

# Utah! DIVISION of REAL ESTATE NEWS

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

Jon M. Huntsman, Jr., Governor • Francine A. Gian, Executive Director • Mark B. Steinagel, Division Director

January 2009

Volume 4 -- Number 1

## Appraisers Afforded Access to On-Line Real Estate License Management System (RELMS)

In September of 2007 the Division announced the introduction of the On-line RELMS system for real estate and mortgage licensees. Appraiser rules recently passed now authorize appraiser licensees access to the services offered by RELMS.

We anticipate that appraiser licensees renewing their licenses beginning in March of 2009 will be able to perform the on-line licensing functions available to real estate and mortgage licensees since March 2007 including:

- Renew their license on-line
- Update their mailing and physical address
- Change Supervisor/Trainee affiliation
- Order a duplicate license
- View completed continuing education courses (CE banking for appraiser CE courses taken after January 1, 2009)
- View and order a license history

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## New Real Estate Broker Curriculum and Exam

Real estate sales agents who wish to become associate or principal brokers are required to complete a Division approved 120 hour pre-licensing course and pass a brokers exam. The course of study and the exam have remained essentially unchanged for a number of years.

The Division and Real Estate Commission determined that the existing broker course should be redesigned in order to insure that broker candidates are better prepared to face the realities and challenges of running a real estate brokerage. A course that combines both licensing principles as well as practical applications and fundamentals was sought.

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## From the Director's Desk

### What Has The Division Done For You Lately?



Mark B. Steinagel

Elected officials are often reminded that voters don't want to know what the elected officials have done for them, but what elected officials have done for them lately. With that same principle in mind, what has the Division done for its licensees lately?

#### ***Enforcement***

Division staff regularly hears that you want the bad licensees in your industry disciplined. In fiscal year 2008 (July '07 until June '08) the Division took 402 disciplinary actions against individuals, including 152 revocations and 72 fines. Those 402 actions are an increase from only 144 in fiscal year 2007. The Division is increasing efforts against bad licensees. Our goal for the coming years is to increase the speed of our case resolution, which is currently taking around 12 months.

#### ***Education***

*Real Estate.* The Division spearheaded an effort with the Real Estate Commission and dedicated real estate licensees to overhaul real estate broker education. Until recently, broker applicants retook the 90 hours of education taken for the sales agent license, with only an additional 30 hours of broker-specific information. Now the curriculum focuses more on what a broker needs to know (see article on page 1).

*Mortgage.* The Division and Residential Mortgage Regulatory Commission recently convened an education committee to review the prelicensing education taken by mortgage applicants. The committee will soon make recommendations to the Commission regarding the knowledge new mortgage licensees need and the number of hours they should spend in prelicensing education.

*Appraisal.* Last year, the educational requirements for new appraiser applicants increased significantly. This year, appraisers will begin to experience the benefits of online banking of education credits and online license renewal experienced by the Division's other licensees (see article on page 1).

#### ***Licensing***

With the exception of appraiser licenses, which must go through more extensive review processes, licenses are still processed, on average, within one business day. With quick processing times and increased efficiencies, Division staff can focus on providing a higher level of personalized customer service. I receive calls more often from people happy with our service than I do from those who are not, an unusual fact when business researchers have proven people are more likely to share negative experiences than positive ones.

Division staff is working to improve the service it provides to the public and to licensees. Customer service is always important, but is even more important in today's market. We commit that the Division will strive to make things easier on the good guys and harder on the bad guys. If you would like to read more about progress made by the Division, you may access the Department of Commerce's annual report (including the Division's section) at <http://www.commerce.utah.gov/report08.pdf>



*continued from page 1*

**New  
Real Estate Broker  
Curriculum and Exam**

This past February the Real Estate Commission organized an education committee comprised of practicing real estate brokers and educators, to evaluate the existing curriculum, and make recommendation on what relevant topics and principles should be taught in the broker’s course of study. This committee made specific curriculum modification recommendations to the Commission, which promptly approved the committee’s recommendations. The revised broker curriculum outline can be found on the Division’s website at [www.realestate.utah.gov](http://www.realestate.utah.gov).

In addition, the existing broker exam needed to be changed in order to reflect the modified broker curriculum that was recently approved. The new exam will have significantly more questions than the existing test. Greater emphasis will now be placed on the Utah state law portion of the exam which will include new questions on the application of licensing principles. The Utah State Law test component will expand from 60 to 110 questions. The new broker exam will include a total of 195 questions (including both the general and Utah state law sections)

With the new year comes both a new real estate broker pre-licensing curriculum and examination. The Division and Commission are pleased that these changes will offer significant improvement to the instruction broker applicants will receive. Due to the changes to the broker curriculum outline, beginning January 1st sales agent and broker students will no longer take any of their pre-licensing courses in a combined classroom setting. The education for sales agent and broker students are now unique “stand alone” courses.

We are confident that the revisions to the broker course will offer candidates an insightful and meaningful educational experience. Any comments you wish to provide regarding the revisions to the broker course curriculum and/or exam would be appreciated.

**[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



*continued from page 1*

## Appraiser's On-line Renewal

Enabling appraisers to access and receive the same electronic services provided real estate and mortgage licensees has been a goal of the Division since the inception of On-line RELMS. Recent rule changes and the resolution of some industry specific technological challenges now allow the Division to offer these enhanced services for appraiser licensees.

All licensees (real estate, mortgage and appraisers) will soon be able to personally monitor and change information regarding their license in a prompt and efficient manner.

Changes made by licensees using On-line RELMS will be reflected in the Division's database (and website) the next business day.

A reminder regarding the procedure to establish your own On-line RELMS account are as follows:

- Visit the Division's website at [www.realestate.utah.gov](http://www.realestate.utah.gov)
- Click on "On-line Real Estate License Management System."
- Click on "Create New Account" (if you have not already done so) and follow the on-line instructions. You will receive a confirmation/activation e-mail to complete the activation of your account.

