

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

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

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## Don't Get Duped...

(Licensees "Drawn-In"  
on Schemes That  
Jeopardize Their Careers)

## What Constitutes Undue Influence On Appraisers?

The Division is receiving an increasing number of complaints that involve a disturbingly similar variation of facts. These incidents have been observed throughout the state generally, but have been particularly rigorous in the St. George, Utah County (Alpine/Highland), and Park City areas. In most of these situations licensees could have prevented or mitigated an illegal set of events from occurring.

These complaints involve an alarming number of scams dealing with so called "investors" purchasing properties, artificially inflating values, equity skimming and then flipping the properties.

Not all of the common factors described in this article necessarily occur in every transaction. Some of the described events under different circumstances could be considered "acceptable". Be aware of common trends and learn to recognize potential "red-flag" scenarios that may involve you. Just because you don't intentionally instigate a fraudulent loan fraud scheme does not mean that you can't be used because of your license and professional expertise to facilitate fraud without intending to do so.

*continued on page 4*

Division investigative files routinely contain engagement letters from lending institutions offering appraisal assignments to appraisers. Some of these engagement letters include statements that are or may be intended to influence or lead to "predetermined opinions or conclusions" by appraisers. These and other unacceptable assignment conditions should not be included when lending institutions hire appraisers to perform an unbiased opinion of market value. Many residential property appraisers report requests for service where the client includes statements similar to the following:

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## From the Director's Desk



**Derek B. Miller**

The inspiration for this article was an encounter related to me by a Division Licensing Specialist and her interaction with a fairly new licensee, who recently visited the Division offices in an attempt to negotiate the renewal of his license. I use the term "negotiate" in the very literal sense of the word, for this individual sincerely believed that each renewal requirement (continuing education, good conduct, even the licensing fee) was a subject for debate. Possibly fresh from the "flea market" or eager to demonstrate his prowess at negotiating tactics, the young man clearly had many misconceptions about how laws apply to everyone equally and not arbitrarily depending on what the Division staff thinks of him personally. The entire interaction was fraught with miscommunication as the Division employee attempted to explain that requirements are set in law and couldn't be waived even if the individual was a "nice guy who needed a break". The culminating moment was when the licensee graciously offered to pay the renewal fee if the Division would be willing to "waive the CE requirement".

As you read this some of you are laughing and others are shaking your head in disbelief (I did both when the story was shared with me). My purpose in relating this story is to illustrate the point that the Statutes and Administrative Rules are not arbitrarily applied depending on the licensee, the staff, or any other variable. While it may be an extreme example, the experience is not uncommon. Let me share a couple other examples that demonstrate the misconception held by certain licensees that they are the exception to every rule.

The Division recently received a phone call from an out-of-state Broker demanding that he be given a Utah license "immediately". The gentleman was not happy to hear from the Division staff that Utah did not have a reciprocity agreement with his home state and the law therefore required him to take and pass the Utah Broker Exam. To say he was

"not happy" would be somewhat of an understatement. After making threats to sue or have the Education Coordinator and Education Director fired, he moved up the chain to me with the same threats and was ready to move on to the Governor himself. The caller informed us all how "ridiculous" it was that he should have to take the Utah exam since the state he was coming from was "far superior" to Utah in "every way". The comment begged the question as to why he was moving to Utah since he held such a low opinion of our state, but to be honest it was difficult to get a word in edgewise. While this may be another extreme example, this kind of thing really happens – and more than just a handful of times.

Many of the rule-benders are brand new licensees who have never worked in a regulated industry. I admit that reading, being familiar with, and abiding by the rules can be a challenge. The Division often deals with new licensees who make mistakes and when questioned by a Division investigator would like the Division to "give them a break" or "look the other way". While it's true the Division will take mitigating circumstances into account when pursuing disciplinary action, we have - first and foremost - a duty to protect the public generally and other industry practitioners specifically. I'll never forget the applicant who sat in a hearing before the Mortgage Commission to get her license, and asked "how long will the hearing take" because she had "a closing to get to". After overcoming our shock and recovering our senses long enough to ask if she meant she was closing loans without a license, the unabashed response was "Sure, I've closed a lot of loans." A suggestion to our applicants and new licensees: don't practice your profession before you get your license and when you get the license don't let your first interaction with the government entity that will regulate your business be an attempt to "bend the rules" or "negotiate a deal".



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As you have read this article, there are probably a few skeptics who are saying to themselves, "sure it's easy to say the rules apply to everyone but I am sure some people are getting special treatment." Well, if you are thinking that, this example is for you: The Appraisal, Mortgage, and Real Estate industries are lucky to have among its ranks a number of elected officials. I personally have had the opportunity to deal, on three separate occasions, with elected officials regarding licensing issues. Although the issues were distinct, there was one common theme: that the officials did not expect, did not want, and would not accept special treatment or accommodations. As one gentleman put it "let me know what the rules require and I will do it."

