



RealEstateBulletin

Providing Service, Protecting You

Update regarding short sales fraud and related issues

Several months ago, the California Department of Real Estate ("DRE") issued a publication on residential Short Sales which provided an overview of the practice area, and a warning to the real estate industry about legal and ethical minefields and the growing fraud in this area. The publication also discussed and pointed out certain egregious and unlawful practices of short sale flippers, and it was followed by a DRE Consumer Alert on Short Sale transactions.

Unfortunately, Short Sale fraud is growing, and it too often seems that licensees and those counseling licensees may wrongly conclude that unlawful or questionable practices "cannot be bad" because "everyone is doing it." Licensees must understand that fraudulent and unlawful practices will invite disciplinary action by the DRE and possible civil and criminal liability.

This DRE Short Sales update is written on the growing, questionable, and sometimes unlawful practice of short sale negotiators ("SSN") requiring/compelling Buyers to pay the SSN's fee.

The DRE will publish and disseminate additional updates as necessary and appropriate to protect the public and to inform its licensees of practices that are problematic, questionable and/or unlawful.

Discussion

Many brokers have noticed and reported a sharp increase in the number of Listing Agents and SSNs who are requiring that Buyers pay the SSN's fee. The Buyer's agents are sometimes told (either in the Remarks Section of the MLS and/or in a pre-sale instruction sheet) that Buyers must sign a special Addendum created by the SSN in which the Buyers agree to pay the SSN's fee

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COMMISSIONER'S MESSAGE



What's on Your Card?

I was approached by a friend who works at HUD asking about the latest craze she has noticed of Real Estate licensees stating on their cards and marketing materials "SHORT SALE SPECIALIST" or other similar pronouncements. She asked if the DRE sanctioned these designations or whether there was any significance to these designations. I thought it would be worthwhile to share my discussion.

While the DRE does not issue any special designations, licensees must be careful about the labels and claims used on marketing materials and business cards. In some cases, the law is very specific. Business & Professions Code Section

(B&P) 10177(e) makes it clear that willfully using the term "Realtor®" or other trade name or insignia of membership in a real estate organization of which the licensee is not a member is a violation of the law.

Similarly, it is unlawful under B&P §10177(c) to misrepresent one's certification of special education or credentials. For example, claiming to be a GRI (Graduate REALTOR® Institute) or other recognized certification of specialized education without having attained the certification is clearly grounds for disciplinary action.

But what about claiming to be a "Short Sale Specialist" or similar claims like "Area Specialist", "Golf Property Specialist" or "We Can Finance Almost Anyone"? While

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SAFE Act reminder for mortgage loan originators

If you intend to perform mortgage loan origination (MLO) activities for 1-4 unit residential properties using your DRE license beyond the end of 2010, an important licensing deadline is approaching. Under the SAFE Act and Senate Bill 36, certain pre-licensing requirements, including registration on the National Mortgage Licensing System and Registry (NMLS), must be met by January 1, 2011, and you must be issued a MLO License Endorsement in order to continue to perform MLO activities.

Following are the steps needed to obtain the endorsement:

Qualifying Tests

An examination consisting of a separate national and state specific component must be completed through NMLS. If a passing score in either component is not obtained, there is a 30 day waiting period to retake the portion which was not passed. After the first three attempts, a examination component cannot be retaken for 180 days.

Online Applications and Fees

The MLO License Endorsement applications and fees are filed through the NMLS system according to your license type. Fees are non-refundable.

MU1 form for companies-This form is completed on behalf of a licensed real estate corporation or on behalf of a sole-proprietor licensed real estate broker.

MU2 form for officers-This form will be completed for the broker or officers (licensed and non-licensed) of the company identified in the MU1 form. It will also be required for individuals who hold 10% or more ownership in a company.

MU3 form for branches-This form is completed for each licensed mortgage loan

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"Cash for Keys" — Information for consumers and DRE licensees

By John W. Van Driel, Assistant Chief Counsel. Senior Deputy Commissioner Mark Tintera, Deputy Commissioner Summer Bakotich, and Managing Deputy Commissioner III Tricia Sommers provided input and/or commentary for this publication.

The challenge to successfully market REO properties has given rise to a growing practice known as "cash for keys". The Department of Real Estate ("DRE") has been receiving questions and complaints from consumers about "cash for keys" solicitations. This article is intended to provide some guidance for consumers and licensees when involved in a "Cash for Keys" program to minimize any misunderstandings or violations of the law.

"Cash for Keys" Programs

When a lender takes a home back as a result of a foreclosure action, it becomes responsible for that property. The longer the lender has to wait to sell the property, and the more money it has to spend to repair damage to and/or to maintain the property, the greater will be its ultimate loss. The consequences of foreclosure and the looming legal eviction action affects the prior resident owner of the foreclosed property and/or the tenant(s) living in the property the same way – they must, unless there is an existing landlord-tenant rental or lease agreement which survives the foreclosure by law, or a written agreement with the new owner/lender to maintain or modify the tenancy, vacate the property in a relatively short period of time.

If the lender can make a deal with a tenant to pay for the tenant's security and utility deposits, moving expenses, and maybe even temporary living expenses, and perhaps a bonus for a quick moving date, it would be in the lender's interest to do so to avoid the inevitable minimum 3 to 6 month delay associated with formal legal eviction proceedings. In the many circumstances, the lender would most certainly prefer that the tenant agree to vacate the property within a certain number of days, leave the property in "broom-swept condition", remove all debris from the interior and the yard, leave all fixtures and landscaping intact, and turn over the keys and garage door openers.

Practical Application of "Cash for Keys"

Generally, the amount offered to tenants vary and is usually negotiable. Anecdotal reports from those who have had experience with "cash for keys" programs report that \$500 is generally the minimum and \$5,000 the maximum amount offered to tenants for their keys.

The amount an owner is willing to pay for a tenant's keys depends on several factors, including the value and physical condition of the property, and the plan(s) the lender has for the property. Other factors include the amount of time the tenant needs to move out.

Laws Protecting Tenants' Rights With Respect to Foreclosed Properties

As recently as early 2008, in the absence of a written lease agreement requiring greater notice, California law required that an owner provide only a 30-day notice to a tenant to vacate the property for any reason (other than the failure to pay rent, which required a 3-day notice). However, recent legislation has changed the rules.

Signed as an urgency measure in 2008, [Senate Bill 1137](#) gives tenants at least 60 days after a foreclosure before they can be asked to vacate the property. The provisions of SB 1137 are due to sunset (be repealed) on January 1, 2013. To review a copy of the bill and get more details, please visit www.leginfo.ca.gov.

Federal legislation was enacted effective May 20, 2009, requiring property owners who have taken a residential property by foreclosure, to give their tenants at least a 90 day notice to vacate the property before beginning the eviction process. That federal law is applicable nationwide, and it is known as "Protecting Tenants At Foreclosure Act". The law is found at Title 7 US Code section 701 ("the Act"). See <http://thomas.loc.gov>.

The Act provides that if a tenant is renting under a lease entered into before the notice of foreclosure was communicated to the tenant, the tenant may remain in the property until the lease ends, unless the owner sells the property to a purchaser who will occupy the property as his primary residence. In that case, the owner may properly give the tenant a 90 day notice to vacate.

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if they intend to present an offer.

Buyer's Agents may also be told that their clients' offer will not be presented if the Buyer does not agree to sign that SSN Addendum and include it with the offer. If the requirement for the Buyer to pay the SSN fee is being driven by the Listing Agent and/or the SSN, and is really not a requirement of the Seller, there is potentially an ethics violation and a breach of the Listing Agent's fiduciary duty to the Seller by stifling and limiting the presentation of legitimate offers.

One version of this scenario is where the Buyer is told that he or she "must" request a credit for non-recurring closing costs ("NRCC") (the NRCC is typically 3%) as part of the Buyer's offer with the understanding that the Buyer will use that money to pay the SSN's fee as well as any other party who is not satisfied with the amount authorized by the Short Sale Lender (such as a second Lender). The NRCC will or may be shown on the HUD-1 and if the fee is paid through escrow it would appear on a late-escrow HUD-1. However, these additional fees are often paid outside of escrow since the Lenders may not approve the same. Remember, in Short Sales, the Seller's Lender may require, and in many cases makes it clear, that the Seller is not to receive money or any other benefit from the sale.

The SSN Addenda that have been created to shift the payment responsibility for the SSN's fee to the Buyers may raise significant legal concerns for Brokers. In some instances the Listing Agent is trying to get paid extra money to serve as both the Listing Agent and the SSN. In other cases, the Listing Agent has hired an outside SSN because that agent is not able or willing to provide short sale negotiation services to their clients, but at the same time the Listing Agent does not want to share his or her commission earnings with the outside SSN that has been hired to do that work.

The SSN is (or must be) a California licensed real estate broker, unless exempt under very narrow statutory exemptions. See §10130 et seq. of the California Business and Professions Code (B&P), for the licensing requirements and the exemptions. Also, see the discussion in paragraph (c) below. To better understand the pitfalls and perils involved in these types of arrangements, we offer the following:

- (a) Although the SSN Addendum is a contract document, the primary reason that these terms and conditions are on a separate Addendum may be to better enable the Listing Agent and/or SSN to conceal this information from the Seller's Lender and, in some instances, the Buyer's Lender. Based upon anecdotal reports from lawyers and real estate practitioners, it appears that unscrupulous SSNs are purposely not sending these Addenda to the Lenders as part of the package of information requesting Short Sale approval from the Seller's Lender. This practice of intentional concealment would support and/or may lead to a finding of Lender Fraud. If the SSN Addendum is not sent to the Seller's Lender, the Lender may not be aware that the Buyer (whether or not they are approved to get the NRCC credit) is being required to direct funds to others in the transaction including, but not limited to, the SSN. It is noted that in addition to paying for the SSN, Buyers may be asked to pay off the Seller's credit card debt, the Seller's moving expenses, to buy the Seller's furniture at an inflated price, and to otherwise provide funds for the direct benefit of the Seller. If those funds/payments are not expressly approved by the Seller's Lender, those "additional" payments could be extremely problematic from a legal standpoint.
- (b) Including the payment of the SSN's fee on a HUD-1 is arguably not sufficient to qualify as a realistic, timely disclosure to the Seller's Lender that such a payment will be made. The Seller's Lender's Term Sheet usually specifies the total amount of commission compensation that is to be paid to the Listing and Selling Brokers in the transaction. That Term

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branch office location.

