigator with the Division. Thank you for the many calls and questions from the public and our licensees.



## New Agent Sales Course Required For First Time Renewals

-article repeated-

Real estate agents who received their initial sales agent licenses on or after July 1, 2007 (new agents), are required to complete a 12-hour New Agent Sales Course for real estate agents during their original licensure. This course was created to assist new agents during the critical transition period after licensing. This course was prepared to assist new agents in dealing with challenges they face as newly practicing licensees. Completion of this course will fulfill the new agents' CE requirement during their original licensing period.

At initial license renewal, new agents renewing on or after July 2009 will be required to provide proof of successful completion of this specific course. There are no substitute courses that may be taken in place of the New Agent Sales Course. Credit for this course must be registered in the licensees' "CE Courses Completed" section of their individual On-Line RELMS accounts to allow a timely license renewal.

New agents needing this course can view a list of approved providers at [www.realestate.utah.gov](http://www.realestate.utah.gov). [http://realestate.utah.gov/database/re\\_new\\_agent\\_course.xls](http://realestate.utah.gov/database/re_new_agent_course.xls)

Sales agents licensed before July 1, 2007 and brokers may also take this course to fulfill their entire 12-hour CE renewal requirement including the required "Core Topic Courses".

Industry comments from attendees indicate a better understanding of the proper use of forms and contracts, properly pricing properties for sale, state and federal laws (including possible ways in which licensees frequently get "into trouble"), and the devastating consequences fraud has had on our real estate and mortgage community.

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## Has Your License Expired?

First, pull out your billfold or purse and look for your signed "pocket" license. This small card carries important information regarding the type of license, your license number, the date your license was issued, and significant information concerning the expiration of your license. Hopefully, none of you are hyperventilating upon realizing that you have been functioning with an expired license.

Second, the most accurate method of verifying your license status is for you to **go to the DRE website main menu and go to the License Management System, <https://secure.utah.gov/relms/index.html>**. You will immediately see the status of your license (i.e. expired, active, inactive, etc.) along with the continuing education you have completed.

As a practicing principal broker or principal lending manager, there is no good reason for NOT regularly verifying the list of those licensees that you *believe* work for your company vs. the list of those licensees that are *actually* actively licensed with your company according to Division of Real Estate records. If you find no differences in these two lists...CONGRATULATIONS...you are performing that portion of your supervisory responsibility well. If you find some differences in these two lists, you have some work to do. In short, a principal broker or PLM should be reviewing the roster of licensees affiliated with their company (located on the DRE website) frequently.

Brokers and Principal Lending Managers have a legal responsibility for those licensees they have agreed to supervise. If a real estate agent or mortgage officer has conducted licensed activities on an "inactive" or "expired" license, the Principal Broker or Principal Lending Manager will be exposed to serious legal liability and potential Division disciplinary action. If you properly monitor Division licensing records you needn't be concerned about a potential phone call from a DRE investigator requesting that you submit a list of all transactions

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performed by an unlicensed/inactive individual. There is a growing number of former licensees who are or have been sanctioned for unlicensed activity, and their Broker/PLM for a failure to supervise, etc.

It is true that some licensees never actually receive the notice. Why would this notification not get into the hands of the licensee? In addition to merely forgetting about the renewal postcard, sometimes people move and forget the need to change their public address with the Division (notification of change of address is required within 10 business days). All correspondence, renewal notices, and newsletters are mailed to the public address (usually your home) that licensees designate. It is up to you to fill out your change of address on the Division's On-Line RELMS System. For the "technophobes", you can either send a fax or mail a change of address form to the Division. This form is available at the Division's website at [www.realestate.utah.gov](http://www.realestate.utah.gov). Once you select the main menu for your profession, you'll be able to access a change of address form.

Although continuing education is a prerequisite for license renewal, completing CE alone does NOT renew one's license. All licensees are required to complete a renewal application and renewal fee either through the On-Line RELMS System or by physically filling out and submitting a paper renewal.