The truth is that "tell me the rule and I will do it" is the sentiment of most of you. I would dare say that the Division is the last thing on your mind as you go about your business honestly and ethically. Most of you are probably shocked to read that someone would call the Division to figure out how to get out of the regulations, rules, and statutes. Let me state the obvious by saying that the rules are here to protect all of us against unfair, illegal and unscrupulous behavior and to promote fair and honest free trade – and that can't happen if the law is only applied to some and not others. While we can't stop anyone from believing they are the exception to every rule, my commitment to each of you is that the Division will not allow that erroneous belief to become a reality and we will continue to apply the law in a fair and equitable way to ALL licensees.



## DRE's frequently asked questions of the month . . .

*What needs to be on a real estate sign or business card?*

Sales Agent Name, Brokerage Company Name as shown in the Division records.

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Ambria L. Spencer (South Jordan)

### *see Administrative Rule R162-6.1.5*

6.1.5. Advertising. This rule applies to all advertising materials, including newspaper, magazine, Internet, e-mail, radio, and television advertising, direct mail promotions, business cards, door hangers, and signs.

### *Who should attend closings?*

The Broker or Authorized representative.

### *see Administrative Rule R162-4.1.4.2*

4.1.4.2. The principle broker or his authorized representative must attend all closings. The principal broker is responsible for the content and accuracy of all closing statements regardless of who closes the transaction.



## *Don't get duped*

*continued from page 1*

Routinely observed situations and events involved in fraudulent real estate and lending schemes include the following:

- Investor clients making offers at significantly above asking price (150% or more)
- Offers exceeding asking price while the property has been exposed to the market for a significant length of time
- Seller "participation" in the transaction is often sought in order to obtain the "top notch" selling price for the home
- Investors, buyers (and sometimes Mortgage officers) telling sellers (or buyers) that they have means of acquiring an appraisal for the "excessive" sales price
- Investors buying multiple properties as their "primary residence/owner occupied"
- Inaccuracies in the REPC that do not honestly and accurately reflect the "true terms" of the transaction
- Same buyers making multiple offers on routinely "inflated" properties
- Licensee "shopping" in order to either find a complicit or naïve agent/mortgage officer or appraiser
- Offer appears to simply be "too good to be true"
- Inflating value of subject property – after sale closes, using this "inflated" sale as a comparable on another similarly inflated acquisition(s)
- Investors (and sometimes sellers) sharing or receiving excessive sales proceeds from *acquiring* a property
- Licensees receiving "excessive" compensation (relative to comparable industry standards and the required effort and skill required to perform the assignment or transaction). Or, promises of an expanded financially rewarding working relationship, as a result of "fostering/enabling" a transaction
- Using For-Sale-by-Owner transactions in order to circumvent typical scrutiny from real estate professionals
- Use of inexperienced (and/or relatively unsupervised) licensees and/or sellers, who have a limited frame of reference to evaluate a transaction in relation to traditional industry norms
- Investor "churning" of licensees (not using the same licensee in subsequent deals) so as to not raise alarm regarding unusual conduct
- Use of one or more of the same licensees because they have experience in how to complete a transaction despite being outside acceptable industry standards, or as a "reward" for previous "exemplary assistance"
- Investors keeping licensees "in the dark" regarding their true intentions, qualifications, and industry experience
- Investors using methods to search for and secure straw buyers to purchase properties
- Over inflated properties are often used for reverse mortgages because these properties don't go into foreclosure and are routinely subject to less loan fraud scrutiny
- Appraisers/lenders intentionally narrowing the appraisers Scope of Work so as to render a misleading or fraudulent appraisal report

I know what you are saying....some (if not many) of these described situations are certainly not illegal in and of themselves. In fact, in many legitimate transactions, one or more of these circumstances occurs. The list above is not intended to be an all-encompassing list of illegal conduct. To the contrary, this list (and article) is intended to assist our licensees in being more aware of, and sensitive to situations that they are likely to encounter as they conduct traditional real estate transactions.

Heightened awareness and an increased sensitivity to potential and recurring fraudulent transactions and loan fraud schemes is our purpose in discussing these issues.

Advice on how one might avoid being led into, or otherwise coerced into fraudulent real estate transactions involving loan fraud are now suggested:

### *Real Estate Licensees*

Know your market. You regularly complete CMA's on your listings and on behalf of buyers you may be representing. If a property is only worth "X" dollars, don't allow yourself to

be manipulated into believing "what does it hurt if my client can buy or sell this home and secure financing at "X" plus thousands of dollars (the 'inflated' value)". A property is only worth what it is worth. New and improved methods of acquiring properties do not magically create an increase in property value that previously did not exist. If someone is offering more than a property is worth, question their motives and ask probing questions. Avoid (run) from "fishy" transactions. Excessive, inflated offers should "sound an alarm."

