Utah Department of Commerce

# Division of Real Estate

Gary R. Herbert, Governor  Francine A. Giani, Executive Director  Jonathan Stewart, Division Director

*FIRST QUARTER 2014*

**Jonathan Stewart**

# DIRECTOR'S MESSAGE: 2014 LEGISLATIVE UPDATE

Another legislative session is behind us. Once again, the Division of Real Estate used this as an opportunity to make needed changes, fix identified problems, and update language. The Division's bill, House Bill 332, passed thanks to the work of Representative Gage Froerer and support from industry members. Representative Froerer sponsored the Division bill, and we are grateful for his continued support and interest in helping us make the changes we identify each year. This legislative session we made changes to the Real Estate Licensing and Practices Act, the Utah Residential Mortgage Practices Act, and the Real Estate Appraiser Licensing and Certification Act. The changes made in H.B. 332 will go into effect on May 13, 2014.

The following is a brief summary of the changes made in H.B. 332. For exact language please read the bill: http://www.le.utah.gov/~2014/bills/static/hb0332.html

**Real Estate Licensing and Practices Act**

- 61-2f-201 - Removes the requirement of 18 hours of continuing education for an inactive licensee who renews up to 30 days late.
- 61-2f-205 - Clarifies that the Division will mail or e-mail licenses to the licensee.
- 61-2f-308 - Allows a buyer's agent to contact a seller directly and perform certain duties as long as they receive written authorization from the listing agent or seller.
- 61-2f-410 - Requires a Principal Broker who allows their license to expire to notify all of their agents on the day of expiration.
- 61-2f-208 – Allows licensees to voluntarily surrender their license through a written agreement with the Division.

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- 61-2f-103 - Requires any state agency to receive concurrence from the Real Estate Commission for any rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed with the Division in relation to a real estate transaction between private parties. This change does not apply to Title 31A, Insurance Code, Title 7, Financial Institutions Act, or any division or rule-making body within the Department of Commerce.

- 61-2f-402 – Adds a statute of limitations for investigating complaints received by the Division:
    - 10 years from the date of the violation; or,
    - Four years from the date the Division receives the complaint.

**Residential Mortgage Practices and Licensing Act**

- 61-2c-102 – Clarifies that independent loan underwriters are required to be licensed.
- 61-2c-210 – Allows licensees to voluntarily surrender their license through a written agreement with the Division.

- 61-2c-402.1 – Adds a statute of limitations for investigating complaints received by the Division:
    - 10 years from the date of the violation; or,
    - Four years from the date the Division receives the complaint.

**Real Estate Appraiser Licensing and Certification Act**

- 61-2g-205 – Allows the Board to delegate to the Division the authority to act on an application solely based on criminal history.

- 61-2g-304.5 – Requires all new licensees and license upgrades to submit to a criminal back ground check.

- 61-2g-310 – Updates the requirements for a reciprocal license to be consistent with Appraisal Subcommittee Policy Statements.

- 61-2g-311, 61-2g-313, and 61-2g-314 – Removes all educational requirements from statute and requires that educational requirements be established in rule by the Board and Division that meet or exceed Appraisal Qualification Board criteria.

- 61-2g-311, 61-2g-313, and 61-2g-314 – Requires applicants to demonstrate general fit ness to command the confidence of the community.

- 61-2g-316 – Allows licensees to voluntarily surrender their license through a written agreement with the Division.

- 61-2g-501 – Adds a statute of limitations for investigating complaints received by the Division:
    - 10 years from the date of the violation; or,
    - Four years from the date the Division receives the complaint.

If you have any questions about these statutory changes, please contact the Division for additional information. We believe that of these changes increase protection of the public, are business-friendly, or reduce regulation on licensees.

# APPRAISER QUALIFICATION CRITERIA INCREASES JANUARY 1, 2015

*(Portions or Articles Reprinted from March 2012, September 2012, and March 2013)*

The Appraisal Qualifications Board (AQB) has enacted changes to licensing criteria that will take effect on January 1, 2015.

The following is a list of changes to qualification criteria that will be required for all appraiser candidates as of January 1, 2015. All candidates need to be aware and plan accordingly since there will be NO exceptions to the new AQB requirements after their implementation. These requirements include:

1. College level education will be required for all licensed appraisers – 30 semester credit hours from a college or university OR an Associate's degree or higher in any field.

2. College level education will be required for all certified residential appraisers – Bachelor's degree or higher in any field from an accredited college or university.

3. The Supervisory Appraiser and Appraiser Trainee Course has been approved and introduced in Utah. This course includes a combined six hour course including content from both the AQB and the Utah Appraiser Licensing & Certification Board. Completion is required for both trainees and supervisory appraisers.

Additional modifications to Utah's statute and administrative rules will be made as needed in order to bring them into compliance with the AQB requirements prior to January 1, 2015. These changes include:

1. Candidates for all new license credentials will be required to have a criminal background check. Existing credential holders shall not be required to have a criminal background check unless they apply for a new license credential.

2. No license will be issued if the applicant:

   a. has had an appraiser license or certification revoked in any governmental jurisdiction within the five (5) year period immediately preceding the date of application,

   b. has been convicted of, or plead guilty or nolo contendere to a felony (involving an act of fraud, dishonesty, or a breach of trust, or money laundering) during the five (5) year period immediately preceding the date of the application, or

   c. has had other criminal offenses, civil judicial actions, actions or orders by State or Federal regulatory agencies that negatively reflect on the character or general fitness of the applicant, such as to command the confidence of the community and to operate honestly, fairly, and efficiently with the purposes of these criteria.

3. All supervisors and trainees must attend the Supervisory Appraiser and Appraiser Trainee Course that follows the AQB approved course outline and has been approved by the Utah Division of Real Estate. Trainees will not receive experience hours for work performed after January 1, 2015 until both the trainee and supervisory appraiser(s) have attended the course.

4. Supervisory Appraisers shall:

   a. have been state-certified for a minimum of there (3) years prior to being eligible to become a Supervisory Appraiser;

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b. be in "good standing" (shall not have been subject to any disciplinary action in any jurisdiction for a period of at least three (3) years that affects the supervisory appraiser's legal eligibility to engage in appraisal practice);

c. comply with the Competency Rule of USPAP for the property type and geographic location that the trainee is being supervised; and

d. shall jointly, along with the trainee, be responsible for and maintain an appraisal experience log and ensure that the log is accurate, current, and complies with the requirements of the Utah Division of Real Estate.

Current supervisory appraisers (those who have signed and identified themselves as a supervisor on a trainee's registration application, and who have been functioning as a trainees supervisor before January 1, 2015), may continue to supervise those trainees that they have been supervising prior to January 1, 2015, even if they have not been a certified appraiser for 3 years. However, supervisory appraisers must comply with the 2015 requirements (three year Certification, see item a. above, and "good standing" rules, see item b. above), for any relationships commencing on or after January 1, 2015.