MU4 form for individuals-This form will be completed by each mortgage loan originator who will take a mortgage loan application, or who will negotiate or offer to negotiate, a residential property mortgage loan. This includes brokers, salespersons, and independent or contract loan processors or loan underwriters. If a MLO License Endorsement application is filed for a corporation, the corporation licensed broker officer must also file this form.

Pre-license education

The twenty hours of specific education that must be completed through NMLS course providers can be waived for real estate licensees, if an applicant's education is previously certified through DRE by filing an MU4 form by December 1, 2010.

Criminal Background Check

New fingerprints are required. Review of criminal background information will result in denial of the mortgage loan originator license endorsement when there has been a felony conviction in the last 7 years or if there has ever been any conviction for a felony involving an act of fraud, dishonesty, breach of trust, or money laundering.

Credit Report Authorization

All MLO license endorsement applicants are required to authorize NMLS to pull their credit report. Credit scores will not be the key to DRE's evaluation of financial responsibility. However, an applicant may be precluded from obtaining an endorsement where his or her personal history includes any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant. On November 1st, more information will be posted on the NMLS Web site regarding how the credit report authorization process will work.

Disclosures


The application forms will include disclosure questions about the applicant's background and will require him or her to forward copies of these disclosures to the Department's licensing section with attached copies of any evidence, explanation, or clarification that may be appropriate.

Detailed information and frequently asked questions about obtaining an MLO License Endorsement can be found on the [DRE Web site](#) and the [NMLS Resource Center](#).

Loan Processors and Underwriters

The SAFE Act requires that independent or contract loan processors and underwriters must also register with the NMLS&R as Mortgage Loan Originators. The MLO License Endorsement will be added to the DRE Broker License as an MLO Endorsement. Processors or underwriters who do not already have a DRE Broker License will have to obtain one by December 31, 2010, or before doing any activities as an independent or contract loan processor or underwriter after December 31, 2010.

Arranging Seller Carry-Back Transactions

Licensees who enter into a listing agreement to sell property and help the seller arrange carry-back terms for the sale but are not compensated by a lender for originating the loan will not be required to obtain an MLO License Endorsement. 

Disciplinary action: March 2010 — May 2010

- A list of actions is not published in this *Bulletin* until the 30-day period allowed for court appeal has expired or, if an appeal is filed and the disciplinary action is stayed, until the stay is dissolved. Names of persons to whom licenses are denied on application are not published.
- Licensees are listed alphabetically by the District Office region of responsibility.
- The license type is listed in parentheses after the licensee's name. [REB – Real Estate Broker; RREB – Restricted Real Estate Broker; RES – Real Estate Salesperson; RRES – Restricted Real Estate Salesperson;

PRLS – Prepaid Rental Listing Service; RPRLS – Restricted Prepaid Rental Listing Service; REO – Real Estate Officer; REC – Real Estate Corporation]

- Below are brief summaries of various regulations and code sections. The full text of the sections is available on the DRE Web site www.dre.ca.gov under Real Estate Law and/or Regulations.
- Disciplinary actions that are “stayed” means there is “a delay in carrying out” all or part of the recommended discipline.

COMMISSIONER'S REGULATIONS

2715	Licensee's failure to maintain current business or mailing address with DRE
2725	Failure of broker to exercise reasonable supervision over the activities of his or her salespersons
2726	Failure to have broker-salesperson agreements
2731	Unauthorized use of fictitious business name
2731(a)	Failure to obtain fictitious business name license
2740	Performing licensed acts without a designated officer
2742(c)	Failure of corporation to be in good standing
2752	Broker's failure to notify DRE of salesperson employment
2753	Broker's failure to retain salesperson's license at main office or return the license at termination of employment
2831	Failure to keep proper trust fund records
2831.1	Inadequate separate trust fund beneficiary records
2831.2	Failure to reconcile trust account
2832	Failure to comply with trust fund handling provisions
2832(a)	Failure of broker to place trust funds into hands of owner, into neutral escrow depository or trust fund account within three business days of receipt
2832(d)	Failure of broker holding trust funds contingent on offer of acceptance to properly place funds within 3 days of acceptance
2832.1	Failure to obtain permission to reduce trust fund balance in a multiple beneficiary account
2834	Trust account withdrawals by unauthorized or unbonded person
2835	Retention of broker funds in trust account
2840	Failure to give approved borrower disclosure
2846.5	Annual independent public accountant trust fund reporting requirements
2847.3	Failure to properly disclose license status in mortgage loan advertising
2910	Criteria of substantial relationship
2950	Violation of broker-controlled escrow requirements
2950(d)	Failure of broker handling escrows to maintain records and accounts
2950(e)	Failure by broker to make escrow records available for inspection
2950(f)	Failure to deposit escrow trust funds
2950(g)	Broker-handled escrow disbursement without written instructions
2950(h)	Failure to disclose interest in the agency holding the escrow
2951	Improper record keeping for broker handled escrows
2970	Failure to submit advance fee material for review
2972	Advance fee accounting

BUSINESS AND PROFESSIONS CODE

480(a)	Denial of license on grounds of conviction of crime, dishonest or fraudulent act, or act which would warrant suspension or revocation of license.
490	Substantially related criminal conviction
10085	Failure to submit advance fee materials
10085.5	Illegal advance fees
10130	Acting without license
10137	Unlawful employment or payment of compensation
10145	Trust fund handling
10145(g)	Failure to maintain a separate record of receipt and disposition of all trust funds
10146	Advance fee handling
10148	Failure to retain records and make available for inspection

10159.2	Failure by designated officer to supervise licensed acts of corporation
10159.5	Failure to obtain license with fictitious business name
10161.8	Failure of broker to notify Commissioner of salesperson employment
10162	Failure to maintain a place of business
10163	Failure to obtain a branch office license
10165	Failure to comply with specified B&P code sections
10176(a)	Making any substantial misrepresentation
10176(b)	Making false promise
10176(c)	Continued & flagrant course of misrepresentations through salespersons
10176(d)	Failure to disclose dual agency
10176(e)	Commingling trust funds with brokers funds
10176(f)	Exclusive listing agreement without definite termination date
10176(g)	Secret profit or undisclosed compensation
10176(h)	Secret profit under option agreement
10176(i)	Fraud or dishonest dealing in licensed capacity
10177(a)	Procuring a real estate license by misrepresentation or material false statement
10177(b)	Conviction of crime
10177(c)	False advertisement
10177(d)	Violation of real estate law or regulations
10177(e)	Willfully using term "Realtor" or any trade name or insignia of membership in any real estate organization of which the licensee is not a member
10177(f)	Conduct that would have warranted denial of a license
10177(g)	Negligence or incompetence in performing licensed acts
10177(h)	Failure to supervise salespersons or licensed acts of corporation
10177(i)	Improper use of government employment giving access to confidential records
10177(j)	Fraud or dishonest dealing as principal
10177(k)	Violation of restricted license condition
10177(n)	Violation of real estate syndicate provisions of corporate securities law
10177.5	Civil fraud judgment based on licensed acts
10231.1	Retaining lender's funds for more than 25 days without a written agreement with the lender
10232.2	Failure to file or maintain trust fund status
10233	Failure of MLB to have written loan servicing contract
10235.5	Lender purchaser disclosure violation
10236.4	Failure to include license number or DRE License Information telephone number in documents
10238(d)	Illegal sale of promotional note
10238(e)	Failure to disclose material fact
10238(f)	Violation of restriction to sell notes in excess of 10 to qualified persons
10238(k)	Failure to have written agreement
10240	Failure to provide mortgage loan disclosure statement
10241	Improper mortgage loan disclosure statement
10241(b)	Failure to disclose commissions
10242(a)	Costs and expenses charged to borrower exceed maximum
10242(b)	Charges to borrower exceed maximum
11012	Material change in subdivision offering without notifying DRE
11018.2	Sale of subdivision lots without a public report

FINANCIAL CODE

4970	Violation of covered loan law
4973	Violation of covered loan law
4979.6	Financing excessing points and fees in covered loan

REVOKED LICENSES

FRESNO REGION

- Bray, Jarrod Edward (RES)**
366 Reservation Rd #D-3, Marina
Effective: 5/4/10
Violation: 490, 10177(b)
- Canepa, Jeffrey Michael (RES)**
PO Box 272, Capitola
Effective: 3/31/10
Violation: 10176(a)(g), 10177(j)
- Crisp Real Estate, Inc. (REC)**
10822 Whitburn St., Bakersfield
Effective: 4/27/10
Violation: 10177(d)(f)(j)
- Ferdinandson, Eric N. (REB)**
299 E. Lester Ave., Fresno
Effective: 5/20/10
Violation: 10177(f)(j)
- Foster, Cecil E. (REB)**
2623 F Street, Ste. M., Bakersfield
Effective: 4/19/10
Violation: 10177(d), 10177.5
- Perez, Sandra (RES)**
2488 Country Club Ln, Selma
Effective: 4/5/10
Violation: 10130, 10137, 10176(a)(i), 10177(e)(g)(j)
- Thind, Justin Bhagat (RES)**
903-B Rosedale Ave., Capitola
Effective: 3/2/10
Violation: 490(a), 10177(b)
- Tullos, Bonnie Ilene (REB)**
252 W. Grand Ave., Grover Beach
Effective: 3/9/10
Violation: 2831, 2831.1, 2831.2, 2832, 2832.1, 2835, 490, 10145, 10176(e), 10177(b)(d)