Membership in, and the payment of fees to, private professional organization(s) (i.e.; local boards or other industry organizations) does NOT renew an individual's real estate or mortgage license. Private organization fees and membership requirements are unique to their professional organization(s) and are NOT a substitute for renewing one's license with The Utah Division of Real Estate.

Ultimately, all licensees are individually responsible to ensure that they are working with an active license. No other party should be assigned to perform this important duty. There are few professional duties more important than having an authorized license to work.

Please take the time to regularly monitor the status of your license. The license you save....could be your own.



## Development

Instructor



Workshop

2009

### Instructor Development Workshop October 19th & 20th, 2009 at the Sheraton Hotel in Salt Lake City

The DRE welcomes Amy Chorew for our annual two-day workshop. Ms. Chorew has taught many courses as a GRI and CE instructor. She is also a webinar trainer and technology coach. She has experience in lecture with the National Association of Realtors, Manchester Community College, and numerous associations and local boards nationwide. Ms. Chorew has also had publications regarding technology and is the owner of TheTechByte.

Her experience and skills will be a great contribution to the real estate, mortgage and appraiser industries.

This course is required for pre-license instructors and is recommended for continuing education instructors. Watch for your registration in the mail. If you would like to attend, please refer to our website [www.realestate.utah.gov](http://www.realestate.utah.gov) for a registration form.

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### New Agent Sales Course

#### Required For First Time Renewals

This 12-hour course has proven to assist new agents in dealing with these challenges, while also encouraging licensees that competent, hard working and ethical practitioners can succeed.



## The Home Valuation Code of Conduct

By Craig Morley, Vice Chair  
Appraiser Licensing and Certification Board

On May 1, 2009, the Home Valuation Code of Conduct (HVCC) went into effect. This legislation significantly changes the way in which the mortgage and appraisal industries conduct business for loans being sold to Fannie Mae and Freddie Mac. Many misconceptions exist regarding the HVCC and what it requires of lenders and appraisers. The APPRAISAL INSTITUTE released an article entitled HVCC "MYTHS AND REALITIES" [www.appraisalinstitute.org/newsadvocacy/downloads/HVCC\\_myths.pdf](http://www.appraisalinstitute.org/newsadvocacy/downloads/HVCC_myths.pdf). This article is a good reference for those with questions.

The use of Appraisal Management Companies (AMC's) has increased since the implementation of the HVCC. The State of Utah recently passed legislation (HB152) regulating AMC's by placing them under the jurisdiction of The Division of Real Estate (DRE) with rules developed by the Appraisal Licensing and Certification Board. The registration of AMC's went into effect May 1, 2009. HB 152 requires that registration rules be established and implemented by the DRE. As of this newsletter, rules have been established and were effective August 7, 2009.

The Division of Real Estate has been active in contacting all known AMC's to notify them of the new registration requirement. HB152 requires an AMC that does more than 10 appraisals in Utah per year to be registered. The rules are designed to set standards of professional conduct for AMC's. Background checks will be completed on owners of AMC's. Employees who select and/or order appraisals will need to have a background check and take a 15-hour USPAP class. Compensation received by the AMC as well as the price paid for the appraisal will be provided to the appraiser to report in the appraisal assignment so that the consumer will know how much was paid for the appraisal, and how much was paid to the Appraisal Management Company.

### Unprofessional Conduct for Appraisal Management Companies includes:

- Requesting appraisers to complete assignments for which they do not have the knowledge or experience to competently perform the assignment.
- Requiring appraisal assignment "turn around times" that do not allow adequate time to develop a credible assignment result.
- Prohibiting communication between the appraiser and parties who may be able to assist the appraiser in completing a credible assignment result.
- Requiring the appraiser to collect the appraisal fee and then remit a portion back to the AMC.
- Requesting that an appraiser do anything contrary to USPAP is prohibited.

The Division of Real Estate has been given the responsibility to enforce the Statute and Administration Rules regarding Appraisal Management Company registrations.