Thank you for your cooperation as this new service becomes available for appraisers. We appreciate the broad industry acceptance of this electronic license management system. Approximately 75% of all mortgage and real estate license renewals are now completed on RELMS.



*Here are a few examples of real estate forms on the DRE web site:*

*Forms are updated on a regular basis.*

*Please check to make sure you are using the correct form*

### **Education Forms:**

Continuing Education Instructor Application  
Continuing Education Instructor Renewal  
Continuing Education Course Application  
Continuing Education Course Renewal  
CE Banking Complaint Form

### **Real Estate Broker:**

Broker Experience Documentation Form  
Broker Verification Form  
Broker Transaction Log  
Broker Property Management Log

### **State Approved Forms:**

Real Estate Purchase Contract (REPC)  
Blank Addendum  
FHA/VA Addendum  
Assumption Addendum to REPC  
Buyer Financial Information Sheet  
Seller Financing Addendum to REPC  
Survey Addendum to REPC  
Disclosure & Acknowledgment - Lead Based Paint  
Lead-Based Paint Addendum  
Real Estate Purchase Contract for Residential Construction  
Uniform Real Estate Contract  
All-Inclusive Trust Deed  
All-Inclusive Promissory Note Secured by All-Inclusive Trust Deed  
Standard Supplementary Clauses

[http://www.realestate.utah.gov/realestate/real\\_forms.html](http://www.realestate.utah.gov/realestate/real_forms.html)

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## Mortgage Records: Protecting Consumers' Private Information

Recently, individuals have notified the Division of Real Estate of abandoned mortgage files. Division investigators have been shocked to find boxes thrown into dumpsters or abandoned in storage units or commercial space when a mortgage entity changes locations or goes out of business.

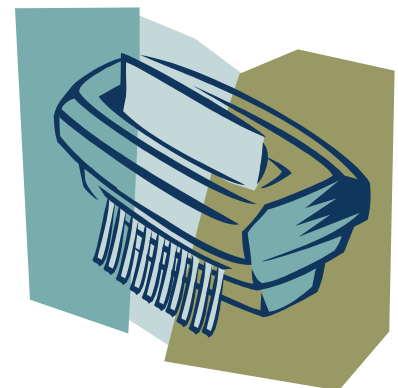
Each mortgage broker and lender knows of the sensitive information a single mortgage file contains. Abandoned records are very concerning to the Division of Real Estate for many reasons, including:

1. **Protection of the Public.** Mortgage records contain personal information that is sensitive. A single file allows another individual to easily perpetrate identify theft.
2. **Division Investigations.** Mortgage records are required to be kept by mortgage licensees in order for the Division to properly investigate complaints. Abandonment prohibits the Division from effectively researching complaints.
3. **Waste of Division Resources.** The Division is proactively acquiring records that are abandoned so the public is protected and the Division can properly investigate complaints. Time spent by investigators “dumpster diving” is time not spent on other investigations. In addition, the Division does not have a large storage repository or shredding capabilities and must pay for storage and shredding.

Utah's law requires the storage of mortgage records for four years in most instances. (See UT Code Ann. Section 61-2c-302) Any licensee who abandons files prior to the required period of time will be subject disciplinary action.

Though Utah law discusses mortgage records retention, it does not discuss proper record disposal. The Division and Residential Mortgage Regulatory Commission are developing rules governing proper disposal of records that have been kept the appropriate amount of time under the law and are ready for destruction. Please use common sense about the safe, secure storage of mortgage records.

Thank you to the mortgage licensees, as well as real estate, appraiser, and timeshare licensees, who continue to protect consumer information. To those who do not, the Division will seek to discipline you. Please contact the Division if you would like to report abandoned records or if you have questions about proper storage and disposal of your records.



# EXTENDED HOURS. EXTENDED SERVICE.

BEGINNING MONDAY, AUG. 4, 2008  
OUR OFFICE HOURS ARE CHANGING

EXTENDED HOURS TO BETTER SERVE YOU:  
**MONDAY - THURSDAY | 7 am to 6 pm**

**CLOSED FRIDAYS!**

Utah Department of Commerce

Division of Real Estate

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are available to you by visiting [www.utah.gov](http://www.utah.gov)**



GLOBAL NEEDS. LOCAL SOLUTIONS.

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# KAGIE'S KORNER

Many times each month Van receives questions like these from the mortgage industry.

**Q:** How can loan officers, or associate lending managers be compensated for doing loans?

**A:** Statue 61-2c-201(7) reads: "A mortgage officer may not receive consideration for transacting the business of residential mortgage loans from any person or entity except the principal lending manager with whom the mortgage officer is licensed."

**Q:** Can I be paid as a 1099 or do I have to be W-2? Or can a loan officer or associate lending manager set up a company entity such as an LLC, PC, or S-CORP to have their commissions paid too? Can a mortgage officer set up a marketing company to run their loans through?

**A:** Statue 61-2c-201(8) reads: "A mortgage officer shall conduct all business of residential mortgage loans: (a) through the principal lending manager with which the individual is licensed; and (b) in the business name under which the principal lending manager is authorized by the division to do business.

The Division has no regulation governing the tax status of a mortgage license. Speak with your tax advisor to determine your tax status.