Some of the AQB changes have already been implemented within our existing Utah statutes and administrative rules. These changes include the following requirements:

1. Qualifying education and experience MUST be completed BEFORE sitting for the exam

2. The "segmented approach" for completing and satisfying licensing criteria has been eliminated

3. Appraisers are restricted from receiving credit for completing the same continuing education course more than once within a two-year licensing cycle

4. Certified general appraiser candidates are required to hold a bachelor's degree or higher in any field from an accredited college or university

5. Trainee qualifying education must be com pleted within the five (5) year period prior to the date of application for a trainee appraiser credential

6. Trainee appraisers are allowed to have more than one supervising certified appraiser.

# WELCOME ASSISTANT ATTORNEY GENERAL ELIZABETH HARRIS

The Division of Real Estate would like to welcome Assistant Attorney General Elizabeth Harris. Elizabeth has been practicing law for eight years and received her degrees from Brigham Young University. Elizabeth's knowledge and experience will surely make her an asset as she represents the Division of Real Estate in enforcement actions and administrative hearings.

Outside of work, Elizabeth loves spending time with her family, especially her three year old twins. She is an outdoor enthusiast and has spent much time exploring the great outdoors camping and backpacking. Her favorite trips include backpacking along the Nepali coast line in Kauai, HI and hiking the Subway down in southern Utah. Elizabeth absolutely loves to cook and travel the world tasting all the different delicacies that worldwide travel has to offer. We are so excited to have Elizabeth working here with the Division. Welcome Elizabeth!


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# CARAVAN 2014

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

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

## PLEASE READ!

There continues to be NO CHARGE to attend the Division CARAVAN. However, those who register and then fail to attend without cancelling their scheduled reservation at minimum five business days prior to the event, will be charged a **$25.00 'NO SHOW' fee.**

Please complete the online registration by logging onto: www.real-estate.utah.gov/caravan.html Provide your name, license number, location/date you wish to attend, along with a credit card number to reserve your seat.

**PARK CITY**
April 22, 2014
9:00 am - Noon
Park City Marriott
1895 Sidewinder Dr.

**LAYTON**
April 24, 2014
9:00 am - Noon
Davis Convention Center
1651 N 700 W

**VERNAL**
April 29, 2014
9:00 am - Noon
Springhill Suites Marriott
1205 W Highway 40

**LOGAN**
May 6, 2014
1:00 pm - 4:00 pm
Bridgerland Applied
Technology Center
1301 N 600 W

**PROVO**
May 8, 2014
9:00 am - Noon
Utah Valley
Convention Center
220 W Center St. #200

**RESERVE YOUR SEAT EARLY**

**MOAB**
May 13, 2014
9:00 am - Noon
Grand Center
182 N 500 W

**RICHFIELD**
May 14, 2014
9:00 am - Noon
Sevier County
Administrative Building
250 N Main St.

**CEDAR CITY**
May 15, 2014
9:00 am - Noon
SUU, Student Center -
Cedar Breaks Room
351 W University Blvd

**ST GEORGE**
May 16, 2014
9:00 am - Noon
Dixie State University,
Browning Learning
Center Dunford
Auditorium

**SEATING IS LIMITED**

**STAND-BY SEATING IS NOT GUARANTEED**

# LICENSING AND DISCIPLINARY ACTIONS

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

**To view entire stipulations and/or orders search here: http://realestate.utah.gov/actions/index.html**

## APPRAISAL

CARPENTER, JACK, certified residential appraiser. In a stipulated order dated February 26, 2014, Mr. Carpenter admitted to having made several errors in two appraisals and agreed to pay a civil penalty of $2500. He also agreed complete the 15 hour USPAP Course. Case number AP-12-58655 and Case number AP-11-57775

FOSTER, RAMON SCOTT, licensed appraiser. On December 17, 2013 Mr. Foster's application to sit for the certified residential appraiser examination was denied by the Utah Real Estate Appraiser Licensing and Certification Board for failure to appear at a hearing to re-examine his appraisal experience.

JACOBSEN, JACOB THOMAS, licensed appraiser. On February 27, 2014, Mr. Jacobsen's application to sit for the certified residential appraiser examination was denied. The Board determined that several errors were made in appraisals submitted for consideration to the experience review committee.

JENSEN, VAL C., certified residential appraiser. In a January 23, 2014, order, the Board denied Mr. Jensen's application to renew his state-certified residential appraiser license. Mr. Jensen disclosed in his application that the State of Idaho had revoked his license to practice in that state due to several violations of Idaho law and USPAP. The Board determined that Mr. Jensen has not demonstrated proof of the competency necessary to qualify for renewal of his certification. Case number AP-14-68915

MCGUIRE, NANCY, certified general appraiser. In a February 27, 2014, order, the Board denied Ms. McGuire's application for a temporary permit to practice as a state-certified general appraiser. The Board determined that Ms. McGuire's application failed to

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

*Division Director* . . . . . .Jonathan Stewart
*Editor/Contributor* . . . . . Mark Fagergren
*Contributor/Layout* . . . . . Mykah Travis
*Contributor* . . . . . Justin Barney
*Contributor* . . . . . Van Kagie

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*Utah Division of Real Estate*
*Department of Commerce*
*160 East 300 South (84111)*
*PO Box 146711*
*Salt Lake City, UT 84114-6711*
*(801) 530-6747 main line*

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# SELECTED CERTIFIED GENERAL APPRAISER COURSES CAN NOW BE SUBSTITUTED FOR SOME LICENSED OR CERTIFIED RESIDENTIAL QUALIFYING COURSES

In Utah, all aspiring appraiser candidates wishing to ultimately become a Certified Appraiser (either Residential or General), must initially become a Licensed Appraiser before they can become certified.

Since Utah appraisers must become Licensed Appraisers before they can become certified, they are required to take residential courses even if they wish to eventually become a primarily non-residential appraiser. Because of this circumstance, Certified General Appraiser candidates have been required to complete four qualifying residential courses that are fundamentally duplicative of four qualifying general courses they may have completed. These four courses are analogous or similar in many ways, other than the length of the courses. The courses are:

| Residential | General |
|---|---|
| Residential Market Analysis & Highest & Best Use - 15 hours | General APpraiser market Analysis & Highest & Best Use - 30 Hours |
| Residential Appraiser Site Valuation & Cost Approach - 15 Hours | General Appraiser Site Valuation & Cost Approach - 30 Hours |
| Residential Sales Comparison & Income Approaches - 30 Hours | General Appraiser Sales Comparison Approach - 30 Hours |
| Residential Resport Writing & Case Studies - 15 Hours | General APpraiser Report Writing & Case Studies - 30 Hours |

The Division has recently received permission from the Appraisal Subcommittee to allow any of the four general appraiser courses specified above (that have been AQB approved after January 1, 2008), to be substituted for the equivalent residential appraiser course (also listed above). Therefore, since February 26th of this year, any Licensed or Certified Residential Appraiser Candidate can now substitute the comparable Certified General course for the Certified Residential course as part of their qualifying education requirement.

Important note: None of the Certified Residential Courses substitute for the analogous Certified General Course for candidates desiring to become Certified General appraisers.

With this change, Certified General candidates will no longer have to complete both the parallel residential and general courses, which required them to complete an additional 120 hours of essentially duplicative education. Because Utah has required Certified General candidates to become Licensed Appraisers, they have had to complete 430 total qualifying education hours (rather than the 300 hours that CG candidates from other states have been required to complete). This important change constitutes a significant time and cost savings for future certified general appraiser candidates.