Don't call the Division after you have participated in ten previous transactions and you begin to question the legitimacy of these acquisitions. Discuss your concerns with your broker. If necessary, inquire of the Division before you involve yourself in these schemes.

Ask reasonable questions of your investors. Discuss whether they purchase and "hold" properties or routinely "flip" them. Do they generally fix up homes in order to increase a home's value (how so), or do they merely immediately turn properties over? What are the qualifications of your investor, etc., etc.?

## **Mortgage Officers**

Use your expertise and industry knowledge to question the "reasonableness" of real estate transactions (especially in certain markets). Question when you observe loan amounts exceeding property values. Ask questions about a property being the primary resident of the investor (many times it is not). How can the investor/purchaser be involved with multiple offers where owner occupancy is required? Be alert to contract addendums with exorbitant fees going to third parties. Think and ask questions, don't merely complete application forms.

Ask questions and don't blindly accept the claim that a loan involves a refinance, when in fact the transaction actually is an initial purchase acquisition.

Don't pressure or influence appraisers to so narrowly restrict their assigned Scope of Work resulting in their subsequent reports being meaningless, misleading or fraudulent.

## **Appraisers**

Don't be misled by individuals that may want to supply you with HUD 1 forms as a means of sale verification for comparables. Find your own comparables. Common sense should tell you that if someone provides copies of HUD 1 forms, they may be too closely

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### UTAH COUNTY TECH FAIR & SALT LAKE BOARD TECHNOLOGY TRADE SHOW

Recently, the Division attended both the Utah County Board Tech Fair and the Salt Lake Board Technology Trade Show. The Division had four representatives Amanda Orme-Mortgage Education Coordinator, Ken Benson-Real Estate Investigator, Craig Livingston-Real Estate Investigator and Tiffeni Wall-Real Estate Education Coordinator along with Michael Rice from Utah Interactive (the state's coordinator for on-line services) fielding questions and concerns regarding continuing education (CE), CE banking, on-line renewal, and a plethora of education and licensing questions.

Thanks to those who had such great questions! Each show had a great turn out with a lot of positive feedback. They were both great events.

It was a great opportunity for Division staff to interact and dialog with Real Estate practitioners. Thanks to everyone for their hard work in the Real Estate industry!

# Have You Wondered How Many CE Hours You Currently Have?

You open today's mail, and to your surprise it's time to renew your license with the Utah Division of Real Estate. You realize you have some continuing education credits, but you may not have the entire CE necessary for you to complete your license renewal. As you prepare to renew on-line you can verify the number of CE hours by simply going on-line with Promissor. For all CE courses completed since January 1, 2006, you can verify your credits by following the instructions posted below:

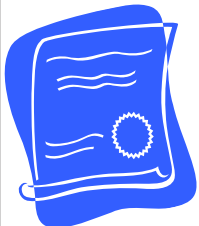
## Promissor CE Banking

- Go to [www.promissor.com](http://www.promissor.com)
- Click on "Continuing Education Services" (located under the services title)
- Click on "Find a Continuing Education Registry Licensing Look-up"
- Scroll down to Utah Real Estate, then click go
- Click on "Licensee Course Transcripts"
- Enter in your license number (Important Note: Remember that you must include the "dash" between license numbers and letters, and that "zeros" follow "SA" i.e. 575732SA00), or your Social Security number and your last name
- A complete list of the CE courses that have been banked by the providers will show in a printable list

If there is a discrepancy in your CE hours please contact the course provider

\*Reminders: If you are a CE provider you must bank student CE hours within 10 days of having taken the course. Providers must contact Promissor to get a user ID and password.

This list ONLY includes courses taken since 1/1/06. Previous courses will NOT BE BANKED. Pre-2006 Division approved courses can be used (if within the two years of your licensing period). You will need to enter into the on-line licensing system the specifics (course title, continuing education provider, number of CE credit hours, course completion date, and CE course certification number), for courses attended in 2005.



## Are you in need of a license history certificate of licensure or duplicate license?

Requesting a license history, certificate of licensure or a duplicate license has never been easier!

Log on to [www.realestate.utah.gov](http://www.realestate.utah.gov) click on Licensing, Real Estate forms/Mortgage forms/Appraiser forms and scroll down to General: Send the appropriate form along with a \$10 fee to the Utah Division of Real Estate by fax, mail or hand deliver to our office.

## So...When is a Change Card Required?

Several different types of brokerage or mortgage company "organizational changes" are represented below. Each scenario will be presented and then a discussion of how and why a change card is or is not required.