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



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Debra Sjoblom  
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***If you have an appraiser, mortgage or real estate question you would like answered by the Division please e-mail us and we will feature some in our next newsletter.***

***e-mail; [tiffeniwall@utah.gov](mailto:tiffeniwall@utah.gov),  
subject line; newsletter question***

## 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.*

COON, TERRY V., State-Certified Residential Appraiser, West Jordan, UT. Agreed to pay a \$2,500.00 civil penalty and take a 14 hour USPAP course in a September 24, 2008 Stipulation and Order. Mr. Coon violated the Competency Rule of USPAP by using comparable properties that were outside the subject's area and neglected using comparables that were available within the subject's immediate neighborhood. Mr. Coon did not have full access to sales and listing data necessary in selecting those properties that would be considered the best comparables for an appraisal report. Case # AP40597, AP40364.

LANG, TERRIANNE TOVEY, State-Certified Residential Appraiser, Saratoga Springs, UT. After a hearing before the Board, Ms. Lang was ordered to provide within 30 days of the October 9, 2008 Order, an appraisal log of all appraisals performed since December 31, 2005 for all appraisals performed in the cities of Draper, Alpine, and Provo, Utah, to the Division's Director of Enforcement. Case # AP37648.

LUTZ, DAVID M., State-Licensed Appraiser, South Jordan, UT. Agreed to pay a \$7,500.00 civil penalty and take a 14 hour USPAP course in an October 22, 2008

Stipulation and Order. Mr. Lutz violated several USPAP Standards, Rules, and Statutes in appraising a subject that ultimately increased the value of property inappropriately. The subject property was a tear down and was rebuilt as a two-story 4,000 square foot home. Most of the properties in the neighborhood were predominantly mid-1950 construction. Mr. Lutz used comparables from far superior neighborhoods, failed to make the appropriate adjustments in the URAR, failed to use similar homes from the subject's area and neighboring areas with similar construction, to bracket the subject in determining value; and used improper methods and techniques in selecting criteria for the sales comparison approach in the appraisal report which resulted in an inaccurate option of value. Case # AP40608.

MESSER, DAVID, State-Certified Residential Appraiser, St. George, UT. The Division entered a default order against Mr. Messer for failing to show to a Board hearing scheduled on August 27, 2008, in a September 29, 2008 Amended Default Order. The Division imposed a \$50,000.00 civil penalty for numerous violations of the Utah Code and mandated that Mr. Messer not reapply to be a State-Certified Appraiser for five years after the fine has been paid. If Mr. Messer chooses to reapply after the waiting period for a certified appraiser license, a hearing will be held. Case # AP31190, AP31194.

SAMIMI, KAMYAR, State-Certified Residential Appraiser Applicant, Salt Lake City, UT. Mr. Samimi failed to appear at a scheduled October 22, 2008 hearing. His State-Certified Residential Appraiser application was denied in an October 27, 2008 Default Order.

### 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.*



BJORNN, ERIC, Mortgage Officer License Applicant, Salt Lake City, UT. Application for mortgage officer license granted but immediately suspended until Mr. Bjornn pays a \$5,000.00 civil penalty in full for multiple acts of unlicensed activity in a November 20, 2008 Order on Application. From October 2006 through February 2008, Mr. Bjornn worked as mortgage officer without a mortgage license and closed multiple transactions.

BREWER, CHARLES, Mortgage Officer License Renewal Applicant, Salt Lake City, UT. Based on a DUI conviction, the application for mortgage officer license was granted but placed on probation for the entire renewal licensing period in an October 29, 2008 Order.

BURKHALTER, ERIC, Mortgage Officer License Applicant, San Diego, CA. Application for mortgage officer was granted and probationary status removed based upon the Division's reassessment and evaluation of Mr. Burkhalter's past criminal history, the Commission concluded that Burkhalter is entitled to an unrestricted license in a November 4, 2008 Amended Order.

CORREA, ANGELA, Mortgage Officer License, West Jordan, UT. Agreed to pay a \$5,000.00 civil penalty and to the revocation of her mortgage officer license for a two year period in a September 3, 2008 Stipulation and Order. Ms. Correa submitted a fraudulent loan file. She was aware that the employment listed was incorrect but continued with the application even after realizing that it was fraudulent. If Ms. Correa reapplies for a mortgage officer license after an imposed two-year wait period, a hearing will be held. Case # MG40644.

DALRYMPLE, FERNANDA, Mortgage Continuing Education Instructor Renewal Applicant, Holladay, UT. Based on an alcohol-related reckless driving conviction, Dalrymple's renewal application for mortgage continuing education instructor was granted but placed on probation for the entire renewal licensing period in a November 4, 2008 Order.

DEAL, JOSHUA, Mortgage Officer License Applicant, Woods Cross, UT. Application for mortgage officer license granted but placed on probation for the entire

initial licensing period in a October 1, 2008 Order, based on an unlawful methods of fishing conviction and for previously being denied a mortgage officer license due to 15 other convictions. Mr. Deal has waited the appropriate amount of time to reapply for his license.

DOWNS, JOHN, Principal Lending Manager Applicant, North Las Vegas, NV. Application for principal lending manager granted but placed on probation the entire initial licensing period in a October 1, 2008 Order, based on an alcohol-related conviction and recent arrest for a similar charge.

GILMORE, ALEK, Mortgage Officer License Applicant, Eagle Mountain, UT. Application for mortgage officer license granted and the revocation is reversed in a September 11, 2008 Order, for having a reasonable good faith belief that there was no criminal history to be disclosed.

REIMANN, HEATHER, Mortgage Officer License Applicant, Sandy, UT. Conditional license issued on February 14, 2006 was revoked for failing to disclose a conviction. In an October 1, 2008 Amended Order on Appeal, the Division reversed its decision and Ms. Reimann's application was granted for having a reasonable good faith belief that there was no criminal history to be disclosed.

REYNOLDS, STACEY, Mortgage Officer License Renewal Applicant, Draper, UT. Renewal application for mortgage officer license granted but placed on probation the entire renewal licensing period in a October 29, 2009 Order for entering into a plea for a domestic assault charge.

