



REAL ESTATE BULLETIN

Gray Davis, Governor

Maria Contreras-Sweet, Secretary, Business, Transportation, & Housing Agency

Paula Reddish Zinnemann, Real Estate Commissioner

<http://www.dre.ca.gov>

Department of Real Estate

Spring 2003

Message from the Commissioner

Paula Reddish Zinnemann

More and more Californians are becoming licensed as real estate salespersons and brokers. In the first five months of fiscal year 2002–2003, there was an 104% increase in salesperson examinations scheduled the same period two fiscal years ago and a 75% increase in broker exams scheduled. License renewals are on the rise as well, resulting in a total real estate licensee population of more than 338,000.

While I am pleased to see the increased interest in real estate as a career, the drastic spike in interest has generated workload challenges for the Department of Real Estate. The DRE receives thousands of telephone calls to the Licensing Interactive Voice Response (IVR) system every day. Licensing staff is working diligently to timely process applications, administer exams and issue licenses. Enforcement deputies, auditors and legal staff are managing heavier caseloads as well.

How the DRE is handling the challenges

eLicensing – In September 2002, the DRE launched *eLicensing*, a new interactive on-line system, which allows real estate license renewal and change transactions to be completed via the Internet. Licensees are pleased with the new system as evidenced by the flood of thank you notes we have received via e-mail. Additionally, *eLicensing* has helped to reduce paperwork and processing times for license renewals.

Fingerprint technology – The DRE and the Department of Justice

worked together to implement an electronic fingerprint information exchange system, which is now in place. As soon as the Department of Justice processes fingerprints, the information is electronically transferred to the DRE. This new process has helped reduce the turnaround time for the receipt of normal fingerprint information needed before an original real estate license can be issued. Approximately 40% of license applications result in fingerprint information that requires more time for processing and/or inquiry.

DRE Web site – The DRE is using its Web site as a cost effective way to keep consumers, licensees and sub-dividers well informed. The DRE Web site earned the Association of Real Es-

tate License Law Officials (ARELLO) 2002 Excellence in Communication Award.

To assist users in finding what they need quickly, content is organized by subject matter and also for specific target audiences including Consumers, Examinees, Licensees and Sub-dividers. The Main Menu in the left hand column is consistent throughout the site. Topics of the utmost importance to all are highlighted in graphics



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Buyers duped by dishonesty receive monetary relief – a true story

In addition to its other responsibilities, the Department of Real Estate administers a victim's fund, known as the Real Estate Recovery Account. Based on the questions we receive, many licensees may not be aware of the protection the Recovery Account offers to consumers nor how the funds are accessed.

Following is an example of one of the many ways one can be victimized by a dishonest licensee. This is a true story taken from an application filed with the Recovery Account that resulted in payment to the victims.

The owners of property located in Southern California entered into an exclusive listing agreement with Broker Bob. The property was advertised as a large five bedroom three bath home with a garage that had been converted to guest quarters. The advertisement stated that the property was in good condition and excellent for a large family.

When Mr. and Mrs. Buyer, who were looking for a property to accommodate their family of five children, saw the advertisement, they contacted Broker Bob. The buyers were introduced to real estate salesperson Andy. Upon inspecting the

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STATE OF CALIFORNIA
GRAY DAVIS, Governor

BUSINESS, TRANSPORTATION AND HOUSING AGENCY
MARIA CONTRERAS-SWEET, Secretary

DEPARTMENT OF REAL ESTATE
PAULA REDDISH ZINNEMANN, Commissioner

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Buyers duped by dishonesty

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property, the buyers were assured by Agent Andy that the roof was new and had no leaks, that all additions had been built to code and with the proper permits, that the heating, plumbing and electrical systems were in good working condition, and that only one master release bar was needed to operate security bars on all the windows. Based upon these representations, the buyers purchased the property for \$155,000.