LOS ANGELES REGION

- Anz, Nabile John (REB, REO)**
9460 Balboa Blvd., Northridge
Effective: 5/11/10
Officer of: Azure Group Incorporated
Violation: 2731, 2970, 10085, 10137, 10159.2, 10159.5, 10176(a)(b)(i)(j), 10177(d)(g)(h)
- Azure Group Incorporated (REC)**
9460 Balboa Blvd., Northridge
Effective: 5/11/10
Violation: 2742(c), 10137, 10177(d)(f)(g)
- Cappadocia, Paul Michael (RES)**
60 Via Armilla, San Clemente
Effective: 4/19/10
Violation: 490, 10177(b)
- Castro, Jimmy (REB)**
783 Rio Grande St., Pasadena
Effective: 5/10/10
Violation: 2731(a), 10137, 10159.5, 10177(d)(g)
- Chen, Kathy Y. (REB)**
1823 East 17th St., #307, Santa Ana
Effective: 4/19/10
Violation: 10177.5
- Cisneros, Jason (RES)**
13637 Hawthorne Blvd., Hawthorne
Effective: 4/19/10
Violation: 490, 10177(b)
- Clark, Kimberly (RES)**
PO Box 938, Dana Point
Effective: 3/18/10
Violation: 10130, 10177(d)(j)

- Cookson, Jennifer Wind (RES)**
PO Box 2275, Big Bear City
Effective: 3/22/10
Violation: 490, 10177(b)
- Corral, Ariel (RES)**
755 Rosarita Dr., Fullerton
Effective: 3/22/10
Violation: 490, 10177(b)
- Corral, Efrén Jr. (RES)**
10205 Northridge Dr., Rancho Cucamonga
Effective: 4/19/10
Violation: 490, 10177(b)
- Cubillas, Ricardo (RES)**
PO Box 101, Simi Valley
Effective: 4/12/10
Violation: 490, 10177(b)
- Cueva & Associates, Inc. (REC)**
PO Box 20303, Los Angeles
Effective: 3/15/10
Violation: 10137, 10177(d)(g)
- Cueva, Juan Antonio (REB, REO)**
PO Box 20303, Los Angeles
Effective: 3/15/10
Officer of: Cueva & Associates, Inc.
Violation: 10137, 10177(d)(g)
- Decker, Robert Hugh (REB)**
1400 S E Bristol St. #216, Santa Ana
Effective: 3/22/10
Violation: 490, 10177(b)
- Excel Lending, Inc. (REC)**
222 N. Mountain Ave., Ste. 108-A, Upland
Effective: 5/5/10
Violation: 2831, 2831.1, 2831.2, 2970, 2972, 10085, 10130, 10145, 10146, 10177(d)
- Favata, Sandra Lynn (RES)**
417 Associated Rd. #A-442, Brea
Effective: 3/15/10
Violation: 10177(f)(j)
- Fernandez, Walter (REB)**
8300 Utica Ave. #247, Rancho Cucamonga
Effective: 4/19/10
Violation: 490, 10177(b)
- Fierro, Enrique (REB, REO)**
1522 E. Fourth St., Second Floor, Santa Ana
Effective: 3/18/10
Officer of: Nuestra Casa Mortgage, Inc.
Violation: 10148, 10177(d)
- Foshees High Country, Inc. (REC)**
PO Box 1960, Lake Arrowhead
Effective: 4/15/10
Violation: 2715, 2731, 2950(e)(h), 10145, 10148, 10159.5, 10162, 10165, 10177(d)(g)
- Friend, Raquel Renee (RES)**
5575 Lonna Linda Dr., Long Beach
Effective: 3/22/10
Violation: 490, 10177(b)
- Gonzales, Juan Jose (RES)**
1443 E. 60th St., Los Angeles
Effective: 3/18/10
Violation: 490, 10177(b)
- Grant, Corey (RES)**
8555 Citrus Ave. #L160, Fontana
Effective: 3/22/10
Violation: 490, 10177(b)
- Graves, Jackie Alexander (REB)**
4320 Atlantic Ave., Ste. 216, Long Beach
Effective: 4/21/10
Violation: 2840, 10130, 10176(a)(i), 10177(d)(g)(h), 10240, 4973(e), 4973(b)(1), 4973(k)(1), 4979.6

- Gray, Charlie L. II (REB)**
2914 E. Katella #100, Orange
Effective: 4/5/10
Violation: 490, 10177(b)
- Hlavanda, Mario F. (REB)**
21822 Sherman Way #200, Canoga Park
Effective: 4/19/10
Violation: 490, 10177(a)(b)
- Holland, Steve Oliver (RES)**
2971 Mindanao, Costa Mesa
Effective: 4/21/10
Violation: 490, 10177(b)
- Janric Enterprise, Inc. (REC)**
5753 Uplander Way, Culver City
Effective: 5/14/10
Violation: 2731, 2742(c), 2752, 2831.1, 2831.2, 2832(a), 2840.1, 2950(d)(h), 2951, 10159.5, 10161.8, 10177(d)(g), 10240, 10241
- Kim, Danny (RES)**
17806 Kinzie St. #111, Northridge
Effective: 3/22/10
Violation: 490, 10177(b)
- Korba, Scott Elliot (RES)**
811 West 15th St. #2-A, Newport Beach
Effective: 4/12/10
Violation: 490, 10177(b)
- Lara, Laura Marie (RES)**
316 Tocino Dr., Duarte
Effective: 3/18/10
Violation: 490, 10177(b)
- Lopez, Paul (RES)**
5227 N. Muscatel Ave., San Gabriel
Effective: 3/22/10
Violation: 490, 10177(b)
- Maradiaga, Carlos Anthony (REB)**
11008 Gard Ave., Santa Fe Springs
Effective: 3/24/10
Violation: 10176(a), 10177(f)(j)
- Marquez, Natalie Esther (RES)**
PO Box 727, Sierra Madre
Effective: 3/24/10
Violation: 10176(a), 10177(f)(j)
- Martinez, Benjamin Dean (RES)**
438 Cedar Ave., Unit 11, Long Beach
Effective: 3/22/10
Violation: 490, 10177(b)
- McArthur, Dane Robert (REB)**
4137 Bouton Dr., Lakewood
Effective: 5/25/10
Violation: 490, 10177(b)
- Miller, Byrne (REB)**
1150 Stanford, Irvine
Effective: 5/14/10
Violation: 10177(k)
- Mountain Side Lending Corporation (REC)**
437 N. Riverside Ave. #9, Rialto
Effective: 5/11/10
Violation: 2742, 10137, 10162, 10163, 10165, 10176(i), 10177(d)(f)(g), 10240, 10241
- Nazeri, Shawn (RES)**
14252 Culver Dr. #173, Irvine
Effective: 4/27/10
Violation: 490, 10177(b)
- Newport Capital Group, Inc. (REC)**
4340 Von Karman Ave. #150, Newport Beach
Effective: 5/11/10
Violation: 2731, 2847.3, 10159.5, 10177(d)(g), 10235.5, 10236.4
- Norris, Dwight Edward (REB)**
PO Box 5953, Buena Park
Effective: 4/21/10
Violation: 2831, 2831.1, 2831.2, 2832(a), 2832.1, 2834, 2950(d)(f)(g), 2951, 10145, 10177(d)(g)(h)
- Nuestra Casa Mortgage, Inc. (REC)**
1522 E. Fourth St., Santa Ana
Effective: 3/18/10
Violation: 10145, 10177(d)
- Orozco, Jael Sarai (RES)**
1055 Lakeview Dr., Palmdale
Effective: 3/8/10
Violation: 490, 10177(b)
- People's Home Loan & Realty, Inc. (REC)**
2515 W. Woodland Dr., Anaheim
Effective: 5/14/10
Violation: 2731, 2740, 2753, 2831, 2831.1, 2831.2, 2832, 2832.1, 2834, 2835, 2840, 2950(d)(h), 2951, 10130, 10137, 10145, 10159.5, 10160, 10176(e)(i), 10177(d)(g), 10236.4
- Pierce, Mary Jane (RES)**
8350 Archibald Ave. Unit 238, Rancho Cucamonga
Effective: 4/15/10
Violation: 490, 10177(b)(k)
- Rachal, Christopher John (RES)**
8235 Alameda St., Downey
Effective: 4/19/10
Violation: 490, 10177(b)
- Reyes, Rudolph W. (REB)**
1 Pointe Dr., Ste. 300, Brea
Effective: 3/15/10
Violation: 10177(g)(h)
- Robinson, John Christopher Jr. (REB)**
100 N. Barranca Ave., 7th Floor, West Covina
Effective: 3/10/10
Violation: 490, 10177(b)
- Savon Enterprises, Inc. (REC)**
16461 Sherman Way #110, Van Nuys
Effective: 5/11/10
Violation: 490, 10177(b)
- The Vicken Group, Inc. (REC)**
1010 N. Central Ave., Ste. 440, Glendale
Effective: 4/19/10
Violation: 10137, 10176(i), 10177(d)
- Torres, Alejandro (REB)**
206872 Amar Rd. #365, Walnut
Effective: 5/17/10
Violation: 490, 10177(b)
- Vosgueritchian, Vicken (REB, REO)**
817 W. Dryden St., Glendale
Effective: 4/19/10
Officer of: The Vicken Group, Inc.
Violation: 10137, 10159.2, 10176(i), 10177(d)(h)
- White, Robert (RES)**
19708 Skyview Ct., Canyon Country
Effective: 4/19/10
Violation: 490, 10177(b)
- Williams, Cynthia Joyce (RES)**
404 E. First St., #1153, Long Beach
Effective: 5/10/10
Violation: 490, 10177(b)(k)

OAKLAND REGION

- Cloudy, Beverly Delorce (RES)**
PO Box 6393, San Pablo
Effective: 4/6/10
Violation: 10177.5
- De Guzman, Apolinario Icasiano Jr. (REB)**
2689 Magee Ave., San Pablo

Effective: 3/15/10
Violation: 10176(a)(i), 10177(g)(j)

First Blackhawk Financial Corporation (REC)

5000 Executive Parkway, Ste. 425,
San Ramon

Effective: 5/12/10
Violation: 2715, 2831, 2831.1,
2831.2, 2832.1, 10145,
10177(d), 10231.1,
10232.2, 10232.2(c)

Homex Corporation (REC)

455 Hickey Blvd., Ste. 500A, Daly City

Effective: 3/15/10
Violation: 2753, 2831, 10148,
10160, 10161.8, 10165,
10176(a)(i), 10177(d)(g)
(j), 10240, 10241, 10241(b)

Imaan Financial & Real Estate Group, Inc. (REC)