SANTOLI, MICHAEL, Principal Lending Manager Applicant, Scottsdale, AZ. Based on Santoli's entering into a drug diversion program, his application for principal lending manager was granted but placed on probation for the entire initial licensing period in a November 4, 2008 Order.

SCADDEN, TANNER, Mortgage Officer License Applicant, West Haven, UT. Application for mortgage officer license denied and a minimum ten year wait period for reapplication imposed, based on egregious

*Disciplinary Sanctions Continued from page 9*

conduct, in a September 24, 2008 Order. Mr. Scadden violated the terms of a past Stipulation and Order with the Division by failing to meet the payment schedule as agreed; failed to comply with two valid subpoena requests from the Division; forged signatures of certain parties on a Real Estate Purchase Contract and other documents; and failed to disclose to a lender in a home transaction that he was the seller's boss and providing the down payment amount for the transaction. Scadden's past license history included a separate disciplinary Stipulation and Order with the Division for employing an unlicensed individual to transact residential mortgage loans and another disciplinary Stipulation and Order for engaging in false or misleading advertising.

SPAIN, WILLIAM, Principal Lending Manager Renewal Applicant, Scottsdale, AZ. Due to a DUI conviction, renewal application for principal lending manager was granted but placed on probation for the entire renewal licensing period in a November 4, 2008 Order.

TAYLOR, BENJAMIN, Principal Lending Manager, Midvale, UT. Agreed to pay a \$5,000.00 civil penalty and the revocation of his principal lending manager license for a two year period in a November 5, 2008 Stipulation and Order. Mr. Taylor admits that he took at least three applications for mortgages where the borrowers told him that they had no intention of living in the homes they were purchasing. Mr. Taylor submitted these loans as owner occupied to the lender. Case # MG39179.

THOMPSON, JULIE, Principal Lending Manager, Ivins, UT. Agreed to pay a \$30,000.00 civil penalty, revocation of her principal lending manager license for a five year period, and full and timely cooperation with the Division in a November 5, 2008 Stipulation and Order. Ms. Thompson instructed her loan processor to change the "cost breakdowns" for New Construction loans for real estate projects in order for borrowers to obtain more favorable financing terms. She states that she was instructed by the loan officer from the bank to lower the cost breakdowns as it was the bank's policy to only lend 80% of the appraised

value of the construction project. Subsequently, the building contractor depleted the construction funds prior to the completion of the structures. Case # MG34654.

THORNTON, COFREY I. (CEBALLOS), Mortgage Officer License, Magna, UT. Agreed to pay a \$50,000.00 civil penalty, revocation of her mortgage officer license for a period of five years, and will not have any ownership, management, or affiliation with any mortgage company, mortgage processing company, real estate office or appraisal company in a November 5, 2008 Stipulation and Order. Ms. Thornton originated a loan for a borrower named Jazmin Castaneda. It was determined that the borrower was fictitious and that fraudulent documentation was created and used which included employment, income, pay stubs, Verification of Employment, Social Security Number, and Social Security card to obtain approval for the loan. Ms. Thornton occupied the property mentioned when the loan closed. It was alleged that because she had poor credit due to a prior bankruptcy, a loan could not be obtained using her own credit. Additional complaints were received from a former mortgage broker and two mortgage lending officers who completed audits and found fraudulent documents in their loan files. If she reapplies for a new license after five years, a hearing will be held. Case # MG21978.

USCATEGUI, JORGE, Mortgage Officer License, West Jordan, UT. Agreed to pay a \$3,000.00 civil penalty, have his mortgage officer license suspended for three months, and placed on probation until June 30, 2009, in a September 3, 2008 Stipulation and Order. Mr. Uscategui admits he attended a mortgage loan closing for one of his mortgage transactions. The first title company he went to would not complete the closing due to the fact that he was using a State issued driving privilege card that could not be used for identification for a Utah Government Entity. He went to another title company who accepted the Drivers Privilege card as identification and they closed the transaction for him. Case # MG29667.

WARNER, TROY, Principal Lending Manager Renewal Applicant, South Jordan, UT. Based on convictions of

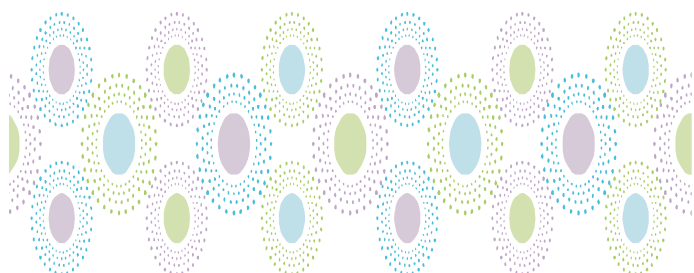
simple assault, domestic violence and child abuse/neglect, Warner's renewal application for principal lending manager was granted but placed on probation the entire renewal period in a September 3, 2008 Order.

WARREN, RANDY, Mortgage Officer License Applicant, Gunnison, UT. Application for mortgage officer license granted but placed on probation for the entire initial licensing period in a October 1, 2008 Order for pleading guilty to four counts of failing to deliver vehicle titles.

WILSON, SCOTT, Mortgage Officer License Renewal Applicant, Riverton, UT. Renewal application for mortgage officer license granted but placed on probation for the entire term of renewal in a October 29, 2008 Order for entering into a plea on charges of lewdness. Mr. Wilson must provide a copy of this Order to any principal lending manager with whom he affiliates.