Throughout negotiations, the buyers had requested a copy of what is known as the Real Estate Transfer Disclosure Statement from Agent Andy. They were not provided with a copy until one day after the close of escrow. Upon reviewing the disclosure statement, they discovered that the roof was actually ten years old, that the garage conversion had been done without the proper permits, and that the third bathroom was not properly constructed. After moving into the house, the buyers further discovered that the roof had been leaking to such an extent that it had caused severe damage to the interior of the property including the collapse of one of the ceilings. Because the plumbing, heating and electrical systems had not been installed according to the building codes, the buyers received "red tag" notices from the utility companies preventing them from operating the heaters. Finally, the buyers were told by building inspectors that the security bars could not remain on the windows without a separate release bar for each window.

An \$155,000 property represented to be in good condition ... is found to be dilapidated and in need of \$40,000 in repairs.

The property was inspected by several contractors who verified the unlivable condition of the property. The contractors' estimates were all in excess of \$40,000 to repair the property. The buyers executed a Notice of Rescission requesting that the purchase of the property be rescinded. After failing to receive any satisfaction, the buyers filed a lawsuit against the sellers, Broker Bob and Agent Andy in superior court alleging fraud, negligence and breach of fiduciary duty. The buyers settled with Broker Bob. Judgments were entered against the sellers and Agent Andy in the amount of \$50,000. The court found that the defendants defrauded the buyers by intentionally misrepresenting the condition of the property, concealing known defects, and failing to provide a disclosure statement.

Recovery Account to the Rescue

The buyers tried unsuccessfully to enforce their judgment against the sellers and Agent Andy. They then filed an application for payment from the Recovery Account. Payment of the application was granted in the amount of \$20,000, the statutory maximum allowable for one transaction. Andy's real estate salesperson's license was indefinitely suspended

Real Estate Advisory Commission

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Jacqueline Carlisle
Richard Gaylord
Joyce Harris

Maxene Johnston
Mark Lamken
Norman Orr
Alexis Wong

Commissioner's Message

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and In the Spotlight on the DRE Home page. Forms are listed by subject matter and also by number. Many Forms are available for downloading in Adobe Acrobat PDF and/or fill-in format. Almost all DRE Publications, including the *2003 Real Estate Law* book, the *Reference Book – A Real Estate Guide* and various consumer protection materials, are available on-line free of charge in HTML format and also in Adobe Acrobat PDF format with bookmarks and a useful search function. Helpful instructions are provided for the more complex features of the Web site. The Index lists all subjects on the DRE Web site accessible by clicking on the first letter of the topic, by scrolling through the list or by searching for a key word. Since three different California State Departments govern escrow service providers, the Escrow Violations page allows users to access disciplinary actions by all from the DRE Web site. The site even includes a Kids Korner with real estate-related information and educational activities for children of all ages and their parents.

The DRE Web site provides a

wealth of information for consumers including how the DRE can be of assistance and/or referrals to other entities who can help if the DRE cannot. Consumers can learn about the home buying process, reverse mortgages, how to protect themselves from predatory lending, using the services of a mortgage broker, trust deed investments, mobilehome park purchases and various other real estate topics. Consumer protection information is available in Spanish, Traditional Chinese and English.

Anyone in the world with access to the Internet can inquire as to the status of a salesperson's, broker's or corporation's California real estate license. A list of names of persons and businesses which have been found to have been conducting real estate activities without a license is also available on-line and is updated monthly. Further, license disciplinary actions by the Enforcement Division are published on the Web site in the *Real Estate Bulletin*.

Real estate licensees can access everything they need to know about applying for a license, maintaining their

license and renewing their license on the DRE Web site. New license applicants can check the exam schedule, their exam results and original license status on-line. Licensees can change their mailing addresses on-line, search lists of approved pre-license and continuing education course providers and more. Information is even provided for out-of-state applicants.

As the DRE is also responsible for administration of the Subdivided Lands Law, the Subdivisions section of the DRE Web site offers consumers, licensees and subdividers the opportunity to learn about the public report process, find answers to commonly asked questions about new residential housing and common interest developments and review desist and refrain orders for unlicensed subdivision activities. Various instructional materials are available to assist the subdivision industry in successful submission of an application for a public report. Instructional guides are also provided to assist homeowner associations in developing prudent budgets with adequate reserves, reducing the risk of unexpected expenses to homeowners.