7901 Stoneridge Dr., Ste. 410,
Pleasanton

Effective: 4/28/10
Violation: 2731, 2831, 2831(a),
2831.1, 2831.2, 2832,
2832(a)(d), 2834, 2970,
2972, 10085, 10085.5,
10145, 10145(g), 10146,
10148, 10159.5, 10176
(a)(b)(i), 10177(d)(g)(j),
10240, 10242(a),
10242(b)(1)

Jacobson, Kevin Charles (RES)

71 #E Massolo Dr., Pleasant Hill

Effective: 4/12/10
Violation: 490, 10177(b)

Jones, Deborah Ann (REB)

22245 Main St. #210, Hayward

Effective: 4/7/10
Violation: 10177(f)(g)

Kang, Randhir Singh (RES)

39193 Liberty St., Ste. B-6, Fremont

Effective: 4/5/10
Violation: 490, 10177(f)(g)

Mendoza, Ivan Arturo (RES)

762 Barnevelde Ave., San Francisco

Effective: 3/22/10
Violation: 490, 10177(b)

Mills, Martin Edward (RES)

2853 Simas Ave., Pinole

Effective: 5/10/10
Violation: 490, 10177(b)

Nguyen, Huyen Tram H. (RES)

1883 Agnew Rd. #204, Santa Clara

Effective: 5/20/10
Violation: 490, 10177(b)

Perreras, Conrado Zapanta (REB)

3060 Dublin Dr., South San Francisco

Effective: 3/15/10
Violation: 10159.2(a), 10177(d)(h)

Rothwell, James Arnold (RES)

525 Calle Cabelleria, Morgan Hill

Effective: 4/1/10
Violation: 490, 10177(b)

Safdari, Suliman (REB)

2340 Santa Rita Rd., Ste. 7, Pleasanton

Effective: 4/28/10
Violation: 2725, 2831(a), 2832(a)
(d), 2970, 2972, 10085,
10085.5, 10145, 10146,
10159.2, 10176(a)(b)(i),
10177(d)(g)(h)(j),

Sarasua, Joseph James (REB)

740 Serena Dr., Pacifica

Effective: 4/9/10
Violation: 490, 10177(b)

Schubel, Harry Robert (RES)

380 Pamilar Ave., San Jose

Effective: 3/22/10

Violation: 490, 10177(b)

Sequeira, Adolfo Anthony Jr. (RES)

11 Riviera Cir., Redwood City

Effective: 3/29/10
Violation: 490, 10177(b)

Tomista, Norma Cantor (RES)

1150 Theoden Ct., San Jose

Effective: 4/8/10
Violation: 490, 10177(b)

Tran, John Huy (RES)

205 Nanterre St., Danville

Effective: 4/12/10
Violation: 490, 10177(b)

Vazquez, Daniel (RES)

921 4th Ave. Redwood City

Effective: 4/12/10
Violation: 490, 10177(b)

Whittington, Terence L. (REB)

3361 Walnut Blvd., Ste. 110,
Brentwood

Effective: 5/3/10
Violation: 2970, 2972, 10085,
10085.5, 10146,
10176(a)(b)(i),
10177(d)(g)(j)

Woods, Charlie (RES)

1330 N. Dutton Ave., Ste. 200,
Santa Rosa

Effective: 4/12/10
Violation: 490, 10177(b)(k)

SACRAMENTO REGION

Bales, Zam (RES)

PO Box 47, West Sacramento

Effective: 4/1/10
Violation: 490, 10177(b)

Duncan, Stephen Howard (RES)

PO Box 194, Palo Cedro

Effective: 4/19/10
Violation: 490, 10177(b)

Inzano, Christopher Robert (RES)

2921 Miller Way, Placerville

Effective: 4/12/10
Violation: 490, 10177(b)

Madrigal, Michael Anthony (RES)

546 De Mar Dr., Sacramento

Effective: 4/26/10
Violation: 10130, 10137, 10177(d)

Martinazzi, Brian (RES)

57 School St., Willits

Effective: 3/8/10
Violation: 490, 10177(b)

Pappadopoulos, Demetri Chris (RES)

3560 El Camino Ave., Sacramento

Effective: 3/29/10
Violation: 490, 10177(b)

Rausser, Tracy Lynn (RES)

718 N. Pleasant Ave., Lodi

Effective: 3/29/10
Violation: 490, 10177(b)

Schlaegel, Michael David (REB)

153 John Henry Cir., Folsom

Effective: 4/5/10
Violation: 2970, 10085, 10177(d)

Simon, Robert R. (REB)

PO Box 2002, Willits

Effective: 4/5/10
Violation: 490, 10177(b)

Singh, Kanwardeep (REB)

1222 Barrington Ln., Lincoln

Effective: 5/20/10
Violation: 10177(f)(j)

Ung, Leng Nguon (RES)

568 Schuman Pl., Ventura

Effective: 3/30/10
Violation: 490, 10177(b)

Weisbecker, Michael Francis (RES)

604 Mountain View Dr.,
Mount Shasta

Effective: 4/19/10

Violation: 490, 10177(b)

SAN DIEGO REGION

Butler, John Dallas (RES)

1242 Topaz Place, San Marcos

Effective: 4/8/10
Violation: 490, 10177(b)

Duey, Douglas Mark (RES)

2125 E. Washington Ave., Escondido

Effective: 4/5/10
Violation: 490, 10177(b)

Federico, Ryan Anthony (RES)

31798 Corte Padraera, Temecula

Effective: 3/22/10
Violation: 490, 10177(b)

Ikeokwu, Jacob (RES)

9233 Kenwood Dr. #4, Spring Valley

Effective: 3/30/10
Violation: 490, 10177(b)

Kayda, Pat M. (RES)

PO Box 900413, San Diego

Effective: 5/5/10
Violation: 490, 10177

Magana, Brandon (RES)

28850 Old Mine Rd., Hemet

Effective: 4/19/10
Violation: 490, 10177(b)

Osinovskiy, Vladimir (RES)

PO Box 722661, San Diego

Effective: 3/18/10
Violation: 490, 10177(b)

Vega, Charlotte Nelton (REB)

74 996 Hwy 111, Indian Wells

Effective: 5/25/10
Violation: 490, 10177(b)

Vroom, William John (REB)

PO Box 507301, San Diego

Effective: 4/28/10
Violation: 490, 10177(b)

**REVOKED WITH RIGHT
TO A RESTRICTED
LICENSE**

FRESNO REGION

Lindemann, Thomas Christopher (REB)

2752 W. Fir Ave., Fresno

Effective: 5/18/10
Violation: 490, 10177(b)

Right to RREB license on terms and conditions

Shamrock, Angelina (REB)

484B Washington St., #210, Monterey

Effective: 4/30/10
Violation: 10177(g)(h)

Right to RRES license on terms and conditions

LOS ANGELES REGION

Ardizzone, David Shawn (REB)

2313 Termino Ave. #B, Long Beach

Effective: 3/15/10
Violation: 490, 10177(b)

Right to RREB license on terms and conditions

Barsamian, Aram (RES)

1249 S. Diamond Blvd. #244,
Diamond Bar

Effective: 3/1/10
Violation: 490, 10177(b)

Right to RRES license on terms and conditions

Chung, Joey (RES)

730 S. Halliday St., Anaheim

Effective: 3/3/10
Violation: 490, 10177(b)

Right to RRES license on terms and conditions

Doll, Ryan Michael (RES)

27 Gladstone, Irvine

Effective: 3/2/10
Violation: 490, 10177(b)

Right to RRES license on terms and conditions

Duenas, Mauricio A. (REB)

457 N. Central Ave., Upland

Effective: 3/24/10
Violation: 10176(a), 10177(f)(j)

Right to RREB license on terms and conditions

Fong, Patty Chang (REB)

1227 W. Valley Blvd. #108, Alhambra

Effective: 5/11/10
Violation: 490, 10177(b)

Right to RREB license on terms and conditions

Getz, George Francis (REB)

11509 S. Homeland Ave., Whittier

Effective: 4/27/10
Violation: 490, 10177(b)

Right to RREB license on terms and conditions

Kish, Andrew John (REB)

816 S. Catalina Ave. #D,
Redondo Beach

Effective: 3/23/10
Violation: 490, 10177(b)

Right to RREB license on terms and conditions

Lamson, Benton Hugh (REB)

12176 Industrial Blvd. #1, Victorville

Effective: 5/12/10
Violation: 2831, 2831.2, 2832(a),
2832.1, 10145,
10177(d)(g)(h)

Right to RRES license on terms and conditions

M D Lending Group, Inc. (REC)

457 N. Central Ave., Upland

Effective: 3/24/10
Violation: 10176(a), 10177(f)(j)

Right to RREC license on terms and conditions

Melton, Walter Mitchell (REB)

3901 Sutro Ave., Los Angeles

Effective: 3/3/10
Violation: 490, 10177(b)

Right to RREB license on terms and conditions

Ngo, Patrick (RES)

9220 Telegraph Rd., #212, Downey

Effective: 4/26/10
Violation: 490, 10177(b)

Right to RRES license on terms and conditions

Novoa, Veronica Lynn (RES)

935 Weldon Rd., Santa Barbara

Effective: 4/27/10
Violation: 490, 10177(b)

Right to RRES license on terms and conditions

Nunez, Jose Angel (REB)

14057 Paramount Blvd., Ste. A,
Paramount

Effective: 3/26/10
Violation: 2831, 2831.1, 2831.2,
2832, 2970, 2972,
10085, 10145, 10146,
10177(d)(g)(h)

Right to RREB license on terms and conditions

NXT Equities, Incorporated (REC)

37 Aurora Dr., Rolling Hills Estates

Effective: 4/30/10
Violation: 2831.1, 2831.2, 2832(a),
2832.1, 2840, 2950(d)
(g), 10145, 10177(d)(g),
10232.4, 10240, 4973

Right to RREC license on terms and conditions

Ochoa, Jose Jesus (REB)
1420 E. Edinger Ave., Ste. 107, Santa Ana
Effective: 4/1/10
Violation: 10177(f)
Right to RRES license on terms and conditions

Parker, Eric Eduardo (RES)
1000 N. Central Ave., Glendale
Effective: 3/1/10
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Paul, Patty Jean (REB)
9730 Ramona St., Bellflower
Effective: 4/26/10
Violation: 490, 10177(b)
Right to RREB license on terms and conditions