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
BEACHAM, RYAN	11/03/2008
QUINTERO, NORMAN	11/20/2008
REDA, WISAM	11/20/2008
ROESNER, MANFRET	11/03/2008
SHEPHERD, CHRISTY	11/03/2008
WHITTAKER, DAVID	11/03/2008



## 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.*

### REAL ESTATE CORRECTION

COLVIN, TERRI D., Principal Broker, Sandy, UT. In the October 2008 newsletter it was reported that Ms. Colvin: "Agreed to pay a \$10,000.00 civil penalty the revocation of her principal broker's license, and to not be affiliated with ProStar Realty Group." Ms. Colvin was actually required by the order to be affiliated with ProStar Realty, in addition to the other actions taken. Case # RE31569

ADAMS, JAMIE G., Principal Broker, Sandy, UT. Agreed to pay a \$20,000.00 civil penalty, to revocation of his principal broker's license, and to not reapply for a real estate license for a five year period in a September 17, 2008 Stipulation and Order. Mr. Adams, along with sales agent Douglas Reynolds, were affiliated with Century 21 McAfee Realtors and were also responsible for the property management clients of the brokerage. Both Mr. Adams and Mr. Reynolds sent unauthorized letters under Century 21 McAfee's letterhead and without the broker's knowledge, to Century 21 McAfee tenants informing them that the "management division" was separating from the "sales division", moving to a new location, and that all rent payments should be made to Five Star Management, LLC. The letters also expressly stated that rent payments sent or brought to Century 21 McAfee may not be credited properly. Mr. Adams and Mr. Reynolds cut Century

*Disciplinary Sanctions Continued from page 11*

21 McAfee's Property Management Trust Account checks, totaling in excess of \$30,000.00 and signed by Mr. Adams, and were made payable to current tenants for the full amount of their security deposits. Instead of delivering the checks to the tenants, the checks were endorsed "for deposit only" and deposited to an account styled "Security Deposit Trust Account" in the name of Five Star. Five Star was not licensed, nor was Mr. Adams as Five Star's principal broker, until a later date (after these events had transpired). All tenant security deposits have been returned to Century 21 McAfee Realtors. Case # RE41341.

ANDREINI, JOE, Sales Agent Renewal Applicant, Salt Lake City, UT. Renewal application for sales agent license granted but placed on probation the entire renewal licensing period in a October 29, 2008 Order for entering a plea to "drinking in or about a vehicle" conviction.

ATKINSON, TYLER, Sales Agent Applicant, Logan, UT. Due to several driving, contempt of court, and alcohol-related convictions, Atkinson's application for sales agent license was granted but immediately suspended for one year in an October 7, 2008 Order. Atkinson may be placed on probation following suspension, assuming no convictions or criminal problems occur during the one year suspension period.

BARNHART, PEARL, Sales Agent Renewal Applicant, Draper, UT. Renewal application for sales agent license granted but placed on probation the entire renewal licensing period in an October 29, 2008 Order, due to a debt collection being filed against her.

BARRETT, LINDSEY, Sales Agent Applicant, Provo, UT. Based on two separate alcohol-related charges, Barrett's application for sales agent license was granted but immediately suspended for 30 days and then placed on probation the entire initial licensing period in a November 4, 2008 Order.

BERNISON, CHAZ, Sales Agent Renewal Applicant, Midvale, UT. Renewal application for sales agent license granted but placed on

probation the entire renewal licensing period in an October 29, 2008 for a reckless driving conviction.

BROWN, JORDAN, Sales Agent Applicant, Salt Lake City, UT. Application for sales agent license granted but placed on probation the entire initial licensing period in a October 1, 2008 Order for failing to disclose to the Division an unlawful possession of alcohol by a minor conviction.

CAMPBELL, BELINDA GAIL, Principal Broker, Wellsville, UT. Agreed to pay a \$1,200.00 civil penalty and take six hours of Core Topic continuing education in a November 19, 2008 Stipulation and Order. At audit, it was determined that Ms. Campbell was short six hours of core topic courses, as affirmed at the time of license renewal. Case # RE38446.

CORTEZ, ALEXANDRA, Sales Agent Renewal Applicant, Draper, UT. Application for sales agent license granted but placed on probation for the entire renewal licensing period in an October 29, 2008 Order for entering into a plea for simple assault.

CRAM, JOSHUA, Sales Agent Renewal Applicant, Hurricane, UT. Renewal application for sales agent license granted but placed on probation the entire renewal licensing period in an October 29, 2008 Order for driving on a suspended license.

DAWSON, MICHAEL, Principal Broker, Park City, UT. The Division entered a default order against Mr. Dawson who failed to appear for two separate hearings scheduled on October 15, 2008 in a November 6, 2008 Order. Based on testimony and evidence submitted at the hearing against Dawson, the Division imposed a \$56,000.00 civil penalty, revocation of his principal broker license, and a five year minimum wait period to reapply for any type of professional license from the Division. Case pending on appeal. Case # RE31157, RE21076.

DEAN, HEATHER, Sales Agent Renewal Applicant, Ogden, UT. Renewal application for sales agent license granted but placed on probation the entire renewal licensing period in an October 1, 2008 Amended Order

for entering into a plea for unlawful possession of alcohol or a controlled substance by a minor.

DURAN, CAESAR, Sales Agent Applicant, Orem, UT. Application for sales agent license granted but placed on probation the entire initial licensing period in a November 4, 2008 Order based on a lewdness conviction.

HADLEY, JUSTIN, Sales Agent Renewal Applicant, Lindon, UT. Based on a DUI conviction, renewal application for sales agent license granted but placed on probation the entire renewal licensing period in an October 29, 2008 Order.

HANSON, BRADLEY, Sales Agent Renewal Applicant, Plain City, UT. Renewal application for sales agent license granted but placed on probation the entire renewal licensing period in an October 29, 2008 Order for entering into a plea for domestic violence assault.

HARBAUGH, JAMES, Sales Agent, St. George, UT. The Division entered a default order against Mr. Harbaugh who failed to appear for a hearing scheduled on October 15, 2008 in a November 6, 2008 Default Order. The Division imposed a \$17,500.00 civil penalty, revocation of his real estate license, and a minimum five year wait period to reapply for any type of professional license from the Division, based on charges that Harbaugh failed to disclose and materially misrepresented the condition of a home to a buyer of his personal residence. Case # RE40871.