The Division is pleased that the long standing requirement which has posed a hardship on many Utah appraiser applicants for many years, has now been eliminated.

# 2013 MORTGAGE RENEWAL RECAP

We want to commend our licensees for the way they completed the renewal process this year. I think we can all agree that the renewal went a little smoother, approval time was quicker, and we are now all a little more familiar with how the NMLS system for renewal works. In case you are interested, here is how the numbers break down. We had 4,311 individuals eligible to renew. This number does not include those licensees who were new licensees from November 1 through the end of the year in 2013. Out of 4,311 individuals, 3,474 renewed on time. We had 844 entities which include companies and branches eligible to renew and 720 renewed on time. During reinstatement, which runs from January 1 through February 28, 248 individuals and 48 entities renewed their licenses during the reinstatement period. The final numbers show that we had 87% of our licensees renew for 2014. Of further interest is the fact that we currently have 4,901 licensed loan originators compared to 4,483 at this time last year.

We did learn some things from last year's renewal that we want to remind our licensees about in preparation for this year's renewal. Although that is a long time away, you may want to make note of these things:

1. You must complete your continuing education at least 10 days prior to the end of the renewal cycle in order to ensure an on time renewal. We had very few licensees fail to meet this requirement. For those who tried to push the time limit, some made it through but others were not so lucky and their licenses, unfortunately, expired.

2. The Division is not in control of the "renewal tab" that must appear on your filing for you to renew. The renewal tab will not be shown unless you have met all NMLS renewal requirements.

3. The NMLS system does not operate in real time 24/7. Additionally, the renewal period and reinstatement periods end based on Eastern Standard Time. The last day of renewal may end as early as 10:00 pm MST. Remember to pay attention to operating times posted in the NMLS.

4. Your next license renewal will require that you complete your 2-hour Utah Specific CE course in addition to the 8-hour NMLS CE before your renewal will be approved.

5. You will not need to submit a Verification of Legal Presence (social security verification form) unless there is a change in your driver's license number or registered alien status.

There was one other important change this year. Your newly renewed licenses were emailed to you at the e-mail address you had on file on you NMLS record. We hope this recent modification made receiving your license much quicker than in years past.

Thank you for a smooth license renewal period.

# STAFF SPOTLIGHT: JODIE CARTER

Real Estate Licensing Technician

The Division of Real Estate would like to welcome Jodie Carter as a new real estate licensing technician. Jodie has an extensive office administrative background. As a licensing specialist she helps real estate licensees with renewal and initial application questions along with many other duties.

Outside of work, Jodie is a fun loving mother to her two adorable kids. She enjoys watching her talented kids play soccer and loves taking them camping and hiking. Jodie is quite the athlete herself and loves to watch and participate in all sports. When Jodie isn't at work studiously studying our statues and administrative rules, you will probably find her cheering at soccer games or horseback riding through the mountains. Welcome Jodie!

# PROTECTING YOURSELF: AVOIDING SCAMS OR OTHER ISSUES LEADING TO VIOLATIONS

The Division's Enforcement section has noticed a trend over the last few months which could affect real estate licensees. This trend generally involves non-licensed individuals who will contact a licensee and ask the licensee to assist them in a transaction. The problem…if the licensee does what is asked by the "client", the licensee could very well face an action from the Division or be damaged by the transaction. Let's go over a couple of specific examples to help add color to this picture.

The first example involves a situation where an individual was attempting to contact licensees via email. In the email, the individual was asking for licensees to assist them in finding potential properties that the individual could purchase. The individual had a list of criteria regarding the type of property they were looking for. The individual, in the email, stated that if the licensee found a property matching the criteria, the licensee should complete a REPC in the individual's name. The individual also asked to have the real estate agent provide the funds to be used as earnest money. Once the property was under contract, the licensee could send the property information and REPC to the individual for review to determine if they wanted to move forward. If the individual wanted to proceed, they would reimburse the agent for the earnest money deposit. If not, the person would cancel the contract before the due diligence deadline so the agent could recover the earnest money.

Besides sounding ridiculous from the beginning, how could this be problematic for the licensee? First, under administrative rule R162-2f-401a(19), a licensee can only sign documents on behalf of a principal if they have a power of attorney to do so. Second, in order to submit an offer for the client, the licensee would need to have a written agency agreement in place under rule R162-2f-401a(5). Also, it could be misleading for the agent to provide the earnest money without the seller knowing the source of the funds.

The next example involves a transaction where a listing agent is contacted by a potential buyer on a short sale. The buyer offers to pay the listing agent monthly payments, but the buyer requires direct contact with the lender to negotiate the short sale. See any problems here?

First, if you are receiving compensation from the buyer directly, this must be disclosed to your seller and the seller's lender (R162-2f-401a[16]). Also, the payments would need to go through the broker, since agents cannot receive payments directly. Then there are potential problems and questions regarding whether an agent is upholding their fiduciary duty to their clients in allowing a buyer to have contact with the lender. How would it be in the best interest of the seller to have another party, who has differing motives than the seller, work directly with the seller's lender? Not to mention there is a chance the buyer would have access to the seller's personal information and information that may be confidential as far as negotiating power would go.

The last, and latest example, is an issue that arose shortly before, and during the time this article was being drafted. This may not be quite like the previous two examples, in that the agents may not be part of the direct issue. None the less, this example could cause financial loss to the brokerage, and could, indirectly, lead to issues with the Division. Be warned; there are variations of this issue, but I will highlight one specific version.

An individual claims to be out of the area (either out of state, or the country), and claims they have interest in buying a property. When asked about proof of funds, or asked about providing earnest money, the "buyer" provides a fraudulent check. The fraudulent check is deposited into the broker's trust account. Soon thereafter, the "buyer" asks for the earnest money to be returned as they have decided to cancel the purchase contract. After returning the earnest money, the brokerage trust account will actually be short once the fraudulent check from the "buyer" fails to clear and is debited from the account.

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# KAGIE'S KORNER

The Division has seen an increase in the number of calls and complaints regarding agents who have pulled property information directly from an MLS to place on their own websites, classified ads, and other forms of advertising. This is usually done by buyer's agents in an effort to attract buyers to use their services. Retrieving and using this information in and of itself is not the problem. There are however potential problems from this practice, which could lead to disciplinary issues with the Division of Real Estate.

One way agents get into hot water with the Division is by not keeping track of listing information and by failing to reflect the current MLS information when changes are made to the listing. Changes to the listing information need to be updated and reflected on any website or social media site the agent may be using. The price and a myriad of other relevant pieces of information found on the agent's website or advertisements need to be updated timely and currently to accurately reflect MLS information in order to not be misleading.

For example, on July 1, agent Neglectful gathers MLS listing information on 123 Main, Kagieville Utah, when the property was first listed on the MLS. Agent Neglectful was using the MLS listing to put information on his website to draw interest from buyers. Agent Neglectful forgets to monitor the MLS listing and fails to notice the property sells on August 31st. Nine months later, agent Neglectful's website still shows the property is for sale.