In addition, the DRE Web site includes information to assist licensees and subdividers in complying with the Real Estate Law, including the *Broker Compliance Evaluation Manual*, *Top Ten Violations Found in DRE Audits* and the DRE's newsletters, i.e., the *Real Estate Bulletin*, the *Mortgage Loan Bulletin* and the *Subdivision Industry Bulletin*, which are made available on the Web site soon after mailing to licensees.

Three things you can do to help the DRE

1. Use the DRE Web site (the Index can help you find what you need).
2. Limit unnecessary calls to Licensing.
3. Use *eLicensing* when appropriate.
4. Please be patient.

Thank you for your cooperation and understanding as we continue to do our best to serve you. 🏠

Buyers duped by dishonesty

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as a result of the payment from the Recovery Account. The suspension of Andy's license cannot be lifted until the Recovery Account is reimbursed the amount paid in full plus 10% interest. In addition, Andy's real estate license has been revoked as a result of a disciplinary enforcement action filed by the Department.

About the Recovery Account

The Recovery Account became operative on July 1, 1964 and is funded from a portion of the fees paid by licensees. It enables a person who has been defrauded or had trust funds converted by a real estate licensee in a transaction requiring that license, and who satisfies specified requirements (California Business & Professions Code Section 10471 et seq.) to recover at least some of his or her actual loss when the licensee has insufficient personal assets to pay for that loss.

Since its inception in 1964, the number of applications filed and paid from the Recovery Account has fluctuated according to the California real estate economy. A total of approximately 3,850 applications have been filed between July 1964 and June 2002 and over 50% of all claims filed have been paid, in full or in part. The annual aggregate amount of claims paid has increased from \$215,000 at the end of fiscal year 1977-78 to a high of \$2,277,661 at the end of fiscal year 1996-

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Buyers duped by dishonesty

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97. Since 1964, the Department has paid approximately \$33,000,000 to members of the public from the Recovery Account.

In general, the requirements for payment from the Recovery Account include obtaining a final civil judgment or arbitration award, or a criminal restitution order against the licensee. The judgment, award or order must be based on intentional fraud or conversion of trust funds in connection with a transaction requiring a real estate license. The victim must make a reasonable search for the licensee's assets, and, if any, a reasonable effort to collect on the judgment, arbitration award or restitution order from those assets to satisfy the judgment. In addition, the victim must name as a defendant and make a reasonable effort to collect from all other parties involved in the transaction that may be liable to and able to pay the victim.

An application for payment must be submitted to the Department within one year after the judgment, award or order becomes final. A copy of the application and required notice must be served on the judgment debtor/licensee, who is given an opportunity to respond to the allegations in the application and object to payment of the claim.

Once filed, the application is reviewed to determine if all required information has been submitted so that a decision can be made whether or not to pay. That review normally involves a series of letters between the Department and the applicant, resolving questions and obtaining necessary supporting documentation. The applicant will be notified in writing of the initial deficiencies in the application within 15 days of its receipt by the Department.

Once the application becomes complete, the Department must issue a decision granting or denying payment within 90 days. If the application is granted, the applicant will be paid an amount for his or her actual and direct loss in a transaction, up to a statutory

New education requirements

In 2001, Commissioner Paula Reddish Zinnemann convened a working group of industry experts to examine the prerequisite requirements for obtaining a real estate license and the continuing education requirements to maintain licensure. The working group recommended two reforms, both of which were successfully implemented through AB 2167 (Chapter 86, June 30, 2002). The resulting new requirements, effective July 1, 2003, are as follows:

- Pursuant to Business and Professions Code Section 10153.4, all applicants for a real estate salesperson license will be required to complete a course in Real Estate Practices in addition to the other required courses. Real Estate Practices must be taken either prior to the license examination or for conditional licenses, within eighteen months after issuance of the license. Real estate salesperson applicants will still be required to also take Real Estate Principles. The new requirement to take Real Estate Practices will help ensure that beginning practitioners are better prepared to handle transactions.
- Pursuant to Business and Professions Code Section 10170.5, written final examinations will be a required component of all continuing education courses in the categories of Ethics, Agency, Trust Fund Handling, and Fair Housing. Previously, final exams were only required for these continuing education courses taken through correspondence. Requiring a final exam in live courses as well as correspondence courses will "level the playing field" between live and correspondence courses and provide some assurance that licensees are minimally proficient and knowledgeable in critical subject matter. This new requirement does not affect the six-hour Combined Survey Course.