HARBAUGH, LISA, Sales Agent, St. George, UT. The Division entered a default order against Ms. Harbaugh who failed to appear for a hearing scheduled on October 15, 2008 in a November 6, 2008 Default Order. The Division imposed a \$12,500.00 civil penalty, revocation of her real estate license, and a minimum five year wait period to reapply for any type of professional license from the Division. Ms. Harbaugh failed to disclose to her client material defects that she knew or should have known existed in a residential property owned by her husband. Case # RE35946.

HOFFMAN, SUANNE, Associate Broker, Highland, UT. Agreed to pay a \$1,500.00 civil penalty in a September 15, 2008 Stipulation and Order. Ms. Hoffman was contacted by a buyer's agent with a request to increase the listing price of her seller's property on the WFRMLS. She agreed to raise the listing price and made the change on the WFRMLS. The buyer's agent prepared and sent a REPC/Addenda to Ms. Hoffman without the buyer's signature/date in Section 24, for presentation to the sellers. Ms. Hoffman noted the contingencies but failed to notice that section 24 had not been signed/dated by the buyer. She presented the unsigned/undated REPC. The seller's counteroffer was prepared and was accepted. Case # RE24449.

JACOBSON-VANDAM, PEGGY, Sales Agent Renewal Applicant, Tooele, UT. Renewal application for sales agent license granted but placed on probation the entire renewal licensing period in an October 7, 2008 Order based on an unresolved licensing issue with the Division of Occupational and Professional Licensing regarding her nurse's license.

JORGENSEN, ROBERT, Sales Agent, Orem, UT. Agreed to pay a \$5,000.00 civil penalty, the voluntary surrender of his sales agent license, and to not reapply for a real estate license for a two year period, in a November 19, 2008 Stipulation and Order. Mr. Jorgensen, along with his mentor, helped owners that were in or near default work out possible short sales with the banks to save their credit. Mr. Jorgensen acted on poor advice from his mentor, allowing two contracts on one property; one the bank knew about for \$245,000.00 and that was simultaneously closed for \$268,000.00 wherein the mentor would collect the extra \$23,000.00 for profit. When the property closed, he represented across the MLS that the property closed for \$268,000.00; however, Mr. Jorgensen's broker was only aware of the first transaction for \$245,000.00. Case # RE40650.

JUSTENSEN, LARRY, Associate Broker Renewal Applicant, Kaysville, UT. Due to an alcohol-related reckless driving conviction, renewal application for associate broker license granted but placed on probation the entire renewal licensing period in a November 4, 2008 Order.

*continued on next page*

*Disciplinary Sanctions Continued from page 13*

LISKA, BRITANI, Sales Agent Applicant, Salt Lake City, UT. Application for sales agent license granted but placed on probation for the entire initial licensing period in a November 4, 2008 Order for a possession of alcohol by a minor conviction.

MICKALSON, JEFFREY, Sales Agent Renewal Applicant, West Point, UT. Renewal application for sales agent license granted but placed on probation the entire renewal licensing period in an October 29, 2008 Order for a disorderly conduct conviction.

NAYLOR, DARYL, Sales Agent Renewal Applicant, Sandy, UT. Renewal application for sales agent license granted but placed on probation for the entire renewal licensing period in an October 1, 2008 Order for a DUI conviction and failing to appear at a scheduled court hearing.

PARADES, JOSE, Sales Agent Applicant, Salt Lake City, UT. Application for sales agent license granted but placed on probation the entire initial licensing period in an October 1, 2008 Order for driving through a police barricade, failure to appear, no proof of auto insurance, driving without a license and driving on a suspended license.

POST, JOHN, Sales Agent Renewal Applicant, Kamas, UT. Renewal application for sales agent license granted but placed on probation the entire renewal licensing period in an October 29, 2008 Order for entering into a diversion agreement for sexual battery.

REEVE, ROGER W., Principal Broker, Murray, UT. Agreed to pay a \$12,500.00 civil penalty, revocation of his principal broker license, and the issuance of an inactive sales agent license in a September 17, 2008 Stipulation and Order. Mr. Reeve was the principal broker of Clareo Property Management and allowed two of his unlicensed assistants to operate and enter into property management agreements without exercising reasonable supervision over these activities. The Property Management Trust Account was not used to hold rental income or security deposits on behalf of the property management company's clients, which resulted

in many clients not being paid. Mr. Reeve must provide a copy of the Stipulation and Order to any principal broker with whom he affiliates his license. Case # RE36385.

REYNOLDS, DOUGLAS S., Sales Agent, Taylor, UT. Agreed to pay a \$20,000.00 civil penalty, to a revocation of his sales agent license, and to not reapply for a real estate license for a ten year period in a September 17, 2008 Stipulation and Order. Mr. Reynolds, along with sales agent Jamie Adams, were affiliated with Century 21 McAfee Realtors and were also responsible for the property management clients of the brokerage. Both Mr. Reynolds and Mr. Adams sent unauthorized letters under Century 21 McAfee's letterhead and without the broker's knowledge, to Century 21 McAfee tenants informing them that the "management division" was separating from the "sales division", moving to a new location, and that all rent payments should be made to Five Star Management, LLC. In addition, the letters expressly stated that rent payments sent or brought to Century 21 McAfee may not be credited properly. Mr. Reynolds and Mr. Adams cut Century 21 McAfee's Property Management Trust Account checks, totaling in excess of \$30,000.00 and signed by Mr. Adams, which were made payable to current tenants for the full amount of their security deposits. These checks were never given to the tenants; instead, they were endorsed "for deposit only" and deposited to an account styled "Security Deposit Trust Account" in the name of Five Star. Five Star was not licensed, nor was Mr. Reynolds licensed as Five Star's sales agent until a later date (after these events had transpired). Case # RE40343.