Based on these facts, agent Neglectful could be in violation of a number of statues and administrative rules, including, but not limited to: substantial misrepresentation; false representation via advertising; advertising the availability of real estate in a false, misleading, or deceptive manner; and, advertising without the written consent of the owner. The property is no longer for sale. Since it is no longer for sale, the listing broker cannot give permission to agent Neglectful to advertise the property. Also, agent Neglectful does not have a listing agreement with the current owners. Essentially, agent Neglectful has been advertising the property for nine months in violation of licensing statues and rules.

Another related issue occurs when an agent uses MLS listing information to advertise without including the listing brokerage information on the advertisements (e.g. stating the listing is "courtesy of …"), or the agent includes the listing brokerage information without including their own brokerage information. These situations could similarly lead to ads that are misleading or blind ads, respectively.

The Division suggests all licensees wanting to advertise property information based on MLS listing data should review their advertisements and websites on a regular basis to ensure incorrect or out-of-date information is not being used. As for brokers, it may helpful to review the brokerage's advertising policies with their licensees and ensure that agents keep the broker informed of and with direct access to their licensees' marketing strategies.

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(To view a specific version of this, you can review a recent article posted on KCSG's website, which is based in southern Utah: http://www.kcsg.com/view/full_story/24767241/article-Fraud-Alert-from-the-St--George-Police-Department?instance=more_local_news1)

Once these funds are debited from the trust account, the brokerage has fallen victim to fraud and the trust account will now be short. This can create a larger issue, in that the trust account will not be reconciled, and funds will need to be replaced. This obviously causes financial damage to the brokerage, and could lead to potential violations of the Division's statutes or administrative rules.

The Division would not like to see any of these things happen to our agents and brokers. Some of these problems are based more directly on the actions of licensees, but the last example is one where a brokerage could suffer harm as well.

Please be aware of issues such as these examples. If you see examples of this occurring, or if you have questions related to these types of transactions or similar circumstances, do not hesitate to contact the Division to get additional information. Hopefully we can all avoid having to deal with these types of issues.

# APPRAISER SUPERVISOR/ TRAINEE COURSE -REQUIRED IN 2014- FOR ALL SUPERVISORS & TRAINEES

The Appraisal Qualifications Board has created a new course of instruction for all currently existing and subsequent new appraiser supervisors and trainees. In addition, the Utah Appraisal Board desires that some additional topics (in addition to the AQB course curriculum) also be taught to supervising appraisers and trainees in Utah.

All supervising appraisers and trainees will be required to attend the Supervisory Appraiser and Appraiser Trainee Course before January 1, 2015. Any supervisor or trainee that fails to attend this course before the deadline will not be allowed to supervise or function as a trainee and receive experience hours until they have completed this required course.

As stated, the final curriculum for the six hour course includes information from both the Appraisal Qualifications Board (AQB) and the Utah Appraiser Licensing and Certification Board.

We are confident that the important information taught in this course will help both supervisors and trainees better understand their roles in the appraisal process. Common problems associated with Licensed appraisal applications will be discussed. Best practice issues will be explained. In summary, this course should help all parties better understand and meet expectations regarding supervising appraisers and their trainees.

Information on approved providers for the Supervisory Appraiser and Appraiser Trainee Course can be found on the Division website under the qualifying education course search at: http://realestate.utah.gov/education.html

Appraisers interested in teaching this course should contact the Division for further information.

# NEW CONTINUING EDUCATION REQUIREMENTS FOR ALL MORTGAGE LICENSEES

Please note, beginning this year, in addition to the 8-hour continuing education package you need each year to renew your license, you will also need to complete a 2-hour Utah Specific CE course. Utah laws are frequently changing, especially the administrative rules, so the Utah Mortgage Commission has decided to require a Utah Specific CE course as part of your continuing education requirement each year. The length of this course will vary depending upon the volume of changes in the preceding year. The course for 2014 will be for two hours and will cover the following: 30 minutes of statutory/rule updates, 75 minutes of case studies involving real-life examples that have come before the commission, and 15 minutes of Lending Manager responsibilities.

This course will be required to renew your license in 2014 for the 2015 year. In 2014, when you seek your license renewal, completion of this course will be verified by Division staff before your renewal will be approved. Providers will be banking this course for you. To find providers for this course, visit our website at: www.realestate.utah.gov and click on the Mortgage tab, view the aqua box "How to Renew," and then click on "New Division Renewal Instructions."

The Division will also be offering credit that fulfills the 2-hour Utah Specific Course requirement by attending the annual CARAVAN that the Division takes to various cities around the state. Further information on the Caravan is contained in this newsletter.

# DIVISION QUESTIONS &SUGGESTIONS

Do you have a questions you have been wanting to ask an investigator but have not had the time to call? Do you have questions about your license? We want to hear about your ideas and suggestions. All questions and suggestions will be anonymous. Selected questions will be answered in the next newsletter.

## Submit questions to: DRENewsletter@utah.gov

**Question:** I am writing about the article on page 11 of the 4th Quarter DRE newsletter regarding blind ad violations. The article states that 33-40% of the complaints last year were for advertising issues and those complaints are a strain on the Division's time and resources. I am wondering why the Division does not seek to educate licensees instead of resorting to fining agents. Why not have the Division use some very cost effective resources to EDUCATE agents about these things FIRST?

**Response:** To answer this question, it would be best to break this into two parts: enforcement issues and education issues.

For the enforcement issues, it is true that the sheer number of advertising complaints filed in the last year have created somewhat of a drain on resources we would rather allocate to cases which tend to be more serious in nature. The reality is, the Division's staff still has to deal with these complaints on some level when they are filed. The Division has attempted to educate agents in the past on advertising issues-more on this in a moment-but there still seems to be a large number of complaints related to advertising.

The Division views this as analogous to a speeding issue. When there are a number of reports about people speeding in a particular area, the police generally spend more time in that area to enforce the speed limit. This can be viewed somewhat to what the Division is looking to do. If resources are going to continue to be spent dealing with the complaints, the Division will continue to educate as best as possible, but will look to add additional sanctions in an effort to cut down on the problem. This is not the first response by the Division, but comes about after two or three years of trying to deal with the problem in other ways.

As for education issues, the Division does not sponsor a school and does not provide specific classes on topics. We leave those decisions to our licensed instructors for our state. If there is a subject that seems to be lacking on the education side, we would encourage licensees to contact any number of our wonderful educators and suggest specific classes which would be helpful to licensees.

Second, the Division attends industry specific events throughout the year to connect with agents. Also, the Division sponsors two events each year to speak with licensees and educators (our up-coming CARAVAN tour, and the Instructor Development Workshop each fall) in order to provide updates and information. Enforcement trends are specifically discussed in both of these events, and advertising concerns have also been discussed over the last two years at these events.

Lastly, over the last couple of years, the Division has contacted people specifically when advertising violations occurred. The Division either provided verbal explanations of the violations, or sent letters explaining the issues as well as common reasons licensees have had issues. All of this was done to educate on a case-by-case basis, but it has not seemed to slow the problem.

Hopefully this gives a little more information about what has happened in the past and why decisions were made to change how the Division will handle advertising complaints in the future.