These new requirements should result in better educated real estate practitioners, enhance consumer protection and allow practitioners to more effectively engage in licensed activity. Further information regarding required education is provided on the DRE Web site www.dre.ca.gov under Licensees. 🏠

maximum of \$20,000 per transaction, with a possible total aggregate maximum of \$100,000 per licensee.

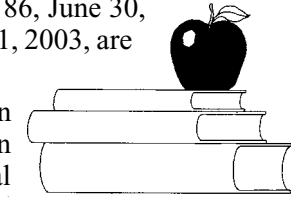
If an application is denied, the applicant has the right to refile the claim in court. When there is a decision to pay, the judgment debtor/licensee has the right to file a writ of mandamus to challenge the Department of Real Estate's decision to pay (payment results in the automatic suspension of his or her real estate license until the amount paid is repaid in full plus 10% interest).

In cases where the aggregate amount of multiple claims against a licensee exceeds the \$100,000 licensee limit, the Department must file an action in court to prorate payment among all eligible claimants. Whenever a Recovery Account application matter ends up in court (a refiled application, a writ

or a proration), the Department is represented by the California Attorney General's Office to defend the decision to deny or pay the claim or to properly distribute the funds among multiple applicants.

How to Obtain an Application

In order to obtain an application for payment from the Recovery Account, write to the Department of Real Estate, Attention Real Estate Recovery Account, P.O. Box 187007, Sacramento, CA 95818 or visit the Department's Web site at www.dre.ca.gov. 🏠

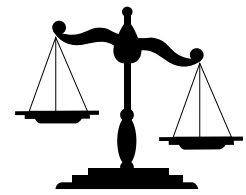


Disciplinary Action — Sept. to Nov. 2002

- ✓ 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 found in the Business and Professions Code and the Regulations of the Real Estate Com-

missioner, both of which are printed in the *Real Estate Law* book. The *Real Estate Law* book is available for purchase from the Department of Real Estate (see page 11 or DRE Web site).

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 or his or her salespersons
2726	Failure to have broker-salesperson agreements
2731	Unauthorized use of fictitious business name
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
2791(a)	Failure to comply with subdivision purchase money handling requirements.
2791(c)	Failure to comply with subdivision purchase money handling requirements.
2800	Failure to notify DRE of material change in subdivision
2800(c)	Failure to notify DRE of material change in purchase money handling in subdivision offering
2800(d)	Failure to notify DRE of material change in marketing or conveyance of subdivision interests
2800(e)	Subdivision material change
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 a neutral escrow depository or trust fund account within three business days of receipt
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
2950(f)	Failure to deposit trust funds in broker handled escrow
2950(g)	Broker-handled escrow disbursement without written instructions
2970	Failure to submit advance fee material for review
2972	Advance fee accounting

Business and Professions Code

490	Substantially related criminal conviction
498	License obtained by fraud or misrepresentation
10085	Failure to submit advance fee materials
10130	Acting without license
10131(a)	Performing acts for which a real estate license is required.
10137	Unlawful employment or payment of compensation
10145	Trust fund handling
10145(c)	Failure by salesperson to deliver trust funds to broker
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
10161.8	Failure of broker to notify Commissioner of salesperson employment

10162	Failure to maintain a place of business
10176(a)	Making any substantial misrepresentation
10176(b)	Making false promise
10176(e)	Commingling trust funds with brokers funds
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(d)	Violation of real estate law or regulations
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(j)	Fraud or dishonest dealing as principal
10240	Failure to give mortgage loan disclosure statement
11012	Material change in subdivision offering without notifying DRE
11013.2	Failure to comply with purchase money handling requirement in subdivision sales
11018.1	Failure to give public report
11018.2	Sale of subdivision lots without a public report
11022(a)	False subdivision advertising