### Practical problems we continue to encounter when dealing with appraisers are:

- Appraisers not obtaining factual information from the owner, agent, or other parties who are familiar with the property being appraised. Collecting factual information from parties who have an interest in the transaction is not prohibited by HVCC.
- Appraisers accepting appraisal assignments for which they do not have the knowledge or experience to establish a credible assignment result. There are ongoing circumstances where appraisers are completing assignments without authorized access to public and private data sources that result in poor appraisal conclusions. USPAP outlines the procedures required for an appraiser to become competent to accept an appraisal assignment.



- Appraisal assignments should not be accepted where the appraiser does not control the ability to collect, search, analyze and filter the data in obtaining comparable listings or sales. Relying on a listing or selling agent to obtain market data for the appraisal can be precarious, as data provided to the appraiser could be filtered to provide only the data that favors the position of the party providing the data. Data can be used that is provided by buyers and sellers, but it must meet the test of reasonableness. If data provided by others cannot be verified, or if it is outside the context of other market data, that data may be incorrect or inaccurate as to actual market conditions.
- Some AMC's require appraisers NOT to consider the purchase agreement. USPAP requires a sales history of the subject to be reported and analyzed. While the appraiser should NOT appraise to a purchase price, the purchase price is valuable market data that must be considered in the development of an opinion of value. For assignments where the purpose is to develop an opinion of market value, to "analyze" portions of the sales history is to see if the sale meets the test of market value.

The analysis should include:

1. Were the buyer and seller typically motivated?
2. Was the purchase price based on cash equivalency or were concessions made by a party to the sale?
3. Did the property have adequate exposure to the market?

If an opinion of market value is developed that differs from the sales price established in the purchase agreement, the appraiser should explain why there is a difference as part of the "analysis" required by USPAP. Freddie Mac recently issued a statement indicating that

appraisers are not required to use REO or short sales as part of the analysis. Keep in mind that it is just as bad to be too low as it is to be too high in the development of an opinion of value. Proper analysis of sales that involve both the subject and comparable properties will ensure that the appraiser better understands the circumstances associated with each transaction and will better enable the appraiser to determine if the sales history represents the market.

There is a difference between **price** and **value**.

USPAP Comment: "Once stated, **price is fact**, whether it is disclosed or retained in private."

USPAP Comment: "**Value expressed is an economic concept**. As such, it is **never a fact** but always an **opinion of worth** of a property given time in accordance with a specific definition of value."

Simply because a property sells and a price has been established does not automatically mean that the price equals market value. The appraiser is responsible to analyze the sales based on the definition of value being used as part of the appraisal assignment to determine if the sale is appropriate for the assignment and how the price translates into the development of an opinion of market value. The opinion developed by the appraiser is determined after analyzing the sales that (a) are most similar to the subject, and (b) meet the criteria of value defined in the report. In too many cases, the appraiser's analysis of sales data seems to be lacking, resulting in poor appraisal results.

As market conditions continue to change, the need for the appraiser to be competent and thorough in the verification and analysis of data becomes even more important.