### Situation 1 – A real estate brokerage or mortgage company changes its name

The Broker (real estate), or PLM (mortgage), completes the necessary name change requirements with both The Department of Corporations, and The Division of Real Estate. For additional information on this process please go to [www.corporations.utah.gov/pdf/forms/howtoamend.pdf](http://www.corporations.utah.gov/pdf/forms/howtoamend.pdf).

Please note: In this situation the Real Estate Broker (real estate), or PLM (mortgage) remains with the same brokerage or company, under its "newly approved" name.

A single change card and \$25 fee is required to change the name of the brokerage or mortgage company. No change cards transferring sales agents or the Principal Broker (real estate), or Mortgage Officers or the PLM (mortgage) are required, since the only change occurring in this scenario is the name of the brokerage or mortgage company. The Principal Broker or PLM maintains the previous relationship between his/her licensees. Of course, as Agents or Mortgage Officers transfer either to or from that brokerage or mortgage company, completed change cards would be required.

### Situation 2 – A real estate brokerage or mortgage company changes ownership

The Principal Broker (real estate) or PLM (mortgage) would need to complete the necessary ownership change requirements with the Department of Corporations, and provide evidence of this ownership change to The Division of Real

Estate. For additional information on this process please go to [www.corporations.utah.gov/pdf/forms/howtoamend.pdf](http://www.corporations.utah.gov/pdf/forms/howtoamend.pdf). Please note: In this scenario only the owner(s) are changing. The Principal Broker remains with the same brokerage, and/or the PLM remains with the same mortgage company, just under new ownership.

No change cards are required. No change cards transferring Sales Agents or the Principal Broker; or Mortgage Officers or the PLM are required, since the only change occurring in this scenario is the owner. The Principal Broker or PLM maintains the previous relationship between his/her licensees. Of course, as Agents (real estate), or Mortgage Officers (mortgage) transfer either to or from that brokerage or company, completed change cards would be required.

### Situation 3 – Principal Broker leaving a brokerage, "new" Principal Broker fills vacancy or PLM leaving a mortgage company, "new" PLM fills vacancy

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#### ***F ACT OR FICTION?***

A Mortgage or Real Estate licensee has a 30 day "grace period" after their license expires?

**FICTION!** If a licensee fails to renew their license, it immediately expires! The licensee has 30 days to renew their license without taking an additional 12 hours of reinstatement education. A \$50 late fee is required along with a change card and activation fee of \$15 if a licensee is going "active". If "inactive", only the \$50 late fee is required. During this 30 day period no licensed activity may occur since their license has expired.

## *Welcome to our new Board Members and Commissioners*

### *Appraiser Licensing and Certification Board Members*



**Ronald M. Smtih**

Ron Smith is a Provo native who was educated at BYU and began appraising in the late 1970's. After serving as Utah County Assessor, he joined the State Tax Commission, currently working as the Appraisal Education Coordinator.



**Ambria L. Spencer**

Ambria attended the Real Estate School in 2002 and worked as a part time trainee for 3 years and became a full time Licensed Residential Appraiser in 2005. She is currently preparing to become a Certified Residential Appraiser. Ambria and her husband Todd who is a Certified Residential Appraiser, both own their own appraising companies here in Salt Lake County. She is also the mother of 5 children that keep her very busy. Since all 5 of them race motocross, she spends a lot of time at the race track. She stays busy with other activities such as

wake boarding and karate. Ambria and her children are all working towards their black belt.

Ambria says she is very excited to serve and grateful for the trust that has been given to her as a Board Member. "My hopes and intentions for serving on the Board are to do my part in keeping the appraising industry professional, admirable and well respected."

### *Residential Mortgage Regulatory Commissioner*



**Butch Dailey, GRI, CRS**

Butch Dailey is a 21 year veteran of the Real Estate profession and holds the National Association of REALTORS® GRI and CRS designations in advanced education. He is the Principal Broker and Co-Owner of RE/MAX Associates, an award winning Brokerage in the Salt Lake City area with over 100 agents and 3 office locations. Throughout his career he has served both locally and nationally in many capacities, including President of the Salt Lake Board of REALTORS® in 2000, Professional Standards Committee both with Salt Lake Board of Realtors® and the Utah Association of REALTORS®, VP Governmental Affairs for the Utah Association of REALTORS® and has served on the Legislative Committee for the past 5 years.



Most recently Butch has served as the 2004 President of the Utah Association of REALTORS® and is now serving as a National Estate Commission.

Director representing Utah in The National Association of REALTORS®, additionally Butch serves on the Strategic Planning Committee of The National Association of REALTORS®. Butch has made many contributions to the Real Estate industry and has numerous accomplishments. He was instrumental in establishing the Legal Resource Center and Technology Help Line for the members of the Utah Association of REALTORS®. Butch has been the recipient of several awards including, the prestigious RE/MAX Chairman's Circle Award, Broker Owner of the Year for the RE/MAX Mountain States Region in 2003 and was chosen as Utah Association of Realtors®, Realtor® of the Year for 2004. Butch is married to Connie Dailey, an escrow officer with Paramount Title Company, together they have six children.