REVOKED LICENSES

Fresno Region

Bussey, Harold D. (RES)
9013 Yvonne St., Bakersfield
Effective: 9/5/02
Violation: 498, 10177(a)

Formica, Jonas Albert (RES)
2100 H St., Bakersfield
Effective: 10/15/02
Violation: 490, 10177(b)

Palmer, Todd Alan (RES)
402 Beech St., Bakersfield
Effective: 10/14/02
Violation: 490, 10177(b)

Rege, Steven Richard (RES)
130 Regis St., Turlock
Effective: 10/24/02
Violation: 10130, 10177(d)

Los Angeles Region

Adams, Jerrald Dewayne (RES)
163 Duranzo Aisle, Irvine
Effective: 11/29/02
Violation: 498, 10177(a)

Grace, Robert Wayne (RES)
72 Campton Place,
Laguna Niguel
Effective: 11/21/02
Violation: 490, 10177(b)

Kent, Laron Charles (RES)
P.O. Box 3678, Long Beach
Effective: 10/10/02
Violation: 490, 10177(b)

Ledwich, Andrew John (RES)
14 Sobrante, Aliso Viejo
Effective: 9/9/02
Violation: 490, 10177(b)

LVLE Corporation (REC)
3124 W. Beverly Blvd.,
Montebello
Effective: 10/29/02
Violation: 2725, 2726, 2731,
2752, 2753, 2831, 2831.1, 2832,
2832.1, 2834, 2950(f)(g), 10145,
10161.8, 10176(i), 10177(d)(g)

Network Financial, Inc. (REC)
635 East 4th St., Tustin
Effective: 10/15/02
Violation: 10177(d)(f)

Santa Cruz, Josephine (RES)
9983 Vernon Ave., Montclair
Effective: 10/24/02
Violation: 490, 498, 10177(a)(b)

Sood, Brij (REB, REO)
3124 W. Beverly Blvd., Ste. 203,
Montebello
Effective: 10/29/02
Violation: 2725, 10159.2,
10177(d)(g)(h)

**Talley, Sarah Ann (RES)**

2401 East 17th St., #116,
Santa Ana
Effective: 10/1/02
Violation: 10177(f)

Valverde, Ivan (RES)

PO Box 11224, Glendale
Effective: 9/16/02
Violation: 10145(c), 10176(i),
10177(d)

Wise, Bradley Wise (RES)

2820 Townsgate Rd.,
Westlake Village
Effective: 9/4/02
Violation: 498, 10177(a)

Oakland Region**Ellis, Adeline L. (RES)**

801 Sunflower Dr., Lathrop
Effective: 9/18/02
Violation: 10130, 10137,
10177(d)

Gardner, Mark Wallace (RES)

P.O. 1523, Gualala
Effective: 10/14/02
Violation: 490, 10177(b)

Guerra, Peter Benny (RES)

2020 S. Bascom Ave., Ste. C,
Campbell
Effective: 11/19/02
Violation: 490, 10177(b)

Oleata, Lonnie (REB)

316 S. McDowell Blvd.,
Petalinga
Effective: 11/14/02
Violation: 2831.2, 2832, 2832.1,
10145, 10176(i), 10177(d)

Sacramento Region**Freeman, Susan F. (RES)**

P.O. Box 16195,
South Lake Tahoe
Effective: 10/14/02
Violation: 490, 10177(b)

Mancha, Robert Augustine (RES)

812 Solano St., West Sacramento
Effective: 9/19/02
Violation: 10130, 10131(a),
10176(a)(i), 10177(d)(f)(j)

Wordal, Clifford Milton (RES)

PO Box 1657, Beaver, UT
Effective: 9/18/02
Violation: 2800, 10177(d),
11012

San Diego Region**Burtech, Joseph (REB)**

12547 Cabezon Pl., San Diego
Effective: 11/6/02
Violation: 10177(b)

Cabarlo, Carlo Lapada (RES)