Rhodes, Daniel Thompson (RES)
1251 Old Canyon Dr., Hacienda Heights
Effective: 4/1/10
Violation: 10177(f)
Right to RRES license on terms and conditions

Stevens, Freddie Jr. (REB)
PO Box 5605, Long Beach
Effective: 3/15/10
Violation: 10177.5
Right to RREB license on terms and conditions

Streifel, Steve Bernard (REB, REO)
305 North 2nd Ave., Upland
Effective: 5/17/10
Officer of: Excel Lending, Inc.
Violation: 2831, 2831.1, 2831.2, 2970, 2972, 10085, 10145, 10146, 10159.2, 10177(d)(h)
Right to RRES license on terms and conditions

Todd, Garrett Bradley (RES)
630 San Vicente Ave., Santa Monica
Effective: 5/10/10
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Tomasello, Lauren Marie (RES)
1 Dennis Ln., Ladera Ranch
Effective: 3/9/10
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Waldman, Michael David (REB, REO)
37 Aurora Dr., Rolling Hills Estates
Effective: 4/30/10
Officer of: NXT Equities, Inc.
Violation: 10159.2, 10177(h)
Right to RREB license on terms and conditions

OAKLAND REGION

Brumm, Lawrence William Jr. (REB)
447 Bonita Ave., Pleasanton
Effective: 3/18/10
Violation: 10177(f)(g)(j)
Right to RRES license on terms and conditions

Gebrian, Mary A. (RES)
758 Le Conte Ave., San Francisco
Effective: 3/15/10
Violation: 2731, 10137, 10145(c), 10159.5, 10176(g)(i), 10177(d)(j)
Right to RRES license on terms and conditions

Jackson, Andrew B. (REB)
2506-A Old Santa Rita Rd., Pleasanton
Effective: 5/27/10
Violation: 10177(d)(h)
Right to RRES license on terms and conditions

Judson, Richard Charles (REB)
8190 Terrace Dr., El Cerrito
Effective: 3/1/10
Violation: 2725, 10177(d)(g)(h)
Right to RRES license on terms and conditions

Kho, Alberto Uy (RES)
1800 Wyatt Dr., Ste. 16, Santa Clara
Effective: 5/20/10
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Sloat, James (REB)
3203 Stone Valley Rd., Alamo
Effective: 5/13/10
Violation: 2910(a)(2), 2910(a)(4), 2910(a)(8)
Right to RREB license on terms and conditions

SACRAMENTO REGION

Christenson, Lisa R. (RES)
25405 Kauffman Ave., Red Bluff
Effective: 4/28/10
Violation: 490(a), 10177(b)
Right to RRES license on terms and conditions

Halloran, Franki (RES)
913 Purdue Dr., Woodland
Effective: 5/12/10
Violation: 10137, 10177(d)(g)
Right to RRES license on terms and conditions

Lombera, Idalia Lizzette (RES)
3308 Cahill Ct., Sacramento
Effective: 5/12/10
Violation: 10137, 10177(d)(g)
Right to RRES license on terms and conditions

New Life Modifications (REC)
777 Pershing Ave., Ste. 2C, Stockton
Effective: 4/15/10
Violation: 480(c), 10177(a)

SAN DIEGO REGION

Baes, Karen Florine (RES)
3960 W. Point Loma Blvd. H236, San Diego
Effective: 5/13/10
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Delarosa, Sylvia (RES)
14773 Meadowsweet Dr., Corona
Effective: 5/5/10
Violation: 10130, 10177(d)
Right to RRES license on terms and conditions

Ochoa, Monica Susana (RES)
818 Via Juanita, San Marcos
Effective: 4/28/10
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Oster, Mark A. (RES)
38649 Cherry Valley Blvd., Cherry Valley
Effective: 3/1/10
Violation: 490, 10177(b)(f)
Right to RRES license on terms and conditions

Torres, Karla J. (RES)
21231 Macarthur Dr., Nuevo
Effective: 3/8/10
Violation: 490, 10177(b)

Right to RRES license on terms and conditions

Tran, Ngan Kim (REB)
4760 Murphy Canyon Rd. #204, San Diego
Effective: 4/28/10
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

SUSPENDED

FRESNO REGION

Speakman, Joseph Dennis (REB)
1400 Calloway Dr. #201, Bakersfield
Effective: 4/13/10
Violation: 2970, 2972, 10085, 10145, 10146, 10177(d)
Suspended for 30 days

LOS ANGELES REGION

HMS Capital, Inc. (REC)
One Baxter Way, Ste. 300, Westlake Village
Effective: 3/8/10
Violation: 2715, 10162, 10165, 10177(d)(g)
Suspended indefinitely

Jackson, Marvin Julius (REB)
9841 Airport Blvd., Ste. 504, Los Angeles
Effective: 3/3/10
Violation: 10177(g)
Suspended for 30 days

Williams, Jenell (REB, REO)
7202 Acorn Place, Rancho Cucamonga
Effective: 5/14/10
Officer of: Janric Enterprise, Inc.
Violation: 2731, 2742(c), 2752, 2831.1, 2831.2, 2832(a), 2840.1, 2950(d)(h), 2951, 10159.2, 10159.5, 10161.8, 10177(d)(g)(h), 10240, 10241
Suspended for 30 days

OAKLAND REGION

Shokoor, Naqib (RES)
1861 Lynn W. Rifle St., Tracy
Effective: 3/1/10
Violation: 10177(d), 10240, 10241
Suspended for 90 days

SUSPENDED WITH STAY

FRESNO REGION

De La Torre, Isidro (REB)
3291 N. Hilliard Ln., Fresno
Effective: 4/26/10
Violation: 10159.2, 10177(d)(g)(h)
Suspended for 90 days—stayed for 2 years on terms and conditions

Mestizo Investments, Inc. (REC)
3291 N. Hilliard Ln., Fresno
Effective: 4/26/10
Violation: 2731, 2831, 2831.1, 2831.2, 2832, 2835, 10130, 10137, 10145, 10159.5, 10163, 10176(e), 10177(d)(g)(j), 10240
Suspended for 90 days—stayed for 2 years on terms and conditions

LOS ANGELES REGION

All-Pro Investments, Inc. (REC)
4630 Campus Dr., Newport Beach
Effective: 3/12/10

Violation: 2731, 2831.1, 2831.2, 10145, 10148, 10177(d)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

American Financial Corporation (REC)
9530 East 19th St., Alta Loma
Effective: 3/15/10
Violation: 10177(g)
Suspended for 60 days—stayed for one year on terms and conditions

Avruch, Matthew Evans (RES)
487 Braxfield Ct., Westlake Village
Effective: 4/28/10
Violation: 10130, 10177(d)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Caliber Lending, Inc. (REC)
75 Strawflower St., Ladera Ranch
Effective: 3/17/10
Violation: 10177(g)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Carmenate, Dinorah Annette (REB, REO)
2801 Bristol #110, Costa Mesa
Effective: 3/24/10
Officer of: Dinorah, Inc.
Violation: 2725, 10159.2, 10177(h)
Suspended for 120 days—stayed for 2 years on terms and conditions

Cortes, Melesio Morales (REB, REO)
1403 S. Main St., Santa Ana
Effective: 3/3/10
Officer of: Grand Masters Lending, Inc.
Violation: 10159.2, 10177(d)(g)(h)
Suspended for 90 days—stayed for 2 years on terms and conditions

Cristy, John (REB, REO)
6464 San Marcos, Buena Park
Effective: 3/18/10
Officer of: Infinity Lending, Inc.
Violation: 10177(h)
Suspended for 90 days—stayed for 2 years on terms and conditions

Daily Realty Company, Inc. (REC)
9027 E. Florence Ave., Ste. C, Downey
Effective: 5/18/10
Violation: 10177(g)
Suspended for 120 days—60 days stayed for 2 years on terms and conditions

De Los Reyes, Steven Patrick (REB, REO)
4959 Palo Verde #205B, Montclair
Effective: 3/24/10
Officer of: Sunwest Properties Corporation
Violation: 2752, 2831, 2831.1, 2832, 2840, 2970, 2972, 10145, 10146, 10161.8, 10177(d)(g)(h), 10240
Suspended for 60 days—stayed for 2 years on terms and conditions

Dinorah, Inc. (REC)
2801 Bristol #110, Costa Mesa
Effective: 3/24/10
Violation: 2731, 2831.1, 2831.2, 2832.1, 2970, 2972, 10085, 10137, 10145, 10146, 10177(d)(g)
Suspended for 120 days—stayed for 2 years on terms and conditions

Dunkelman, Charles Mike (REB, REO)
101 N. Citrus Ave. #1C, Covina
Effective: 4/1/10
Violation: 2731, 2752, 2832(a), 2950(d), 2951, 10145,

10146, 10159.5, 10163, 10236.4
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Evergreen Realty & Associates, Inc. (REC)
9901 Irvine Center Dr., Irvine
Effective: 3/26/10
Violation: 10130, 10145, 10177(d), 10177.4
Suspended for 60 days—stayed for 2 years on terms and conditions

EVR Lending, Inc. (REC)
9901 Irvine Center Dr., Irvine
Effective: 3/26/10
Violation: 10130, 10145, 10177(d), 10177.4
Suspended for 60 days—stayed for 2 years on terms and conditions

Garcia and Associates Realty, Inc. (REC)
12127 Garfield Ave., South Gate
Effective: 5/6/10
Violation: 2726, 2731, 2752, 2831, 2831.1, 2832, 2832.1, 2834, 2950(d)(g), 2951, 10145, 10159.5, 10161.8, 10177(d)(g)
Suspended for 60 days—stayed for 2 years on terms and conditions

Garcia, Gilberto (REB, REO)
12127 Garfield Ave., South Gate
Effective: 5/6/10
Officer of: Garcia and Associates Realty, Inc.
Violation: 2725, 2726, 2731, 2752, 2831, 2831.1, 2832, 2832.1, 2834, 2950(d)(g), 2951, 10145, 10159.2, 10159.5, 10161.8, 10177(d)(g)(h)
Suspended for 60 days—stayed for 2 years on terms and conditions