## Kay R. Ashton

In 1978, while attending the University of Utah, he became a licensed real estate agent. He graduated from the University of Utah in 1981. Kay worked at Badger-Jensen Realtors® for seven years, specializing in marketing foreclosed properties. In 1985, then Commercial Security Bank (now Key Bank), hired him to help manage and market bank owned properties. A year later he was managing a mortgage branch for the bank. When he left Key Bank in 1996, he was the State Manager of the Mortgage Department. After a short stint with Academy Mortgage as the Northern Region Manager, he was recruited by Home Loan Corporation, a Texas based mortgage banker, to open a Utah mortgage operation. Home Loan currently has three branches in Utah: Bountiful, Cedar City and Orem. Kay has been on the Board of Directors for the Utah Mortgage Lenders Association (UMLA) the past twelve years. He has twice served as the President of the UMLA. He assisted in writing both the Mortgage Licensing and Principal Lending Manager (PLM) exams. Prior to being appointed to the Real Estate Commission, he was an Alternate Commissioner on the Mortgage Commission. He and his wife Heidi reside in Centerville. They are the proud parents of four children.



### *Real Estate Commissioners*



## Gary R. Hancock

Gary comes to the Real Estate Commission with 33 years of experience in the profession. Nearly 30 of those years as a broker with Century 21 Golden Spike Realty in Sunset, a suburb of Ogden. Having served as chairman and members of both local and state committees, and being Weber North Davis Association of Realtors® 2000 President, served 6 years on WNDARS Board of Directors, as well as Utah Association of Realtors® Board for 6 years. He was Treasurer for both WNDAR and UAR for 2 years each. Served on many Presidents Advisory Groups on both levels. He is committed to the excellence of licensees in the Real Estate profession and looks forward to four

*Licensing Actions  
and Disciplinary  
Sanctions*

\*Pursuant to Utah Code 63G-4-106 and 107, all administrative disciplinary actions commenced over 10 years ago and certain actions over 5 years are not accessible online, but may be provided in response to a GRAMA request.

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involved in that sale in order to use that as an "arms length" comparable for which they may well be a principal. Sharing (sometimes manipulated) HUD 1 forms is a common means whereby "investors" are going throughout the state "supporting" unsupportable property values. Don't blindly accept comps from interested parties.

As a part of these investor scams, the Division observes and regularly investigates appraisals that have been restricted to the point that the results of the report have been rendered misleading and/or fraudulent.

The new URAR form report requires a detailed identification of the Scope of Work for the appraisal assignment. Communication and direction from and between the client and the appraiser is an integral and often on-going process. Such communication is essential in order to establish most of the information necessary for problem identification. If, at the direction of the client, the cost approach is eliminated from the report, the appraiser needs to make an affirmative determination if the reporting of the assignment has been narrowed to the point that in the final report the conclusions have been rendered meaningless. Remember: The 2006 USPAP indicates that an appraiser may not so narrow the Scope of Work to such a degree that the assignment results are not credible.

Properties that have been used in "flips" are in effect perpetuating their own highly inflated comps for subsequent "flips."

Closely verify and confirm the listing history on any comparable you use. Many properties have been purchased and placed back on the market without any significant improvement, re-listed at many thousands of dollars (in some cases several times the original value).

Although Utah Administrative Rules require you to analyze and report a three-year listing history on only the subject property, we encourage you to go the extra mile to protect yourself by checking the listing history on comparable sales.

Once again, this article is intended to increase the awareness of our licensees regarding loan fraud and investor schemes.

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**\*Pursuant to Utah Code 63G-4-106 and 107, all administrative disciplinary actions commenced over 10 years ago and certain actions over 5 years are not accessible online, but may be provided in response to a GRAMA request.**



### **FACT OR FICTION?**

Associate Brokers or office managers can sign Change Cards?

**FICTION!** The Principal Broker and/or Branch Manager must sign the Change Card.



*continued from page 1*

## ***What Constitutes Undue Influence on Appraisers***

1. We need comps for (property description) that will support a loan \$ \_\_\_\_\_; can you provide them?
2. Sales Price: \_\_\_\_\_.
3. Approximate (or minimum) value needed: \_\_\_\_\_.
4. Amount needed: \_\_\_\_\_.
5. Owners estimate of value: \_\_\_\_\_.
6. If this property will not appraise for at least \_\_\_\_\_, stop and call us immediately
7. Please call and notify if it is NOT possible to support a value at or above \_\_\_\_\_, BEFORE YOU PROCEED!!!