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**Question:** Is there an updated list of instructors for continuing education classes for real estate brokers or agents? If so, how can I receive such a list?

**Response:** Through the use of the Qualifying & Continuing Education Search button on the Division's website, you can search for hundreds of courses and providers of various courses. You can search alphabetically by course, by course provider, or by number of CE hours. This search technique provides information about the course provider, but does not provide direct access to the approved list of approved CE instructors.

You can utilize the Division's Look Up A License feature to search for a list of all continuing education course instructors. First, click on the "Look Up A License" feature on the Division's website. From the "Download License Lists", click on "Download Real Estate Agents and Brokers Summary". Click on "Data". Then click on, "Sort" by "Column B". There are over five hundred continuing education instructors listed by their CE instructor's license numbers.

This feature will provide the list of CE instructors, but does not include their public contact information. To receive a more complete listing of information you would need to click on "Purchase Address Lists" under "Download License Lists" on the "Look Up A License" feature.

**Question:** My husband is a real estate licensee and I am a mortgage loan originator. We have been working together as a team for two months now, and are liking our work very much. We have a friend that seems to be very good with talking to people; however he has no real estate or mortgage license. How can we possibly use his skills? Can he be hired as a marketer? Can we pay this individual based on sales? We want to be certain that what we do is legal and would not violate any rules or statutes, please advise.

**Response:** Rule R162-2f-401g addresses the use of personal assistants. With the permission of your husband's principal broker, this individual could be hired as a real estate personal assistant, but his activities would be limited to those that do not require a real estate license, such as:

"(2)(a) performing clerical duties, including making appointments for prospects to meet with real estate licensees, but only if the contact is initiated by the prospect and not by the unlicensed assistant;

(b) at an open house, distributing preprinted literature written by a licensee, where a licensee is present and the unlicensed person provides no additional information concerning the property or financing, and does not become involved in negotiating, offering, selling or completing contracts;

(c) acting only as a courier service in delivering documents, picking up keys, or similar services, so long as the courier does not engage in any discussion or completion of forms or documents;

(d) placing brokerage signs on listed properties;

(e) having keys made for listed properties; and

(f) securing public records from a county recorder's office, zoning office, sewer district, water district, or similar entity;"

In addition, there are restrictions on how a personal assistant may be paid. R162-2f-401g requires that a licensee:

"(3) compensate a personal assistant at a predetermined rate that is not:

(a) contingent upon the occurrence of real estate transactions; or

(b) determined through commission sharing or fee splitting;"

Finally, R162-2f-401g requires that a licensee:

(4) prohibit the assistant from engaging in telephone solicitation or other activity calculated to result in securing prospects for real estate transactions, except as provided in this Subsection (2)(a)."

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These rules prohibit an individual from making unsolicited consumer contacts and from compensation based on sales unless the personal assistant holds a real estate license.

Similarly the individual could be hired to perform clerical or support duties while employed by a licensed mortgage lending entity including:

(I) the receipt, collection, or distribution of infor mation common for the processing or under writing of a loan in the mortgage industry other than taking an application;

(II) communicating with a consumer to obtain in formation necessary for the processing or un derwriting of a residential mortgage loan;

(III) word processing;

(IV) sending correspondence;

(V) assembling files; or

(VI) acting as a loan processor;

Even if employed by a licensed mortgage entity, the individual would not be able to solicit business from consumers without holding a mortgage loan originator's license.

Perhaps your best option would be to encourage this individual to become licensed as a real estate and/or mortgage licensee and with their principal broker and/or principal lending manager's approval you could hire them to be a "marketer" or telephone solicitor. Remember, compensation to the licensed personal assistant for activities that require a license must be made by the broker or principal lending manger.

# RULE DEVELOPMENTS SINCE JANUARY 1, 2014

To view or add a comment on any proposed or amended rules, please visit the Utah State Bulletin at http://www.rules.utah.gov/publicat/bulletin.htm

**Appraisal Management**

No amendments of the administrative rules for the appraisal management industry were proposed during the First Quarter of 2014.

**Appraisal**

Administrative Rules R162-2g-302, 304a, 304b, 304c, 304d, 306a, and 307b. The Division has begun the process to amend the administrative rules as follows:

- Establish by administrative rule the education requirements for state-licensed appraisers, state-certified residential appraisers, and state-certified general appraisers (see rules 304a, 304b, and 304c).
- Supervisory appraisers and appraiser trainees are required to complete a specified course approved by the Division prior to the Division recognizing experience hours for trainee appraisal work performed after January 1, 2015. The course qualifies for continuing education hours for supervisory appraisers and for registered appraiser trainees in a registration renewal cycle. Course providers shall provide a paper copy of the course manual to each attendee. (See rules 302, 304d, and 307b.)

Public comments on the proposed rule amendments were received through March 17, 2014.

**Mortgage**

No amendments of administrative rules for the mortgage industry were proposed during the First Quarter of 2014.

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**Real Estate**

Administrative Rules R162-2f-401a and 401f, these rules were amended on February 25, 2014 and include the following changes:

- Previously the Real Estate Purchase Contract for Residential Construction was the approved form for properties without a certificate of occupancy, including new construction. This outdated form has been eliminated as an approved standard form. Rather than using an approved standard form, licensees negotiating a transaction for a property without a certificate of occupancy will use a purchase contract prepared by the attorney of either the buyer or seller or by an attorney

# STAFF SPOTLIGHT: MARK SCHAERRER

Real Estate Investigator

The Division of Real Estate would like to welcome Mark Schaerrer as a new real estate investigator. Mark has an extensive law enforcement background with over 28 years in the field. He came to the Division of Real Estate from the Federal Public Defenders Office, as an Investigator in the US District Court for the State of Utah. Mark's experience will be very helpful as he will be investigating complaints to determine if a licensee has violated a statute or administrative rules.

Outside of work, Mark loves to spend time with his family. He is married with two kids and as a family they love to go camping up in the Uintah Mountains. Another one of Mark's passions is his love for motorcycles. He teaches a motorcycle safety class in the evenings at SLCC and has ridden across the United States and up and down the coasts. Welcome Mark!

# UTAH DIVISION OF CONSUMER PROTECTION: WHAT WE DO AND HOW WE CAN HELP

Michael Palumbo - Chief Investigator

The purpose of this article is to provide the real estate industries with information about the Utah Division of Consumer Protection, including how our agency can protect you and your clients from fraud, and information to help ensure your advertising and sales practices are compliant with consumer protection laws.

**Overview of the Division**

The Utah Division of Consumer Protection (DCP) of the Department of Commerce is a sister agency to the Division of Real Estate (DRE). Both agencies perform regulatory functions including licensing, enforcement, and outreach to the public and regulated industries. The functions assigned to DRE are mostly related to licensing and regulation of licensees; DRE is generally focused on WHO you are. The functions of DCP, on the other hand, are generally triggered by conduct of an individual or business—WHAT you do. The DCP performs regulatory functions across a broad range of industries—from construction to telemarketing, from apartment rentals to auto repairs.

The mission of the Division of Consumer Protection, as the name implies, is to protect consumers from unfair and deceptive business practices. However, it is also the mission of the Division of Consumer Protection to encourage the development of fair business practices, and to provide consumer education. DCP has a three-pronged approach to accomplishing its mission—Education, Registration, and Enforcement.