Garner, Robert S. (REB, REO)
24 Belmonte, Irvine
Effective: 4/9/10
Officer of: J & J Lending Corp.
Violation: 2832.1, 2834, 2840, 10145, 10159.2, 10177(d)(g)(h), 10240
Suspended for 60 days—stayed for 2 years on terms and conditions

Gomez, Cynthia Christina (RES)
8 Via Burrone, Newport Coast
Effective: 5/18/10
Violation: 10177(g)
Suspended for 120 days—60 days stayed for 2 years on terms and conditions

Haser, David John (REB)
5353 Topanga Canyon Blvd., Ste. 206, Woodland Hills
Effective: 5/6/10
Violation: 2831, 2835, 2840, 2840.1, 2950(d)(g), 2951, 10145, 10176(e)(g), 10177(d)(g), 10233, 10240, 4970, 4979.6
Suspended for 120 days—stayed for 2 years on terms and conditions

Hoang, Cecilia Minh (REB, REO)
12812 Garden Grove Blvd., Ste. N, Garden Grove
Effective: 4/28/10
Officer of: Corporate Financial, Inc.
Violation: 2832(d), 10145, 10177(d)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

J & J Lending Corporation (REC)
2405 McCabe Way, Ste. 213, Irvine
Effective: 4/9/10
Violation: 2832.1, 2834, 2840, 10145, 10177(d)(g), 10240
Suspended for 60 days—stayed for 2 years on terms and conditions

Jones, Jason Michael (REB, REO)
13962 Oxnard St., Van Nuys
Effective: 3/11/10
Officer of: TruWest Financial, Inc.
Violation: 2831.2, 2832, 2972, 10085, 10145, 10146, 10159.2, 10177(d)(g)
Suspended for 90 days—60 days stayed for 2 years on terms and conditions

Kelley, Verbon (REB, REO)
9047 Arrow Rte. #180, Rancho Cucamonga
Effective: 3/15/10
Officer of: American Financial Corporation
Violation: 10177(g)
Suspended for 60 days—stayed for one year on terms and conditions

King, Richard M. (REB, REO)
14726 Ramona Ave., Ste. 410W16, Chino
Effective: 3/25/10
Officer of: MDR Properties, Inc.
Violation: 2832.1, 2950(d), 2951, 10145, 10159.2, 10177(d)(h)
Suspended for 60 days—stayed for one year on terms and conditions

McAfee, Jason Joseph (REB, REO)
4340 Von Karman Ave. #150, Newport Beach
Effective: 5/11/10
Officer of: Newport Capital Group, Inc.
Violation: 2731, 2847.3, 10159.2, 10159.5, 10177(d)(g)(h), 10235.5, 10236.4
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

McHenry, James (REB, REO)
4630 Campus Dr., Newport Beach
Effective: 3/12/10
Officer of: All-Pro Investments, Inc.
Violation: 2731, 2831.1, 2831.2, 10145, 10148, 10159.2, 10177(d)(h)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

MDR Properties, Inc. (REC)
5861 Pine Ave., Chino Hills
Effective: 3/25/10
Violation: 2832.1, 2950(d), 2951, 10145, 10177(d)
Suspended for 60 days—stayed for one year on terms and conditions

Melle, Mia Shelley (REB, REO)
2142 E. Philadelphia St., Ste. N, Ontario
Effective: 5/7/10
Officer of: West Coast Property Specialists, Inc.
Violation: 2831.2, 2832(a), 2832.1, 2834, 10145, 10159.2, 10177(d)(g)(h)
Suspended for 60 days—stayed for 2 years on terms and conditions

This will be the last issue with disciplinary action!

This is the final issue of the Bulletin that will feature disciplinary action. Disciplinary action will instead be posted on the DRE Web site in a more readily available monthly format. The new format has the disciplinary action sorted by action type rather than by region. DRE hopes this new format will help keep licensees and consumers informed with more current information.

Mortensen, Stephen (REB, REO)
18340 Yorba Linda Blvd., Ste. 107-187, Yorba Linda
Effective: 5/17/10
Officer of: OC Elite Escrow Group, Inc.
Violation: 10177(g)
Suspended for 90 days—stayed for 2 years on terms and conditions

National Premier Property Management Corporation (REC)
170 West Holt Ave., Ste. 2C, Pomona
Effective: 3/12/10
Violation: 2832(a), 2742(c), 10145, 10177(g)
Suspended for 60 days—stayed for 2 years on terms and conditions

OC Elite Escrow Group, Inc. (REC)
18340 Yorba Linda Blvd., Ste. 107-187, Yorba Linda
Effective: 5/17/10
Violation: 10177(g)
Suspended for 90 days—stayed for 2 years on terms and conditions

Osment, Craig Stephen (REB)
25585 Salerno Way, Yorba Linda
Effective: 5/17/10
Violation: 10177(g)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Phelps, Eneida Curiel (REB, REO)
3 Kelfield Dr., Ladera Ranch
Effective: 3/17/10
Officer of: Caliber Lending, Inc.
Violation: 10177(g)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Ramirez, Ileana (RES)
5501 Canistel Ave., Rancho Cucamonga
Effective: 3/18/10
Violation: 10176(i)
Suspended for 90 days—stayed for 2 years on terms and conditions

Rector, Valentina (REB)
9901 Irvine Center Dr., Irvine
Effective: 3/26/10
Violation: 10130, 10145, 10159.5, 10177(d)(h), 10177.4
Suspended for 60 days—stayed for 2 years on terms and conditions

Reynolds, Mary Anne (REB)
15375 Barranca Pky. A-112, Irvine
Effective: 3/18/10
Violation: 10177(g)
Suspended for 30 days—stayed for one year on terms and conditions

Rodriguez, Oscar C. (REB, REO)
170 West Holt Ave., Pomona
Effective: 3/12/10
Officer of: National Premier Property Management Corp.

Violation: 2832(a), 2742(c), 10145, 10177(g)
Suspended for 60 days—stayed for 2 years on terms and conditions

Rubio, Marcos (REB)
1535 N. Granite Ave., Ontario
Effective: 3/1/10
Violation: 2970, 10085, 10177(d)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Smith, Teka (REB)
2140 S. State College Blvd., Ste. 2013, Anaheim
Effective: 3/18/10
Violation: 10177(f)
Suspended for 60 days—stayed for 2 years on terms and conditions

Sunwest Properties Corporation (REC)
325 N. Second Ave. #G, Upland
Effective: 3/24/10
Violation: 2752, 2831, 2831.1, 2832, 2840, 2970, 2972, 10145, 10146, 10161.8, 10177(d), 10240
Suspended for 60 days—stayed for 2 years on terms and conditions

Ventura, Tony (REB, REO)
8335 Serenata Dr., Whittier
Effective: 5/18/10
Officer of: Daily Realty Company, Inc.
Violation: 10177(g)
Suspended for 120 days—60 days stayed for 2 years on terms and conditions

Warren, Gracie Bell (REB)
9631 Business Center Bldg. 14 Ste. J, Rancho Cucamonga
Effective: 4/15/10
Violation: 2731, 2831, 2831.1, 2831.2, 2832(a), 2834, 2950(d)(g)(h), 10145, 10177(d)(h)
Suspended for 60 days—stayed for 2 years on terms and conditions

West Coast Property Specialists, Inc. (REC)
2142 E. Philadelphia St., Ste. N, Ontario
Effective: 5/7/10
Violation: 2831.2, 2832(a), 2832.1, 2834, 10145, 10177(d)

Zisblatt, Howard Bernard (REB)
1901 Avenue of the Stars, Ste. 1020, Los Angeles
Effective: 5/3/10
Violation: 480(a)(3), 10177(f)
Suspended for 30 days—stayed for 2 years on terms and conditions

Alain Pinel Realtors, Inc. (REC)

12772 Saratoga-Sunnyvale Rd., Ste.
1000, Saratoga

Effective: 3/1/10

Violation: 10176(a)(i),
10176.5(a), 10177(g)(j)

Suspended for 90 days—stayed for 2
years on terms and conditions

Baycal Capital Services, Inc. (REC)

21551 Foothill Blvd., Hayward

Effective: 5/27/10

Violation: 10176(a)(e)(i), 10177(d)

Suspended for 60 days—stayed for one
year on terms and conditions

Belicheva, Natella R. (REB)

21551 Foothill Blvd., Hayward

Effective: 5/27/10

Violation: 10177(d)(h)

Suspended for 60 days—stayed for
one year on terms and conditions

OAKLAND REGION**Choey, Mark (RES)**

301 Main St., #16H, San Francisco

Effective: 3/15/10

Violation: 2731, 10159.5,
10176(e), 10177(d)

Suspended for 90 days—stayed for 2
years on terms and conditions

CWM Financial Corp. (REC)

450 Park St., Ste. 101, Alameda

Effective: 4/27/10

Violation: 10177(d), 10240

Suspended for 15 days—stayed for
one year on terms and conditions

J K L Enterprises, Inc. (REC)

3506-A Old Santa Rita Rd.,
Pleasanton

Effective: 5/27/10

Violation: 10176(a), 10177(d)

Suspended for 60 days—stayed for
one year on terms and conditions

Miller, Bruce E. (REB)

6347 Thornton Ave., Newark

Effective: 5/12/10

Violation: 10177(d)

Suspended for 60 days—stayed for
one year on terms and conditions

Taylor, John Aubrey (REB)

2261 Morello Ave., Ste. A,
Pleasant Hill

Effective: 5/12/10

Violation: 10177(d), 10231.2,
10232.2, 10238(d)(e)(f)(k)

Suspended for 60 days—stayed for 2
years on terms and conditions

SACRAMENTO REGION**Amador Equity, Inc. (REC)**

47 Main St., Sutter Creek

Effective: 3/1/10

Violation: 2832.1, 2846.5,
10177(d), 10232.2(a)
(c), 10232.25

Suspended for 90 days—60 days
stayed for 2 years on terms and
conditions

Bindel, Deborah Ann (REB)

3857 Walnut Dr., Eureka

Effective: 4/26/10

Violation: 10159.2, 10177(d)(g)(h)

Suspended for 60 days—stayed for 2
years on terms and conditions

Bindel, Inc. (REC)

3857 Walnut Dr., Eureka

Effective: 4/26/10

Violation: 2726, 2831, 2831.1,
2831.2, 2832.1, 2834,
10145, 10177(d)