Whether the lender requests a "comp check", "preliminary appraisal", or some other similar term; these types of conditions are unacceptable because they preclude an appraiser's impartiality. Such conditions destroy the objectivity and independence required for the development and communication of credible results.

An appraiser's Scope of Work or content of the report would be limited to such a degree that the results would not be credible, or would be misleading.

An appraiser should carefully consider the information provided by the client in a prospective assignment before accepting or declining the assignment. Appraisers, like other professionals, must ensure that those who use their services recognize the amount of work required, and the expertise needed, to develop a credible value conclusion about a property.

Appraisers and users of appraisals should recognize that assignment limitations affect the reliability of an appraiser's opinions and conclusions. While a client may feel that offering preference in current or future assignments on the

basis of "making the numbers work" in a specific assignment is appropriate, attaching such a condition to an assignment compromises an appraiser's impartiality and destroys the appraiser's credibility.

Some suggested responses by appraisers to the list of lender requests for service include:

"I will need to research the market to know whether the 'comps' will support a value range relative to the loan amount. In doing this, I will be deciding which sales are 'comps' and what those 'comps' mean. Those decisions will result in a range of value for your prospective borrower's property, which is an appraisal."

"You will need to recognize that there are risks in this kind of assignment. You should realize that my value conclusion could change if I subsequently perform an appraisal. Under the research and analysis limitations you suggest, I would not have verified some of the data and would have to use extraordinary assumptions about the market data and your borrower's property information. I would not have performed some of the analyses steps I might complete in an appraisal assignment without those limitations. If all of that is agreeable to you, we can proceed."

"As long as the sales price indicated on this request is only to inform me of the pending contract (or the sale price) and is not a condition for your placement of this assignment with me, we can proceed. However, if that amount is a condition of this assignment, accepting an assignment under that condition violates professional ethics."

Note: A sale price (in a pending or a settled transaction) is part of the information an appraiser is required to ascertain in accordance with USPAP. Receiving this information with a request for service is appropriate, but accepting an assignment with the price in an agreement of sale, or a sale price in a settled transaction as a predetermined value in the assignment violates USPAP.

Appraisers are professionals trained in their field of expertise. Any attempt to influence an appraiser's objectivity is inappropriate and should be discontinued. The integrity of

the real estate industry becomes compromised when any one of the associated industries (real estate, mortgage or appraisal) lose their independent professional objectivity

The Division discourages any attempts to influence appraisers from rendering their objective professional opinion of market value of properties.

For a more complete discussion of provisions contained in this article, see Advisory Opinion 19 (AO-19) of the 2006 USPAP.



# What is Reinstatement CE?

## Your license has been expired for over 30 days, what do you do?

By rule, an additional educational requirement is imposed upon licensees who allow their licenses to expire for more than 30 days.

### REAL ESTATE Administrative Rule R162-3.6.4

After this 30-day period and until six months after the expiration date, the license may be reinstated by meeting all of the conditions for renewal and, in addition:

- a) paying a non-refundable late fee and a non-refundable reinstatement fee;
- b) submitting proof of the 12 hours of continuing education that is required to renew a license and the 12 additional hours of continuing education required by Section 61-2-9(2)(c)(ii); and
- c) if the licensee will be actively licensed, submitting the forms required by the Division to activate a license.

3.6.4.1 Additional Continuing Education Hours for Reinstatement. Courses that have been approved by the Division of continuing education purposes in the following topics will be acceptable toward the additional 12 hours of continuing education required for reinstatement by Section 61-2-9(2)(c)(ii): agency, contract law, the Real Estate Purchase

*continued on page 19*

### Licensee Statistics

As of September 30, 2006

- **REAL ESTATE**

Sales Agents	14,533
Principle Brokers	2,237
Associate Brokers	1,174
Branch Brokers	202
Dual Brokers	74
Property Management Brokers	23
Real Estate Companies	2,599
Pre-license Schools	13
Pre-license Instructors	50
CE Instructors	396
CE Providers	352
CE Courses	750
Inactive Sales Agent	3,999
Inactive Associate Brokers	61
Inactive Principal Brokers	323

- **MORTGAGE**

Mortgage Lending Officers	6,788
Principal Lending Managers	1,117
Associate Lending Managers	132
Mortgage Companies	1,047
Pre-license Schools	16
Pre-license Instructors	55
CE Providers	60
CE Instructors	116
CE Courses	358
Inactive Individuals	2,717
Inactive Entities	277

- **APPRAISERS**

Certified General Appraisers	356
Certified Residential Appraisers	650
Licensed Appraisers	179
Trainees	425

## ADMINISTRATIVE RULES

### RECENTLY ENACTED

#### **Appraiser Rules**

##### **R162-102-3. Renewal.**

102.3.4 Renewal while on active military service. An appraiser who is unable to renew a license or certification because active military service has prevented the completion of the appraiser's required continuing education may submit a timely application for renewal that is complete, except for proof of continuing education, and may request that the application for renewal be held in suspense pending the completion of the continuing education requirement. 6/28/06