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**Education:** DCP performs outreach in the community to educate consumers and businesses on potential fraud, publishes the buyer beware list, (which provides information on certain businesses that have been the subject of legal action in the state), and responds to inquiries from the public.

**Registration:** DCP registers several types of businesses including telephone solicitors, business opportunities, charities, credit services organizations, debt management companies, health spas, pawn shops, postsecondary and proprietary schools, and immigration consultants.

**Enforcement:** DCP has a staff of 10 investigators. DCP typically initiates investigations in response to consumer complaints. If the complaint states a claim under a statute the division enforces, DCP will in most cases provide a copy of the consumer complaint to the business and request a response. If, after investigating the matter the DCP has a reasonable belief that a violation of law occurred, the division may issue an administrative citation or take other enforcement actions specifically authorized by law. In 2013 DCP's top 3 consumer complaints were 1) Telemarketing, 2) Coaching Services, 3) Alarm Systems.

**Trends and Current Scams**

*Help Prevent Fraud - Beware of Hijacked ads*

One current scam that affects the real estate and rental industry involves the use of online classified ads. The scam typically looks like this: a consumer searching for a rental property finds an ad on a local newspaper's online classified website. Based on photos, a great price, and the promise of other benefits, the consumer will make contact with the supposed rental agent. The agent will typically tell the consumer that there is no time to inspect the property, but if the consumer wants to rent the property, a down payment will be required right away. Almost always, the payment must be made through wire transfer.

The scam: there is no property—the photos were pirated from some other ad. The poster of the ad is not a landlord, just a scam artist trying to make a quick buck.

The tell-tale sign: The need to wire transfer money or use a pre-paid debit card service to pay upfront fees is usually a dead giveaway that something is amiss. This request alone should be a big enough red flag that should put the brakes on any transaction. Also, there will usually be a sense of urgency, and inability of landlord to show the listing.

This type of scam is generally called an "advanced fee" scam. It has been around in many forms for a very long time. Electronic classifieds are the perfect venue for these scams, since the illegitimate ads can blend in with the legitimate advertisements.

What you can do? Educate your clients. If you notice an ad that you believe to be suspicious, notify the classified service of potential fraud. In the event money is sent, a consumer should immediately contact the wire transfer service. If the money has not been picked up at the destination location, there is a possibility of recovery. (Once the money is picked up it is most likely gone forever, and there is little to do to remedy the situation.) The internet makes anonymous money transfers easier than ever. It is also a good idea to watermark photos so it is harder for a scammer to pirate them and use them in a scam.

**Regulations You Should Know About**

The following section talks about laws that the Division of Consumer Protection is responsible for enforcing and how some of these laws may apply in a real estate context. Many of the provisions in these laws are intended to be across-the-board protections for consumer transactions, regardless of the subject of the transaction. One way of thinking about consumer protection laws is that they set the bare minimum threshold for sales practices. For example, suppliers, at the very least, must not make misrepresentations about the benefits or quality of a consumer transaction.

Many DCP's enforcement actions arise out of the Consumer Sales Practices Act (CSPA), contained in Title 13, Chapter 11 of the Utah Code. In general terms, the CSPA prohibits deceptive or unconscionable practices by suppliers in all "consumer transactions" (as defined by the Act). The purposes of the CSPA include "protect[ing] consumers

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from suppliers who commit deceptive and unconscionable sales practices," "encourag[ing] the development of fair consumer sales practices," and "recogniz[ing] and protect[ing] suppliers who in good faith comply with the provisions of this act."

Among many other practices, the CSPA makes it is a deceptive act for a supplier to:

- indicate that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits, if it has not;
- indicate that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits, if it has not;
- indicate that the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not;
- indicate that the subject of a consumer transaction is available to the consumer for a reason that does not exist;
- indicate that a specific price advantage exists, if it does not;
- indicate that the supplier has a sponsorship, approval, or affiliation the supplier does not have.

So, for example, if an unlicensed real estate agent claims to be licensed in order to enter a consumer transaction, that real estate agent would be in violation of the CSPA. Similarly, if an apartment listing states that a rental property has certain characteristics (e.g. a pool, new appliances, etc.) that it does not have, that conduct would be in violation of the CSPA.

In addition to these statutory prohibitions, DCP enforces administrative rules under to the Consumer Sales Practices Act that also have the effect of law. These rules provide more detail and particular "dos and don'ts" of advertising.

Just like many other laws that impact the real estate, mortgage, or appraisal industry, accurate disclosure is key to compliance. Admin Rule, R152-11-2 spells this out very clearly. That rules states, "It is a deceptive act or practice for a supplier . . . to make any offer in written or printed advertising or promotional literature without stating clearly and conspicuously in close proximity to the words stating the offer of any material exclusions, reservations, limitations, modifications, or conditions."

Many of these disclosure requirements and prohibitions are common sense requirements. However, DCP frequently receives complaints from consumers who assert that they have been deceived through a lack of adequate information in advertisements. The more accurate and truthful an advertisement is, the less likely that consumers will be harmed and the more likely a business will avoid problems.

Always feel free to contact the Division of Consumer Protection if you have questions or seek assistance. You can reach DCP at (801) 530-6601. You can find the full text of all the statutes and rules DCP enforces, as well as other resources, on the http://consumerprotection.utah.gov.

# DODD-FRANK ACT/HUD RULES GO INTO EFFECT

Just as mortgage licensees attempt to wrap their minds around all the changes in the rules to enforce the Dodd Frank Act, so do Division regulators. The CFBP has a handy chart that summarizes the newly implemented rules and how they affect the industry. You can find this information at: http://www.consumerfinance.gov/mortgage-rules-at-a-glance/

# YOU MIGHT THINK YOU CAN, UNTIL YOU CAN'T

**Theron Case**

Recently my teenage son had a friend get in trouble with the law. When I came home from work a few days later, my son asked if I'd like to read a short story he had written.

After reading his short story he asked if I understood its meaning. I had a few thoughts about possible meanings but didn't want to be wrong so I just said, "I think so."

He said, "You can, until you can't." I said, "So it means you can walk the line or cross over and break the law until you can't? And you won't know when that "you can't" will come along, until it does, and then it is too late?" He said, "Yep, but then it's too late."

I asked, "Is this about your friend?" He said, "Yep." So for your entertainment, here is a short story from my son.