916 East 8th St., #8, National City
Effective: 10/1/02
Violation: 490, 10177(b)

Orellana, Mirna E. (RES)

2161 Coast Ave., San Marcos
Effective: 10/23/02
Violation: 498, 10177(a)

Priority First Funding, Inc. (REC)

7676 Hazard, San Diego
Effective: 9/4/02
Violation: 2715, 2742, 2970,
2972, 10085, 10137, 10145,
10146, 10148, 10176(e),
10177(d)(f), 10240

**SUSPENDED
INDEFINITELY**

Los Angeles Region**Sims, Mark S. (REB)**

3717 S. La Brea Ave., Ste. 264,
Los Angeles
Effective: 10/16/02
Violation: 2715, 10162, 10165,
10177(d)

**REVOKED WITH A RIGHT
TO A
RESTRICTED LICENSE**

Fresno Region**Haushalter, Susan Kathleen (REB)**

2535 16th St., Ste. 205,
Bakersfield
Effective: 9/5/02
Violation: 2831, 2831.1, 2831.2,
2832, 2832.1, 2834, 10145,
10177(d)
Right to RREB license on terms
and conditions

Pagliuso, Margaret Elizabeth (RES)

5172 Hillcrest Dr., Cambria
Effective: 11/18/02
Violation: 490, 10177(b)
Right to RRES license on terms
and conditions

Los Angeles Region**Brown, Charles Albert (REB)**

5429 Chesley Ave., Los Angeles
Effective: 10/4/02
Violation: 2731, 10130,
10176(a)(b)(i), 10177(d)(g)(h),
10240
Right to RREB license on terms
and conditions; RREB license
suspended for 31 days

Byers, Carl Douglas (REB)

100 W. Valencia Mesa Dr.,
Fullerton
Effective: 10/9/02
Violation: 490, 10177(b)
Right to RREB license on terms
and conditions

Cardenas, Richard Joseph (RES)

1258 E. Valparaiso Dr., Placentia
Effective: 9/16/02
Violation: 490, 10177(b)
Right to RRES license on terms
and conditions

Chua-Vigue, Carol (RES)

388 S Lake Ave., Pasadena
Effective: 10/23/02
Violation: 490, 498, 10177(a)(b)
Right to RRES license on terms
and conditions

East, Allie Gloria (REB, REO)

P.O. Box 6186, Lakewood
Effective: 2/20/01
Officer of: East & East, Inc.
Violation: 10176(a), 10177(h)
Right to RREB license on terms
and conditions

Enriquez, Tomas Del Cid (RES)

P.O. Box 3615, Palm Desert
Effective: 9/27/02
Violation: 490, 10177(b)
Right to RRES license on terms
and conditions

Gallardo, Joseph Luis (RES)

609 Carmaritas Dr., Diamond Bar
Effective: 9/20/02
Violation: 480, 490, 10177(a)
Right to RRES license on terms
and conditions

Macera, Peter Francis (REB, REO)

18231 Hwy 18, Ste. I,
Apple Valley
Effective: 10/28/02
Violation: 2725, 2832.1, 10145,
10177(d)
Right to RREB license on terms
and conditions

Ogami, Tsuneo (REB)

8320 E. Florence Ave., Downey
Effective: 10/10/02
Violation: 490, 10177(b)
Right to RREB license on terms
and conditions

Robin, Flora (RES)

28728 N. Haskell Canyon Rd.,
Saugus
Effective: 11/7/02
Violation: 490, 10177(b)
Right to RRES license on terms
and conditions

Utterback, David James (REB)

7314 N. Marina Pacifica Dr.,
Key 11, Long Beach
Effective: 9/13/02
Violation: 2725, 2731, 2831,
2831.1, 2832, 2832.1, 2834,
10177(d)
Right to RREB license on terms
and conditions

Washington, John Lee (RES)

3953 Don Tomaso Dr., #6,
Los Angeles
Effective: 10/4/02
Violation: 10130,
10176(a)(b)(i), 10177(d)(g)
Right to RRES license on terms
and conditions; RRES license
suspended for 91 days