102.3.4.1 The appraiser will have 120 days after completion of active military service to complete the continuing education required for the renewal and submit proof of the continuing education to the Division. 6/28/06

102.3.4.2 An appraiser may not act as an appraiser in Utah after the expiration of the appraiser's current license while the appraiser's application for renewal is held in suspense by the Division pending the completion of military service and the completion of the continuing education required for renewal. The appraiser may not act as an appraiser in Utah until the appraiser submits proof of completion of the required continuing education and the appraiser's application for renewal is processed by the Division. 6/28/06

##### **R162-103-7. Continuing Education Course Certification.**

103.7.5 Courses that are approved for continuing education credit for real estate sales agents, real estate brokers, mortgage officers licensed by the Division are not acceptable for appraiser continuing education credit unless they have been previously approved by the AQB. 11/23/06

##### **105.4. Trainee Status after Revocation, Surrender, Denial, or Suspension of License or Certification.**

105.4.1 Trainee Status after Revocation, Surrender, Denial of License or Certification. Unless otherwise ordered by the Board, an appraiser whose appraiser certification or license has been revoked by the Board, whose application for renewal of a certification or license has been denied by the Board, or who has surrendered a certification or license as a result of an investigation by the Division, may not serve as a trainee for a period of five years after the date of the revocation or surrender nor may a licensed or certified appraiser employ or supervise the former appraiser in the performance of the activities permitted trainees for that same period of time. 6/28/06

105.4.2 Trainee Status while License or Certification is Suspended. Unless otherwise ordered by the Board, any appraiser whose appraiser license or certificate has been suspended by the Board as a result of an investigation by the Division may not serve as a trainee during the period of suspension. While an appraiser is suspended a licensed or certified appraiser may not employ or supervise the suspended appraiser in the performance of the activities permitted trainees. 6/28/06

107.1.6 Splitting appraisal fees with any person who is not a State-Licensed Appraiser or a State-Certified Appraiser, except that an appraisal trainee may be paid reasonable compensation proportionate to for lawful services actually performed in connection with appraisals. Such payment must be paid to the trainee by the trainee's supervisor or the supervisor's appraisal firm and not by any other person or entity. 11/23/05



**Mortgage Rules**

**R162-204. Residential Mortgage Record Keeping Requirements.**

**R162-204-1. Residential Mortgage Record Keeping Requirements.**

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: 04/05/06

- (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.

10/01/02

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) 04/05/06

**R162-205-1. Residential Mortgage Unprofessional Conduct.**

(g) in the case of a principal lending manager, failing to exercise reasonable supervision over the activities of any unlicensed staff of the entity.

04/05/06



*Staff Spotlight*

Board Secretary

and

Office Manager

**Renda Christensen**

Renda Christensen is the Board Secretary and Office Manager for the Utah Division of Real Estate. She is responsible for many different functions and duties. As the Board Secretary she attends all Commission meetings for the Appraiser Licensing and Certification Board, Residential Mortgage Regulatory Commission and Real Estate Commission. She records these meetings and prepares monthly minutes of what transpires. Renda keeps all the Commissioners and Board members "in the loop" for upcoming hearing schedules and public sessions.

Renda has been with the Division for three years. In her many duties she is required to approve invoices for accounting, complete refund transactions, purchasing, CE audits, and sending out hearing notices. Renda also reviews applications and renewals for applicants who answer "yes" to any criminal questions. She assists candidates who have had previous criminal histories retrieve records for further Division review. Of all her many duties Renda enjoys working with the Commissioners the best. Through her position as the Board Secretary she finds it most rewarding to see the process of rule making and regulations being upheld.

As Renda reflects over her duties, she would advise all applicants to read instructions thoroughly, gather all the necessary documentation to assure your application is complete, and most of all, don't be afraid to ask questions.

Renda has been the recipient of the "Who's Who of Women Executives" in 1989-1990 for her hard work in juggling five public corporations.

The Division would like to thank Renda for all her hard work and dedication to our industries.



*Admin Rules continued page 17*

## Real Estate Rules

### R162-2-2. Licensing Procedure.

2.2.4.1. Candidates for the license of sales agent will successfully complete 90 classroom hours of approved study in principles and practices of real estate. Experience will not satisfy the education requirement. Membership in the Utah State Bar will waive this requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education taken while completing a college undergraduate or postgraduate degree program, regardless of the date of the degree, or by virtue of other equivalent real estate education if the other real estate education is taken within 12 months prior to application.