**SAFE: 2009 and 2010 Changes**

	<b>Existing Licensees</b>	<b>New Licensees (UNTIL December 31, 2009)</b>	<b>New Licensees (AFTER December 31, 2009)</b>
<b>License Expiration</b>	December 31, 2010 Licenses will then be annual	December 31, 2010 Licenses will then be annual	December 31, 2010 Licenses will then be annual
<b>Pre-license Education</b>	None required. Each licensee will be required to pay a \$15.00 certification fee to NMLS&R	20 hours of Utah DRE approved education. Each licensee will be required to pay a \$15.00 certification fee to NMLS&R	20 hours of NMLS&R education AND 40 additional hours of Utah DRE education.
<b>Background Checks</b>	Beginning in 2010, all licensees will be required to complete a background check every 3 years through NMLS&R.	Beginning in 2010, all licensees will be required to complete a background check every 3 years through NMLS&R.	All licensees will be required to complete a background check every 3 years through NMLS&R.
<b>Testing</b>	Prior to December 31, 2010, licensees will have to pass the new NMLS&R national exam.  Those licensees who have passed the Utah state exam (regardless of their passing score) do <b>NOT</b> have to re-take the NMLS&R Utah portion of the state exam. Each licensee will be required to pay a \$5.00 certification fee to NMLS&R.	<b>Now until September 30, 2009:</b> Pass the Utah developed national and state exam. Prior to December 31, 2010, licensees will also have to pass the new NMLS&R national exam.  <b>October 1, 2009-December 31, 2009:</b> Pass national NMLS&R exam at NMLS&R testing center. Must also pass Utah state portion of exam at Utah DRE Pearson Vue test center.	<b>January 1, 2010-March 31, 2010:</b> Pass national NMLS&R exam at NMLS&R testing center. Must also pass Utah state portion of exam at Utah DRE Pearson Vue test center.  <b>April 1, 2010 and thereafter:</b> Pass the national and Utah NMLS&R exams at NMLS&R testing center.
<b>Continuing Education</b>	Licenses will complete 14 hours of Utah DRE or NMLS&R CE for 2010 renewal (including a minimum of 2 hrs of Ethics and 3 hrs Federal/State laws governing mortgage lending).  Subsequent renewals will require 8 hrs of NMLS&R CE including 3 hrs federal law and regulations, 2 hrs of ethics (fraud, consumer protection, and fair lending practices), 2 hrs non-traditional mortgages, and 1 hr elective.	<b>Now until September 30, 2009:</b> Licensees will complete 14 hours of a Utah DRE or NMLS&R CE for 2010 renewal (including a minimum of 2 hrs of Ethics and 3 hrs Federal/State laws governing mortgage lending).  <b>October 1, 2009-December 31, 2009:</b> Licensees will complete 8 hrs of Utah DRE or NMLS&R CE including 3 hrs federal law and regulations, 2 hrs of ethics (fraud, consumer protection, and fair lending practices), 2 hrs non-traditional mortgages, and 1 hr elective for 2010 renewal. Subsequent renewals will require 8 hrs of NMLS&R CE in topics described above.	Licenses will complete 8 hrs of Utah DRE or NMLS&R CE including 3 hrs federal law and regulations, 2 hrs of ethics (fraud, consumer protection, and fair lending practices), 2 hrs non-traditional mortgages, and 1 hr elective; for 2010 renewal. Subsequent renewals will require 8 hrs of NMLS&R CE in topics described above.
<b>Fees</b>	State fees will remain unchanged NMLS&R fees will be added	State fees will remain unchanged NMLS&R fees will be added	State fees will remain unchanged NMLS&R fees will be added

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**12/31/2009**

**IF YOUR LICENSE EXPIRES YOU CANNOT WORK UNTIL REINSTATED**

CE must be completed by the 15th of the month of expiration to ensure an on-time renewal.

**\*\*NOTICE OF LICENSE RENEWAL\*\***

**INSTRUCTIONS FOR LICENSE RENEWAL**

Renewal requirements must be completed prior to renewing your license. Your application is subject to audit for compliance with all renewal requirements.

1. Go to [www.realestate.utah.gov](http://www.realestate.utah.gov) and select "Online Renewal".
2. Login or create an account with the Real Estate License Management System (RELMS) RELMS accepts Visa, Mastercard, or American Express.
3. Follow the online instructions. Upon completion, you will be able to print out a temporary license. Your official license certificate will be mailed to you within one month.

Note: Licenses must be renewed online. If you do not have the capability to renew online, you may submit a request to the Division stating the reasons you believe you qualify for a hardship exemption. Upon a finding of good cause by the Division, you will be sent a paper renewal form. Please note this process may take up to three weeks and you should plan your renewal accordingly.

**IF YOUR LICENSE EXPIRES YOU CANNOT WORK UNTIL REINSTATED**

**Department of Commerce  
Division of Real Estate  
PO Box 146711  
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