Oakland Region**Carroll, Keith Edward (REB)**

966 San Pablo Ave., Albany
Effective: 10/30/02
Violation: 2831.2, 2832, 2832.1,
10145, 10177(d)
Right to RREB license on terms
and conditions

Hofmann Construction Co. (REC)

1380 Galaxy Way, Concord
Effective: 10/4/02
Violation: 2791(a)(c),
2800(c)(d)(e), 10177(d)(g),
11012, 11013.2
Right to RREC license on terms
and conditions

Hygelund, Christian H (REB, REO)

34 W. Santa Clara St., San Jose
Effective: 10/7/02
Officer of: Ritchie Asset
Management Co.
Violation: 2831.2, 2832(a),
2832.1, 10137, 10145, 10177(d)
Right to RREB license on terms
and conditions

M W Associates, Inc. (REC)

2641 Crow Canyon Rd., Ste. 1,
San Ramon
Effective: 11/21/02
Violation: 10176(a), 10177(g)
Right to RREC license on terms
and conditions

Marchand, Daniel Wells (REB, REO)

2641 Crow Canyon Rd., Ste. 1,
San Ramon
Effective: 11/21/02
Officer of: M W Associates, Inc.
Violation: 10176(a), 10177(g)
Right to RREB license on terms
and conditions

Ritchie Asset Management Company (REC)

34 W. Santa Clara St., San Jose
Effective: 10/7/02
Violation: 10130, 10177(d)
Right to RREC license on terms
and conditions

Ritchie, Mark Haiden (REB)

34 W. Santa Clara St., San Jose
Effective: 10/7/02
Violation: 2831.2, 2832(a),
2832.1, 10137, 10145, 10177(d)
Right to RREB license on terms
and conditions

Whalen, Thomas Aloysius Jr. (REB, REO)

1380 Galaxy Way, Concord
Effective: 10/4/02
Officer of: Hofmann Construc-
tion Co.
Violation: 2791(a)(c),
2800(c)(d)(e), 10159.2,
10177(d)(g)(h), 11012, 11013.2
Right to RREB license on terms
and conditions

Sacramento Region**Schnabel, Jon Gary (REB)**

8155 Kaula Dr., Fair Oaks
Effective: 9/5/02
Violation: 2731, 2831, 2831.1,
2831.2, 2832, 2970, 2972, 10085,
10145, 10146, 10176(a)(e)(i),
10177(d)
Right to RREB license on terms
and conditions

SUSPENDED WITH STAY

Fresno Region

Browne, Robbie Lee (REB)

1431 N. Millard, #3, Rialto
Effective: 10/24/02
Violation: 10137, 10177(d)(g)
 Suspended for 60 days-stayed for 2 years on terms and conditions

Castillo, Brenda Zulema (RES)

2405 McCabe Way, Ste. 213, Irvine
Effective: 10/3/02
Violation: 10130, 10177(d)
 Suspended for 90 days-50 days stayed for 2 years on terms and conditions

Fisher, Nanette Hunt (REB)

6039 Park Dr., Wrightwood
Effective: 11/18/02
Violation: 2831, 2831.1, 2831.2, 2832, 10145, 10177(d)(g)
 Suspended for 90 days-stayed for 2 years on terms and conditions

LaPeter, James Michael (REB, REO)

4875 E. LaPalma Ave., #601, Anaheim Hills
Effective: 10/2/02
Violation: 10177(f)(j)
 Suspended for 90 days-stayed for 2 years

McNamee, Philip Harold (REB, REO)

2400 Main St., Ste. 201, Irvine
Effective: 10/28/02
Officer of: VPM Management, Inc.
Violation: 10159.2, 10177(d)
 Suspended for 60 days-stayed for 2 years on terms and conditions

VPM Management, Inc. (REC)

2499 Main St., Ste. 201, Irvine
Effective: 10/28/02
Violation: 2731, 2832, 10145, 10177(d)
 Suspended for 60 days-stayed for 2 years on terms and conditions