Suspended for 60 days—stayed for 2
years on terms and conditions

Crook, Shaun L. (REB)

14255 Mono Way, Sonora

Effective: 3/16/10

Violation: 490, 10177(b)

Suspended for one year—suspension
stayed on terms and conditions

Lewis, Jay Timothy (REB)

3300 Douglas Blvd., Bldg. 400 Ste.
450, Roseville

Effective: 5/12/10

Violation: 10159.2, 10177(d)(g)
(h), 11012, 11018.2

Suspended for 30 days—stayed for 2
years on terms and conditions

Pack, Robert Thomas Joseph (REB)

47 Main St., Sutter Creek

Effective: 3/1/10

Violation: 10159.2, 10177(d)(g)(h)

Suspended for 90 days—60 days
stayed for 2 years on terms and
conditions

Tim Lewis Communities (REC)

3300 Douglas Blvd., Bldg. 400 Ste.
450, Roseville

Effective: 5/12/10

Violation: 10177(d)(g), 11012,
11018.2

Suspended for 30 days—stayed for 2
years on terms and conditions

SAN DIEGO REGION**Hernandez, Julio Cesar (REO)**

12701 Palm View Way, Riverside

Effective: 4/26/10

Officer of: JC Lending, Inc.
Violation: 10085, 10159.2,
10165, 10177(d)(h)

Suspended for 120 days—90 days
stayed for 3 years on terms and
conditions

Kovacevich, Geoffrey Andrew (RES)

45 Lakeview Cir., Cathedral City

Effective: 4/19/10

Violation: 10176(a)

Suspended for 60 days—30 days
stayed for one year on terms and
conditions

Montero, Orlando Danilo (REB, REO)

24801 Valley Ranch Rd.,

Moreno Valley

Effective: 3/8/10

Officer of: SoluBanc Funding, Inc.
Violation: 2731(a), 10137,
10159.5, 10177(d)

Suspended for 60 days—30 days
stayed for 2 years on terms and
conditions

LICENSE SURRENDERED**FRESNO REGION****Wells, Candy L. (RES)**

PO Box 4268, Paso Robles

Effective: 4/27/10

LOS ANGELES REGION**Always Here Incorporated (REC)**

15901 Hawthorne Blvd. #334,

Lawndale

Effective: 5/17/10

Arias, Ruth (REB, REO)

15901 Hawthorne Blvd. #334,

Lawndale

Effective: 5/17/10

Officer of: Always Here, Inc.

Corporate Financial, Inc. (REC)

438 E. Katella Ave., #F, Orange

Effective: 4/19/10

Diaz, Maria E. (RES)

3004 Monterey St., Oxnard

Effective: 3/8/10

EM Financial Services, Inc. (REC)

8132 Firestone Blvd., Ste. 374, Downey

Effective: 4/26/10

Guardian Realty Professionals, Inc. (REC)

118 Airport Dr., Ste. 203,

San Bernardino

Effective: 5/5/10

Infinity Lending, Inc. (REC)

6464 San Marcos, Buena Park

Effective: 3/18/10

J & B Capital Corporation (REC)

23330 Mill Creek Rd., Ste. 200,

Laguna Hills

Effective: 3/2/10

MDHT Corporation (REC)

101 N. Citrus #1C, Covina

Effective: 5/17/10

Menendez, Maria (RES)

711 11th St., Unit B, Hermosa Beach

Effective: 3/30/10

Richard and Mike's Calabasas Realty, Inc. (REC)

3522 Eddington Ave., Calabasas

Effective: 4/19/10

Rossil, Carlos Enrique (REB, REO)

2180 Sea Ridge Dr., Signal Hill

Effective: 4/26/10

SoluBanc Funding, Inc. (REC)

485 E. Foothill Blvd., Ste. B, Upland

Effective: 3/8/10

Soria, Socorro (REB, REO)

8141 2nd St., Ste. 500, Downey

Effective: 5/14/10

Officer of: People's Home Loan
& Realty, Inc.

Teterycz, Claudio Ruben (RES)

2615 Monterey St., Torrance

Effective: 3/16/10

TruWest Financial, Inc. (REC)

13962 Oxnard St., Ste. 7, Van Nuys

Effective: 3/1/10

OAKLAND REGION**Lim, Christopher Inwhan (RES)**

660 4th Street, San Francisco

Effective: 3/15/10

Popal, Qais (RES)

39120 Argonaut Way #147, Fremont

Effective: 3/1/10

SACRAMENTO REGION**Delta Homes & Lending, Inc. (REC)**

931 Howe Ave., Ste. 101, Sacramento

Effective: 4/28/10

Markiv, Vsevolod M. (REB)

7601 Hepburn Way, Antelope

Effective: 4/5/10

Snyder, William Robert (REB)

2222 Watt Ave., Ste. B-2, Sacramento

Effective: 4/28/10

SAN DIEGO REGION**Granelli, Kenneth Peter (RES)**

27636 Ynez Rd., L 7 #176, Temecula

Effective: 4/19/10

JC Lending, Inc. (REC)

12701 Palm View Way, Riverside

Effective: 4/26/10

Watson, Eileen M. (RES)

27195 Ocean Dunes, Moreno Valley

Effective: 4/1/10

PUBLIC REPROVAL**LOS ANGELES REGION****Lopez, Epimenio V. (REB, REO)**

1122 E. Lincoln Ave., Ste. 116, Orange

Effective: 3/2/10

Officer of: J & B Capital Corp.

Violation: 10177(h)

SACRAMENTO REGION**Armstrong, Tiffany Anne (RES)**

1721 Bridgecreek Dr., Sacramento

Effective: 5/12/10

Violation: 10177(d)(g), 11012,
11018.2

Fender, Laura Jean (RES)

9660 Livery Ct., Wilton

Effective: 5/12/10

Violation: 10177(d)(g), 11012,
11018.2

**INDEFINITE
SUSPENSIONS**

(under Recovery Acct provisions)

FRESNO REGION**Louisa Katrina Dubinsky (REB)**

303 Potrero St., Ste. 03, Santa Cruz

Effective: 5/14/10

Gilbert Garza (RES)

1018 N. Frankwood, Reedley

Effective: 5/20/10

James Mizelle Kinshasa (REB)

5254 N. Valentine #102, Fresno

Effective: 5/24/10

Tomas Allala Rivera (REB)

1106 11TH St., Ste. A, Reedley

Effective: 5/20/10

Bonnie Ilene Tullos (REB)

955 Via Solano, Arroyo Grande

Effective: 3/25/10, 4/6/10,
4/27/10, 5/20/10

LOS ANGELES REGION**J. Bert Coker (REB)**

1309 Marinette Rd., Pacific Palisades

Effective: 4/8/10

Mike Valverde Espinoza (REB)

34701 Sweetwater Dr., Agua Dulce

Effective: 4/27/10

James Gastineau (RES)

4924 Agnes St., Valley Village

Effective: 3/08/10

Mike Ho (REB)

14541 Brookhurst St., #C11,
Westminster

Effective: 4/06/10

Mike & Debbie Investment, Inc. (REC)

9020 Reseda Blvd., Ste. 106, Northridge

Effective: 4/27/10

Sylvia Orta (RES)

112 N. Glendora Ave., #217, Glendora

Effective: 4/06/10

Debora Robles (RES)

3807 Sierra Hwy., Ste. 7, Acton

Effective: 4/27/10

Terrence D'lon Wilson (RES)

5123 Cisero Dr., Palmdale

Effective: 4/8/10

OAKLAND REGION**Richard Donald Isadore (REB)**

536 Henry St., Vallejo

Effective: 5/14/10

Kaseem Mohammadi (RES)

32489 Seaside Dr., Union City

Effective: 5/27/10

Cash for Keys Continued from page 2

While the Act provides greater protection to tenants than State law, local law may provide even more protection. If a particular property is subject to local “rent control” or “housing assistance” laws, or so-called “just cause for eviction” ordinances, those laws may provide even greater protection than the Act itself. As an example, even the Act itself provides that the owner of a residential property which is subject to a “housing assistance contract”, and who has a lease with a tenant in that property, is subject to any additional protections in the housing assistance contract (this typically applies to “Section 8” properties).

Finally, a bill that passed out of the Legislature was recently signed which requires tenants be told of their rights when the property they occupy is foreclosed. Senate Bill 1149 requires that tenants who are living in foreclosed homes be given notice of their rights and responsibilities under these state and federal laws by requiring a cover sheet be attached to any eviction notice that is served within one year of a foreclosure sale. The cover sheet would delineate the laws and rights a tenant may have in cases where the property he or she occupies is foreclosed upon. The bill also seeks to help protect tenants who would otherwise have a negative mark on their rental history by prohibiting the release of court records in a foreclosure-related eviction unless the plaintiff landlord prevails. This bill is effective January 1, 2011.

What Renters and Resident Owners Can Do to Protect Themselves

Tenants and resident owners of foreclosed properties must take a significant amount of personal responsibility in this matter. They should become acquainted with federal and State law concerning foreclosures and tenant evictions, and also with local laws which apply to their particular situation. For example, in the City of Los Angeles, beginning December 17, 2008, tenants who are current in their rent payments can not be evicted because of a foreclosure. Many cities in California, including Santa Monica, West Hollywood, Beverly Hills, Oakland, and Berkeley, are subject to local “rent control” and/or “just cause for eviction” ordinances, which may provide even greater protections. Without a working knowledge of applicable local law, a tenant is at a distinct disadvantage.

Tenants and resident owners should make sure that any “cash for keys” offer is coming from the new owner of the property, which is often a lender or a government sponsored mortgage investor, such as Fannie Mae or

Freddie Mac. Tenants and resident owners should insist on verifying the identification and authority of the person making the “cash for keys” offer. They must insist on receiving a written “cash for keys” agreement, and carefully read and understand that agreement. They should have a trusted and competent attorney, real estate licensee, family member or friend review the agreement and provide counsel concerning its duties and obligations.