SMITH, REED, Sales Agent, Provo, UT. Agreed to pay a \$77,500.00 civil penalty, the revocation of his sales agent license, and wait a minimum of five years to reapply for any type of real estate license in an October 7, 2008 Order on Hearing. Mr. Smith had numerous violations of Utah Administrative Code in which he made false promises of a character likely to influence, persuade, or induce. He made substantial misrepresentation by making false promises through agents, advertising, or otherwise. Mr. Smith failed to verify the accuracy and content of listings, failed to obtain or provide both buyers and sellers with written

agency agreements, and failed to inform the principal broker on a timely basis of all the transactions in which he was involved and either received funds on behalf of the broker or in which an offer had been written. Mr. Smith also failed to keep and make available for inspection by the Division records of each transaction.

THOMPSON, JULIE, Sales Agent, Ivins, UT. Agreed to the revocation of her real estate license and a minimum five year wait period to reapply in a November 19, 2008 Stipulation and Order. Ms. Thompson entered into a Stipulation and Order agreement with the Division and the Residential Mortgage Regulatory Commission for her Principal Lending Manager License. Ms. Thompson instructed her loan processor to change the "cost breakdowns" for New Construction loans for real estate projects in order for borrowers to obtain more favorable financing terms. She states that she was instructed by the loan officer from the bank to lower the cost breakdowns as it was the bank's policy to only lend 80% of the appraised value of the construction project. Subsequently, the building contractor depleted the construction funds prior to the completion of the structures. If she reappplies for a new license after five years, a hearing will be held. Case # RE36176.

TROTTER, BART, Sales Agent Renewal Applicant, Cedar City, UT. Renewal application for sales agent license granted but placed on probation the entire renewal licensing period in an October 29, 2008 Order for simple assault and domestic violence convictions.

TURPIN, KHAMMONE, Sales Agent, Salt Lake City, UT. Agreed to pay a \$15,000.00 civil penalty, to a revocation of her real estate license, and five year minimum wait period for reapplication to the Division for a new license in a September 17, 2008 Stipulation and Order. Ms. Turpin made misrepresentations by creating false verifications of deposit to induce lenders to issue loans to two of her clients on at least three separate properties. In addition, she added three other persons to her personal checking account for purposes of showing a 12 month deposit history for those individuals. She also failed to respond and cooperate with the Division's

investigation. If Ms. Turpin reappplies for a new license after five years, a hearing shall be held. Case # RE36601.

VALCOURT, VIRGINIA, Sales Agent Renewal Applicant, Ammon, ID. Renewal application for sales agent license granted but placed on probation the entire renewal licensing period in an October 29, 2008 Order for entering a plea for illegal possession/use of a controlled substance and possession of drug paraphernalia.

VRANEK, GREGG, Sales Agent Renewal Applicant, Draper, UT. Renewal application for sales agent license granted but placed on probation the entire renewal licensing period in an October 29, 2008 Order for entering into a plea for domestic violence assault.

WECKER, JULIE, Sales Agent Renewal Applicant, Draper, UT. Based on two DUI convictions, renewal application for sales agent license granted but immediately suspended for 30 days and then placed on probation for the entire renewal licensing period in a October 29, 2008.

WHARTON, DAVID, Sales Agent, Provo, UT. Agreed to pay a \$10,000.00 civil penalty, the revocation of his sales agent license, and shall not reapply for a new license with the Division for a two year period in an October 15, 2008 Stipulation and Order. Mr. Wharton represented a borrower in the purchase of real property and had knowledge that the individual could not have qualified for the mortgage loan they received had the lenders been aware of the true terms of the transaction. He attended the closing knowing that the sole applicant on the loan was buying the property as a straw buyer using another party's income to qualify. Mr. Wharton knew that the borrower's income was considerably less than stated on the loan application submitted for approval. Case # RE41474.

*continued on next page*

*Disciplinary Sanctions Continued from page 15*

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
ALGER, MICHAEL	11/03/2008
ATKINSON, TYLER	11/03/2008
CROSBIE, SCOTT	11/20/2008
HANNON, MICHAEL	11/20/2008
KUKASWADIA, FAR	10/22/2008
YARTER, LISA	10/22/2008



## SAFE Mortgage Licensing Update

The Division of Real Estate continues to work with the Nationwide Mortgage Licensing System and Registry (NMLS&R) to prepare Utah mortgage licensees for full SAFE implementation. Division staff understand this congressional act has an impact on your livelihoods and the Division will work to make the changes as easy as possible for you.

Mortgage licensees who renewed in 2008 should have received a new license with an updated 2010 expiration date, along with a letter outlining some of the changes you will be facing. Please let us know if you have not.

Mortgage licensees who renew in 2009 should have received a letter explaining that your renewed license will be valid for a shortened period of time (until December 31, 2010). The majority of licensees who contacted the Division desired to receive a shortened license term (until the end of 2010) rather than have to register with NMLS&R sooner (end of 2009). We modified our implementation plan to match your wishes. Bottom line: your 2009 renewal will have no surprises, except that your renewed license will

## New Board Member



*Debra Sjoblom*  
*Appraiser Board Member*

I am excited to serve on the Appraisal Board. My real estate experience certainly has put me in daily contact with appraisers and I do have working knowledge of the process. I hope to learn more about the process and really become educated about all the challenges facing appraisers in today's market. I believe my background will be beneficial: to offer a slightly different point of view than that of an appraiser. I believe I am up to the challenge and look forward to it.

ONLY BE VALID UNTIL THE END OF 2010.