## The Invincibility Broker

I*t sucks to find out that you're not invincible anymore. I mean, I always knew it was going to be short lived, I didn't have very much karma saved up and I wasn't using it sparingly. I cashed out earlier than most people usually do. I did a lot of things earlier than most people. I dropped out of college earlier, got married earlier, divorced earlier. I guess I just thought that I needed to grow up faster than all the others. That doesn't matter anymore though. It's in the past.*

*I decided that I should probably go to the Darma building. I could go talk to Mr. Karman and see if I could have another chance. I had nothing to lose. The sun was out and springtime had come without me noticing. Now that I didn't have anything I had time to notice little things like that. It was kind of nice I guess. I wondered what Mr. Karman was going to say. He's one of the nicer invincibility brokers I thought. Invincibility brokering is a hard business. You want your clients to succeed but there are so many rules and regulations that you can't really help them by telling them when their invincibility is going to run out or how much karma something costs. It really is a superlative feeling, being invincible. I found myself hoping that I could save up enough karma to try it again sometime.*

*"Aloha Mr. Raymond," apparently it was some kind of island themed day at the Darma building,"I heard your invincibility ran out a little quicker than you planned on," the front desk lady said. I didn't really feel like striking up a conversation about my recent failure so I kind of blew off her statement.*

*"I need to talk to Mr. Karman."*

*"You know that he doesn't talk to past clients Mr. Raymond."*

*"We have been friends for a while now, I'm sure he will see me."*

*"Well, I mean, if you want to talk to him as a friend you can contact him on his personal time but for now…"*

*Just then Mr. Karman walked around the corner.*

*"Hey, we need to talk."*

*"Of course we do Johnny, why don't you come to lunch with me."*

*We walked a couple of blocks over to a rundown pizza place that Karman liked. I'd never been too affectionate of this place. They have a bunch of old pizza that they reheat in the oven when you order it, the drink machine was covered in stickers of local skate brands, and they only let you pay in cash. The place made me nostalgic.*

*"Well, your invincibility didn't hold up like you wanted?" he said after we sat down in one of the dusty booths.*

*"Nope"*

*"What exactly happened?"*

*I went on to explain how after I had come to him to cash out my karma I took everything I had, sold it, and flew straight to Alaska. I took a gold pan, enough food*

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*for a week, enough money to rent a bush plane, and some camping gear. Everything went smoothly from finding a bush plane, flying to my destination, finding enough gold to get Warren Buffet's attention, and travel back to San Fran with my backpack full of gold. I didn't see a bear, eat a poison berry, or get mugged. That's how I knew I was invincible. The only problem was that once I got back to my motel, tired and lazy, I collapsed on the bed and fell asleep without going to a bank or locking up my treasures. I just left them on the bedside table. In the middle of the night I woke up to a crash and there were suddenly people in my room. One hit me while the other grabbed the bag with all my gold. That's how I knew I wasn't invincible anymore.*

*"I'm terribly sorry Johnny." He seemed incredibly sincere, which was weird. There wasn't anything he could do about it.*

*"It's not your fault; you're not allowed to tell me when my invincibility is going to run out."*

*"No, I can't."*

*It looked like some sort of inner struggle was taking place inside his head. He ate his pizza with a distant look in his eyes and I could tell that he was thinking hard about my story.*

*"What's up Mr. Karman?"*

*"You ever think about how far you could have gone without being invincible?"*

*"Well, not really, I probably would have been eaten by a bear or crashed my bush plane. I mean I had never flown anything before. I imagine that if I hadn't been invincible I wouldn't have even been able to take off."*

*"You had never flown a plane before?"*

*"Nope"*

*"How did you know what to do, how to take off, how to land, how to start the darn thing?"*

*"Well, I didn't. I just thought that since I was invincible I couldn't get hurt, so I just did what came naturally."*

*Mr. Karman looked almost angry now. It was a weird kind of angry though. I don't think he was angry at me. It seemed more directed at himself or at the situation. That's just the vibe I got. That was the last time I saw the guy. Before he left me he said, "Have you ever wondered how I am able to make you invincible?" Before I had the chance to answer him, and I couldn't have, he walked out.*

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As I thought more about the meaning behind this story, I realized that it pertains to each licensee and profession regulated by the Division of Real Estate. You might think you can ignore the rules and law, until you can't, which usually means you've been caught.

As an appraiser you might think you can be invincible and certify you have inspected a property when only a trainee or an unlicensed assistant did the inspection.

As a Sales Agent you might think you can be invincible and not turn in collected earnest money in the allotted time or receive compensation for some real estate activity from someone other than your principal broker.

As a Broker you might think you can be invincible and permit an agent who allowed their license to expire, to continue working, or allow one of your agents to advertise a property that is not currently listed, or permit a team to market without clearly identifying the name your brokerage.

As a Mortgage Loan Officer you might think you can be invincible and receive referral fees, or contract with a telemarketing company to solicit leads.

As a Loan Processor you might think you can be invincible and work for more than one mortgage company without a license…

As a Lending Manager you might think you can be invincible and have an unlicensed person originate loans without a license…

Please note:

The articles title "You might think you can, Until you can't" does not constitute an excuse to break the law, it is a title and a saying, nothing more.

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disclose fines from the state of Connecticut related to audits of her continuing education. Case number AP-14-69251

**MORTGAGE**

ANDERSON, TROY RONALD, mortgage loan originator. In a December 26, 2013, order, Mr. Anderson's license was granted and placed on probation for the initial licensing term due to his criminal history. Case number MG-13-68609

BOLLES, Grosvenor E., mortgage loan originator. In a February 13, 2014, order, Mr. Bolles's license was denied due to his criminal history. Case number MG-14-69290

HANCOCK, LANCE LOUIS, mortgage loan originator. In a February 18, 2014, order, Mr. Hancock's license was suspended until his application fee is paid. Case number MG-14-69307

HEATH, TODD, associate lending manager. In a January 29, 2014, order, Mr. Heath's license was granted and placed on probation due to an unsatisfied civil judgment and tax liens. Case number MG14-69012

HILDEBRAND, ALEXIS ALLEN, mortgage loan originator. In a December 24, 2013, order, Ms. Hildebrand's license was granted and placed on probation for the licensing term due to her criminal history. Case number MG-13-68577

HOCKING, THOMAS ROBERT, mortgage loan originator. In a December 26, 2013, order, Mr. Hocking's license was granted and placed on probation due to bankruptcy, tax liens, and unpaid child support. Case number MG-13-68615

LOZANO, ALEX ROBERTO, mortgage loan originator. In a January 10, 2014, order, Mr. Lozano's license was granted and placed on probation due to outstanding tax liens and civil judgments including child support obligations. Case number MG-14-68768

MANGUM, BRYAN C., mortgage loan originator. In a December 2, 2013, order, Mr. Mangum's prior license revocation was converted to a suspension pursuant to Utah Code section 61-2c-202(4)(d). Case number MG-13-68328

PEAY, SHILO, lending manager. In a February 21, 2014, order, Mr. Peay's license was granted and placed on probation due to unpaid income taxes. Case number MG-14-69431

PECK, DANIEL T., lending manager. In a stipulated order dated December 10, 2013, Mr. Peck's license was revoked due to a felony conviction for bank fraud. Case number MG-13-67681

PENA, CELESTE R., mortgage loan originator. In a February 18, 2014, order, Ms. Pena's license was suspended until her application fee is paid. Case number MG-14-69305

TAAFUA, PILI S., mortgage loan originator. In a February 3, 2014, order, Mr. Taafua's license was granted and placed on probation due to criminal history and to a professional license sanction in another state. Case number MG-14-69091

THOMPSON, JULIE, lending manager. In a January 22, 2014, order, Ms. Thompson's prior license revocation was converted to a suspension pursuant to Utah Code section 61-2c-202(4)(d). Case number MG-14-68898