10/24/05

2.2.4.2. Candidates for the license of associate broker or principal broker will successfully complete 120 classroom hours of approved study consisting of at least 24 classroom hours in brokerage management, 24 classroom hours in advanced appraisal, 24 classroom hours in advanced finance, 24 hours in advanced property management and 24 classroom hours in advanced real estate law. Experience will not satisfy the education requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education taken while completing a college undergraduate or postgraduate program, regardless of the date of the degree, or by virtue of other equivalent real estate education if the other real estate education was taken within 12 months prior to application.

10/24/05

2.2.9. Qualifications of License Applicants. An applicant for a new license may not:

6/21/06

(a) have been convicted of, entered a plea in abeyance to, or completed any sentence of confinement on account of, any felony within five years preceding the application; or

6/21/06

(b) have been convicted of, entered a plea in abeyance to, or completed any sentence of confinement on account of, any misdemeanor involving fraud, misrepresentation, theft, or dishonesty within three years preceding the application.

6/21/06

2.2.10 Qualifications for Renewal. An applicant for license renewal, or for reinstatement of an expired license, may not have, during the term of the applicant's last license or during the period between license expiration and application to reinstate an expired license, been convicted of, or entered a plea in abeyance to, a felony

6/21/06



## FHA Anti-Flipping Rules Go Into Effect

*(Article courtesy of ALQ  
Real Estate Intelligence Report)*

FHA's anti-flipping rules have gone into effect with the hope of curbing mortgage fraud and predatory lending abuse. Under the rules:

- A home sale that occurs within 90 days after its acquisition will not be eligible for a FHA-insured mortgage.

- Re-sales occurring between 91 and 180 days will be allowed, provided that the lender obtains an additional appraisal from an independent appraiser based on a re-sale percentage established by FHA.

- Re-sales occurring between 90 days and one year will be subject to a requirement that the lender obtain additional documentation to support any dramatic increase in the property value.

Some investors complain the rules will hamper legitimate business deals, but no exemptions have been issued.





### DRE's Most Common Mistakes on Change Cards

- Change cards not complete or information missing.
- Missing Licensee signature.
- \$15.00 fee required for activation not included.
- Missing signature of the PLM/Principal Broker and licensee.
- Not submitting the necessary continuing education documentation when going from "inactive" to "active" status (if inactive at previous time or renewal).
  - \* Real Estate requires 12 hours of CE
  - \* Mortgage requires 14 hours of CE
- What the licensee is attempting to change is unclear.
- Forgetting to check all appropriate boxes.
- Sending multiple change cards with the same information.
- Forgetting to mark "Inactive" or "Active" (or vice versa).
- Forgot to complete both sides of change card. ✎

### What is reinstatement CE?

*continued from page 15*

Contract and other state-approved forms, ethics, Utah law and closing/settlement.

### **MORTGAGE**

207.3.4.2 After the thirty day period, and until six months after the expiration date of the license, a licensee may apply to reinstate a license by completing all of the renewal requirements, including the continuing education requirements, paying a non-refundable late fee, and providing proof of successful completion of 12 hours of continuing education in addition to that required for a timely renewal on active status. ✎

*continued from page 7*

### **So...When is a Change Card Required?**

Both Principal Brokers (the broker "leaving" the company, and the new "replacement" broker) would need to complete a change card personally transferring their licenses to their respective new companies. This situation is identical for principal lending managers. Other than the need for both principal brokers (or PLMs for mortgage companies) to complete personal change cards, the only other change cards that would need to be completed would be for any licensees departing the brokerages or companies where they are currently licensed, or for individual licensees to go inactive. Agents maintaining their affiliation with their current brokerage and new Principal Broker *do not need to complete a change card.* The same is true of Mortgage Officers maintaining their affiliation with their current mortgage company and new PLM not needing to complete a change card.

All other changes (licensee name or address, company transfer, license status, Principal or Branch Broker, PLM, etc.) require a completed change card. Change cards are located on our website at [www.realestate.utah.gov](http://www.realestate.utah.gov). A completed change card must be submitted to the Division (via U.S. Mail, hand delivered, or faxed). The effective date of these changes will be the date **completed change card is received by the Division**

A completed change card is differentiated from an "incomplete" change card in that it includes appropriately completed spaces, includes the necessary CE (if previous license renewal was renewed "inactive" you must submit 14 hours CE – Mortgage, and 12 hours CE – Real Estate), and fees (going from inactive to active requires a \$15.00 fee), and is signed by the licensee and their PLM or Principal Broker. ✎

*Don't get duped continued from page 13*

People involved in these schemes have little concern for the licensing ramifications that befall our licensees. Be alert. Be informed. Ask questions. Be aware of your instincts indicating possible "red flags". Don't allow yourself to be drawn into questionable transactions. ✎

**Department of Commerce  
Division of Real Estate  
PO Box 146711  
Sale Lake City UT 84114-6711**

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