Before signing the agreement, a resident owner should call his or her lender directly to confirm the authority of the person making the “cash for keys” offer. A tenant must be especially careful. The tenant should call his or her landlord and ask about the foreclosure and the identity and contact information for the new owner. It would not be unusual for the landlord to tell the tenant to continue to make rent payments directly to the landlord. That should not be done if the landlord is no longer the owner of the property. And finally, a tenant or resident owner should never hand the keys over unless the money is delivered. Cash is best. If paid by check, the tenant or resident owner should make certain the check is good and/or clears. If the keys are handed over, and the owner fails to pay the money, or if the owner’s check bounces, the written agreement should be sufficient to allow the tenant to prevail in a small claims action against the owner. But obtaining a judgment is far easier than collecting it. Without a written agreement, the chances of obtaining a judgment are substantially reduced.

Is A Real Estate License Required to Solicit “Cash For Keys”?

There is no way to generalize and declare that a real estate license is, or is not, required to solicit “cash for keys”. The particular facts of each transaction will determine the answer to that question.

Responsibility of Real Estate Licensees

A licensee who solicits a “cash for keys” deal should identify him or herself to the resident owner or tenant when requested to, and provide his or her DRE license number. A consumer may look on the DRE Web site (www.dre.ca.gov) and, on the “Home” tab, under the heading “Consumers”, click on “License Status Check” to verify that person’s license status. Under that same heading, there is also a link to “How to File a Complaint”. One who has been solicited by a DRE licensee is encouraged to file a complaint with DRE if the solicitor has not acted fairly and honestly in the “cash for keys” transaction, or if the

solicitor has engaged in any other unlawful conduct.

It should go without saying that California real estate brokers or salespersons who engage in “cash for keys” negotiations with tenants must be aware of the federal, state and local laws relating to foreclosed properties, and the tenants’ rights with respect to their tenancies or leasehold interests. The old saying “ignorance of the law is no excuse” really does apply in this context.


It should also go without saying that DRE licensees who solicit a resident owner or tenant to accept a “cash for keys” proposal must act fairly and honestly with respect to the transaction. Dishonest behavior, misrepresentations, harassment, failures to disclose material information to a resident owner or tenant, including failing to advise the resident owner or tenant of his or her rights with respect to eviction (that the licensee has knowledge of) as a result of foreclosure, or negligence, could possibly lead to license disciplinary action. A licensee who hires unlicensed persons to solicit cash for keys deals can also be liable for the dishonesty, misrepresentations, harassment and/or negligence of his or her unlicensed agent.

Conclusion

A fair and equitable cash for keys agreement will mutually benefit both the new owner of the property and the resident former owner or tenant residing in the property.

For tenants, resident owners, and Department of Real Estate licensees, knowledge of the law concerning this subject is power – power to avoid problems that are just looking for place to happen.

For resident owners and tenants in foreclosed properties, your only real safety lies in your taking the responsibility to protect yourself. Get the agreement and all other communications in writing. Have someone you trust look the written documents over. Make sure the solicitor is authorized to act for the real owner of the property. And do not give up the keys before you get the cash.

The office of the California Attorney General issued a News Release on June 28, 2010, entitled “Brown Investigates Whether Tenants’ Rights Are Violated in Foreclosures”. You may wish to consult that Release for more information. If you are a tenant or resident owner and believe your rights have been violated, you can contact the California Attorney General at www.ag.ca.gov, and/or the California Department of Real Estate at www.dre.ca.gov. 

Short Sales Fraud Continued from page 3

Sheet may constitute escrow instructions from the Lender, and the Lender might not approve a payment to an SSN that is to be added to the amount authorized as payment for the Listing and Selling Brokers. Lenders may consider any fee charged by a SSN to be a commission payment because the SSN is performing California real estate licensee activity. When the Buyer's separate payment of the SSN's fee appears on the final HUD-1 and that payment had not been authorized in the Lender's Term Sheet (i.e., when added to commission that the Listing and Selling Brokers are receiving it may exceed the limit authorized by the Lender), Lenders may take the position that this constitutes a violation of the Lender's Escrow Instructions, and that may constitute Lender Fraud. Recently, a Northern California Title Company (that had also served as the escrow holder) settled a case by paying the Lender the entire amount of the forgiven loan (plus attorneys' fees and costs) simply because the escrow holder authorized a minor payment that was not approved by the Lender.

(c) The SSN Addenda may contain provisions which purport to establish that the SSN (who is negotiating with the Seller's Lender on behalf of the Seller) is also representing the interests of the Buyer in order to support the rationale given as to why the Buyer is to pay the SSN fee. The muddled and unsettled issue of who the SSN is actually representing can be used, depending on the facts and circumstances, as the basis to allege undisclosed dual agency which could lead to a rescission of the transaction, disgorgement of all commissions earned by all Brokers and sales associates involved in the transaction, and ultimately to the revocation or other discipline of some of the real estate licenses. It is possible that an SSN might fall entirely outside the scope of the statutory agency disclosure law which generally pertains to Listing Agents (defined under California Civil Code section 2079.13(f) as "a person who has obtained a listing of real property to act as an agent for compensation") and Selling Agents (defined under California Civil Code section 2079.13(n) to generally be an agent "who sells or finds and obtains a buyer for the real property"). For

example, California lawyers performing legal work and rendering services in the course of their legal practice are not included in the above-identified disclosure law. An ill-conceived creation of a dual agency relationship might not be properly confirmed in the Purchase Contract or the Addenda (as required by California Civil Code sections 2079.13 et seq.) and the SSNs might not provide the Seller with the Agency Disclosure form in a timely fashion (if they provide it at all). Nor does the SSN generally bother to give the Buyer an Agency Disclosure form, although the same would be required in the event there is an agency ("Selling Agent") relationship between the SSN and the Buyer. Failure to provide a timely Agency Disclosure can invalidate the obligation to pay commission under the terms of a Listing Agreement (please see *Huijers v. DeMarrais*, 11 Cal.App.4th 676 (1992)). That same reasoning and analysis may form a legitimate basis to negate the SSN fee.

(d) While much of the written documentation with reference to the Short Sale transaction will refer to a sale for fair market value ("FMV"), the SSN and Listing Agents may orally emphasize the payment of less than the FMV as part of a scheme to induce the Buyer to want to pay the SSN fee. Unfortunately, if the Buyer acknowledges that he or she is paying less than the actual FMV of the property, then he or she is acting in direct contravention of what Buyers and Sellers may be required to certify to secure the Seller's Lender's approval of the Short Sale. In the past, Sellers have been required to certify under penalty of perjury that the property is being sold for FMV. More and more Lenders are now requiring that the Buyers also execute comparable certification documents. Misrepresentations, perjury, and/or the subornation of perjury, have serious legal, criminal and/or disciplinary consequences. Also, any "artificially lowered" purchase price would not prevent the taxing authorities from assessing the taxable value of the property at FMV. If that occurs, additional liability exposure may be created for the Brokers, depending on their involvement in a fraudulent scheme.

(e) As discussed above, the SSN's fee that is charged to the Buyer might not be part of

the "negotiations" between the principals. Rather, it may be a requirement of the sale according to the Listing Agents' comments in the MLS and/or on any pre-sale "terms of the sale" sheet distributed by the Listing Agent or SSN to prospective Buyers' Agents. The latter may be effectively told that their clients' offers will not even be considered (i.e., at times not even presented) unless the offer contains the required terms, including the credit and/or the requirement that the Buyers and their Agents must sign the SSN Addendum. Since the SSN is a service provider that should be paid through escrow, if no real or added services are actually performed for the Buyer, requiring the Buyer to pay that "extra" fee(s) also appears to constitute an unlawful "junk" fee under the federal law known as RESPA.

(f) If the SSN's fee is paid outside of escrow, so that the fee is not disclosed on the HUD-1, the concealment may be in violation of federal law. In addition, depending on their involvement, all of the parties to that transaction (Sellers, Agents, Buyers and Escrow holders) could be alleged and be found to have participated in a conspiracy to violate federal law by agreeing to structure the deal to include "hidden" payments outside of escrow.

(g) The SSNs may claim that the Buyers are not really paying them a fee because the SSN's fee is coming out of the 3% credit from the Seller to the Buyer for NRCC. Negotiators are often able to have the Lender approve such a credit on their "Term Sheet". As discussed above, there may be Lender fraud issues involved in the redirection/misdirection of the credit, and this could also be the basis for a deceptive and unfair business practice lawsuit. If the Buyer is authorized by the Seller's Lender to receive the credit as specified in the Purchase Contract with the Seller, but the Buyer is compelled to and must give up some or all of the credit to pay the SSN (or others), then the SSNs may be involved in a "shell" game. If that occurs, the Buyers' interests might not be properly protected by either the SSN who may owe them fiduciary duties (as discussed above) or their own Agent who has those same fiduciary obligations. Breaches of fiduciary duties have consequences in terms of civil liability

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Commissioner's Message

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such claims are not necessarily illegal, they cannot be used if the claim cannot be proved. Consumers may rely on these claims when choosing which licensee to hire and as such, the claim may be considered material. I often tell consumers to peek behind the curtain of a licensee's claims and designations on marketing material used by the licensee. Obviously, a GRI has gone through a rigorous course of study to achieve GRI status and can easily authenticate the certification. But in cases where no coursework or certification can be established, I tell consumers to ask the short sale specialist how many short sale transactions they have successfully completed. Obviously, similar questions can be asked of other "specialists," and if an answer does not easily substantiate the claim, it can be problematic for the license and perhaps even grounds for disciplinary action.

While there are no hard and fast rules in defining what is a specialist, any licensee making such proclamation should be prepared to demonstrate he or she has acquired the knowledge and experience to use the moniker of "specialist." 


Short Sales Fraud

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and license discipline.

(h) Finally, it must be noted that many of the Addenda or other documents used to require payments to SSNs may contain hold harmless language that may give real estate licensees a false sense of security as to the propriety of such transactions. It should be noted that because there is usually no separate consideration paid for the hold harmless language, the enforceability of the obligation to hold the signers harmless is problematic.

There are many complexities in the area of Short Sales transactions. The varieties of fraud continue to evolve. While examples of fraud and questionable and unlawful practices are discussed above, the discussion is not exhaustive, as fraud purveyors continue to modify their schemes and methods of operation.

When dealing with the myriad issues arising with respect to Buyers being compelled to pay a "junk" fee(s) to an SSN, real estate licensees must understand how truly unsafe and problematic this practice is in terms of potential license discipline and civil and criminal liability. 

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