WASHINGTON, JULIUS TIMOTEO, mortgage loan originator. In a January 15, 2014, order, Mr. Washington's license was granted and placed on probation due to outstanding tax liens. Case number MG-14-68813

WILLSON, RANDALL LANCE, mortgage loan originator. In a February 18, 2014, order, Mr. Willson's license was suspended until his application fee is paid. Case number MG-14-69309

**REAL ESTATE**

ASHWORTH, KYLE D., principal broker. In a January 16, 2014, order, the Utah Real Estate Commission (Commission) revoked Mr. Ashworth's license and fined him $75,000. The Commission found that Mr. Ashworth pleaded guilty to seven felony counts of forgery and six felony counts of communications fraud and that he pleaded no contest to one felony count of

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forgery and one felony count of communications fraud. Case number RE-13-65210

BOOTH, TARL K., sales agent. In a stipulated order dated December 18, 2013, Mr. Booth admitted to having placed a sign for advertising the sale of property without having the brokerage name on the sign in violation of Utah law. Mr. Booth will pay a civil penalty of $500. Case number RE-13-66958

BRADSHAW, STEVEN L., sales agent. In an order dated February 21, 2014, the Commission denied Mr. Bradshaw's application to practice as a sales agent. The Commission determined that Mr. Bradshaw does not qualify for licensure due to his criminal history and a civil judgment for child support that has not been paid. Case number RE-13-65234

BUDGE, ZHAQUE, sales agent. In a January 31, 2014, order, Mr. Budge's license was granted and placed on probation for the licensing period due to his criminal history. Case number RE-14-69059

CHAPPELL, PATRICIA M., sales agent. In a February 21, 2014, order, Ms. Chappell's license was renewed and placed on probation for the licensing period due to her criminal history. Case number RE-14-69430

CHRISTIANSON, OSHA, sales agent. In a February 12, 2014, order, Ms. Christianson's license was granted and placed on probation for the licensing period due to her criminal history. Case number RE-14-69243

CLINGER, BRIAN J., sales agent. In a December 19, 2013, order, Mr. Clinger's license was granted and placed on probation during the pendency of criminal case number 131905910. Case number RE-13-68525

CORLISS, GREGORY, sales agent. In a December 26, 2013, order, Mr. Corliss's license was renewed and placed on probation for the renewal period due to his criminal history and past due child support. Case number RE-13-68610

CROWE, IAN T., sales agent. In a January 31, 2014, order, Mr. Crowe's license was granted and placed on probation during the pendency of criminal case number 131700191. Case number RE-14-68802

DALTON, JASON G., sales agent. In a February 13, 2014, order, Mr. Dalton's application to renew his license to practice as a real estate agent was denied. The reasons for denial included Mr. Dalton's criminal history and his continuing to practice as a real estate agent following the expiration of his license contrary to Utah law. Case number RE-13-65782

DIMOCK, MATTHEW, sales agent. In a December 6, 2013, order, Mr. Dimock's license was renewed and placed on probation for the renewal licensing period due to his criminal history. Case number RE-14-68399

DURFEE, TERRY, sales agent. In a January 22, 2014, order, Ms. Durfee's license was granted and immediately suspended for 30 days due to her failure to disclose criminal history in her application for licensure. Case number RE-14-68913

FREI, KENT, associate broker. In a January 14, 2014, order, Mr. Frei's license was renewed and placed on probation for one year due to criminal history. Case number RE-14-68811

FRY, KIMBERLY, sales agent. In a stipulated order dated January 19, 2014, Ms. Fry admitted to violating Utah law by assisting a buyer with the purchase of property without first obtaining the required written agency and by drafting a legal document instead of using a state approved form or a form prepared by an attorney. Ms. Fry will pay a civil penalty of $1,000. Case number RE-13-67500

FUEHRER, ERIN, sales agent. In a February 3, 2014, order, Ms. Fuehrer's license was granted and placed on probation for the initial licensing period due to her criminal history. Case number RE-14-69066

GARRETT, STEPHEN L., sales agent. In a February 7, 2014, order, Mr. Garrett's license was reinstated and placed on probation for the renewal licensing period due to his criminal history. Case number RE-14-69169

HALL, AMY, sales agent. In a February 21, 2014, order, Ms. Hall's license was renewed and placed on

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probation for the renewal licensing period due to her criminal history. Case number RE-14-69429

HALL, DANIEL, sales agent. In a January 14, 2014, order, Mr. Hall's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-68797

HALVORSEN, SCOTT K., continuing education instructor. In a January 14, 2014, order, Mr. Halvorsen's license was granted and placed on probation for one year due to his criminal history. Case number RE-14-68801

HARTMAN, SKYLER, sales agent. In a January 3, 2014, order, Mr. Hartman's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-68675

HUGO, MARK, sales agent. In a February 7, 2014, order, Mr. Hugo's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-69157

LATHAM, ERIC DUFFY, sales agent. In a January 31, 2014, order, Mr. Latham's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-69037

O'BRIEN, JR., CHARLES R., sales agent. In a December 27, 2013 order, the Commission denied Mr. O'Brien's application to renew his license after finding that Mr. O'Brien does not qualify for licensure due to his criminal history. Case number RE-13-66341

PARTRIDGE, BRYSEN, sales agent. In a January 10, 2014, order, Mr. Partridge's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-68769

PRINCE, ALAN J., sales agent. In a February 3, 2014 order, Mr. Prince's application to renew his license was denied after finding that Mr. Prince does not qualify for licensure due to his criminal history. Case number RE-14-69083

SILCOX, R. SCOTT, sales agent. In a December 18, 2013, order, Mr. Silcox's license was reinstated and placed on probation for the renewal licensing period due to his criminal history. Case number RE-13-68524

SMITH, MATTHEW R., sales agent. In a February 12, 2014, order, Mr. Smith's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-69247

SMITH, SKYLAR, sales agent. In a stipulated order dated February 19, 2014, Mr. Smith admitted that he failed to disclose several incidents of criminal history in his application for licensure in violation of Utah law. Mr. Smith will pay a civil penalty of $2,000. Case number RE-14-69162

THROWBRIDGE, GUY, sales agent. In a January 14, 2014, order, Mr. Throwbridge's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-68800

TORRES, HUGO A., sales agent. In a February 12, 2014, order, Mr. Torres's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-69233

WARREN, SHAD, sales agent. In a February 12, 2014, order, Mr. Warren's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-69235

WILLIAMS, OLIVER, sales agent. In a January 14, 2014, order, Mr. Williams's license was granted and placed on probation for the initial licensing period due to his criminal history. Case number RE-14-68812

WISCOMBE, PATRICK, sales agent. In a stipulated order dated February 19, 2014, Mr. Wiscombe admitted to violating Utah law by conducting real estate activities through another real estate broker prior to completing a brokerage change request. Mr. Wiscombe will pay a civil penalty of $2,000. Case number RE-13-67185

**TIMESHARE**

JOHNSON, DOUGLAS F., timeshare sales agent. In a stipulated order dated January, 2014, Mr. Johnson admitted that he failed to disclose incidents of criminal history in his application for licensure in violation of Utah law. Mr. Johnson will pay a civil penalty of $500. Case number RE-14-68910