Upcoming newsletters will include information regarding the impacts to your licenses. You may also access information at [www.realestate.utah.gov/SAFE](http://www.realestate.utah.gov/SAFE).





## New Commissioner



***Stefanie Tugaw-Madsen***  
***Real Estate Commissioner***

I am excited to serve on the Real Estate Commission. I look forward to helping the industry further its goals of protecting the public and improving all aspects of our profession. In my short time serving, I am impressed with the care and dedication of the Director, the staff at the Division, and the other Commissioners. It is truly an honor to serve.

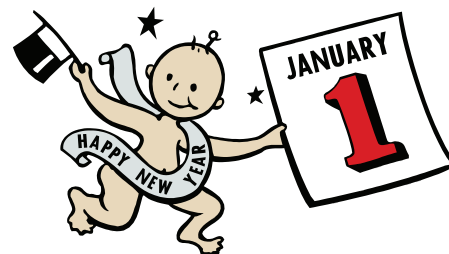
My real estate career began in 1996 and has been very rewarding personally. I have and am currently serving in one respect or another on the local, state and national level, being past president of the Brigham-Tremonton Board of Realtors and the Utah Association of Realtors. The best way I believe an agent can improve themselves is by getting involved in the industry, whether it be serving on a committee or getting further education to help them better understand the industry.



### *TOP TEN NEW YEAR'S RESOLUTIONS FOR LICENSEES*

10. Get Organized
9. Help Others Learn RELMS
8. Learn Something New To Enhance My Business
7. Update Address By Using RELMS
6. Attend A DRE Caravan
5. Become Familiar With Administrative Rules And State Statues
4. Complete Required Continuing Education By The 15th Day Of Them Month Of Expiration
3. Use Division Website:  
[www.realestate.utah.gov](http://www.realestate.utah.gov)
2. Use RELMS As Often As Possible

AND FINALLY THE NUMBER ONE  
NEW YEAR'S RESOLUTION.....



A New Year's resolution is something that goes in one year and out the other. ~Author Unknown

An optimist stays up until midnight to see the new year in. A pessimist stays up to make sure the old year leaves. ~Bill Vaughan

## Loan Modification & Short Sales Questions...Questions...Questions!

The Division has received several questions pertaining to loan modification (or re-negotiation), short sales, receiving compensation and licensing requirements. These questions and the Division's responses are included below:

**Q:** The instances of negotiating or re-negotiating the terms of a loan are increasing. Some refer to this procedure as a loan modification. Is it appropriate under Utah state law for a real estate licensee to perform a loan modification under Division rules?

**A:** The mortgage statute under Utah State Code 61-2c-102(1)(e) (i) reads:

“Business of residential mortgage loans means for compensation to:

- (A) make or originate a residential mortgage loan;
- (B) directly or indirectly solicit, place, or negotiate a residential mortgage loan for another; or
- (C) render services related to the origination of a residential mortgage loan including:
  - (I) taking an application; and
  - (II) communicating with the borrower and lender.”

In order to negotiate a closed-end, residential first mortgage, an individual or company must be licensed with the Division of Real Estate, or be exempt under Utah Code Annotated 61-2c-105. In other words, a real estate licensee may NOT perform the function of loan negotiation, re-negotiation or loan modification unless that licensee is also a mortgage licensee.

**Q:** Another question involves the practice of short sales. Utah Code 61-2-4 states that if an individual is going to buy, sell, lease, manage or exchange real estate for another, for valuable consideration, or offer to buy, sell, lease, manage, or exchange real estate for another, that individual must be licensed as a real estate licensee. Specifically, it appears that real estate licensees may participate in negotiating short sales. May mortgage officers also negotiate short sales?

**A:** The statutory description cited in this question broadly defines that short sale negotiation would fall under the legal job definition of a real estate licensee. Real estate licensees MAY perform the function of negotiating the sale of a property for their clients. NO such authority is granted to mortgage licensees.

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**Q:** May another real estate licensee perform a part of the short sale function? That is, could a so called “short sale specialist” perform a part of the short sale?

**A:** Yes, if that person is a real estate licensee also. This specialist would not need to be part of the same company as the listing agency. However the specialist would need to have the written permission of the property owner, and the listing agency. A disclosure should be made to the property owner, describing which person would perform which function. That is just a good business practice.

**Q:** Can the two different individuals described in the preceding question (both of which are real estate licensees) receive compensation? Could one licensee pay a referral fee to the other?

**A:** The answer to both of these questions is “yes”. Obviously all compensation must go through the principal broker, as required by state statute.

The ability for real estate licensees to pay a referral fee comes from HUD. RESPA Reg X, Section 3500.14(g) (v) is an exemption for real estate licensees, for what is referred to as section 8. Section 8 is a prohibition against kickbacks and unearned fees. This exemption, specifically does not apply to mortgage brokers. Real estate licensees MAY NOT pay a referral fee to a mortgage licensee.

HUD allows the payment of referral fees between real estate licensees. The State of Utah has no other requirements where the referral fee is concerned, except that it go through the broker.



## *Staff Spotlight*

### **Dave Mecham, Chief Investigator**

Dave Mecham came to the Division of Real Estate in 2004 as an Investigator. A 15-year veteran as an agent/broker, Dave has experience and expertise in the real estate industry. During his career in real estate Dave managed a real estate office with over 100 sales agents. During that time Dave was awarded the “Broad Listing Broker” contract for the disposition of assets for the United States Department of Housing and Urban Development (HUD), and sold thousands of houses throughout Utah during the seven years of his contract.

In December 2006, Dave was promoted as the Chief Investigator for the Division. Dave says he enjoys working with the licensees and assisting them to better serve the public. When asked what advice would he give to a newly licensed real estate agent, he said utilize the knowledge and experience of your broker.



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Division of Real Estate  
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