Alampaykar, Saeed (REB)

14880 Las Flores Ln., Los Gatos
Effective: 10/4/02
Violation: 10177(g)
 Suspended for 10 days-stayed for 1 year on terms and conditions

German, Deborah Danese (RES)

PO Box 907, Concord
Effective: 10/4/02
Violation: 2791(a)(c), 2800(c)(d)(e), 10177(d), 11012, 11013.2
 Suspended for 60 days-stayed for 2 years on terms and conditions

Hayworth, Margery Irene (REB)

1555 Riverlake Rd., Ste. N, Discovery Bay
Effective: 10/4/02
Violation: 2791(a)(c), 2800(c)(d)(e), 10177(d), 11012, 11013.2
 Suspended for 60 days-stayed for 2 years on terms and conditions

Hurd, Michael Scott (REB, REO)

1200 Concord Ave., Ste. 200, Concord

Effective: 11/18/02
Violation: 10177(h)
 Suspended for 180 days-stayed for 2 years on terms & conditions

Mann, Betty Lou (RES)

2875 Cherry Hills Dr., Byron
Effective: 10/4/02
Violation: 2791(a)(c), 2800(c)(d)(e), 10177(d), 11012, 11013.2
 Suspended for 60 days-stayed for 2 years on terms and conditions

Ratoosh, David Avrom (REB)

1577 Solano Ave., Berkeley
Effective: 10/30/02
Violation: 10145, 10177(d)
 Suspended for 30 days-stayed for 2 years on terms and conditions

Reynolds & Brown (REC)

1200 Concord Ave., Ste. 200, Concord
Effective: 11/18/02
Violation: 2832, 2832.1, 10145, 10176(e), 10177(d)
 Suspended for 180 days-stayed for 2 years on terms and conditions

Ona, Josue Chavez (REB)

2108 Fox Glen Dr., Fairfield
Effective: 11/20/02
Violation: 10177(g)
 Suspended for 30 days-stayed for 2 years on terms and conditions

Birney, Lisa Anne (RES)

676 Ascot Dr., Vista
Effective: 10/3/02
Violation: 2795, 2800, 10177(d)(g), 11012, 11018.1, 11018.2, 11022(a)
 Suspended for 30 days-stayed for 2 years on condition

Lindholm, Astrid Gunhild (RES)

3535 Linda Vista Dr., San Marcos
Effective: 10/3/02
Violation: 2795, 2800, 10177(d)(g), 11012, 11018.1, 11018.2, 11022(a)
 Suspended for 30 days-stayed for 2 years on condition

INDEFINITE SUSPENSIONS

(under Recovery Acct. provisions)

Daly, Frank Joseph (REB)

12759 Poway Rd., Ste. 102, Poway
Effective: 11/1/02

Flores, Maria A. (REB)

149 N. Santa Anita Ave., Arcadia
Effective: 10/23/02

Honish, Frank L. (REB)

307 E. Ellingbrook Dr., Montebello
Effective: 10/22/02

Morote, Zoila E. (RES)

9027 Florence Ave., Ste. C, Downey
Effective: 10/23/02

Palmer, Sharon A. (RES)

19710 Ventura Blvd., #200, Woodland Hills
Effective: 10/23/02

CalVet home loans raises loan limit to \$322,700

from the California Department of Veterans Affairs

In California's volatile real estate market, it is vital to your income to have excellent financing options for your buyers. CalVet Home Loans' higher loan limit and below market interest rates will allow you to help more veterans become home owners, while increasing your sales potential. Not only can you offer your veteran buyers a great loan at a great rate, but the low loan fees reduce the up-front costs for the buyer and give more flexibility in structuring the deal with the seller.

This home financing program serves all veterans living in, or planning to live in California. Previous residency requirements have been removed, and the program has been vastly improved. Eligibility has been expanded, making most veterans eligible.

Some of the highlights of the new CalVet Home Loan program include:

- \$322,700 loan limit
- Below market interest rates
- Only 2% or 3% down
- Free prequalification
- Reusable loan eligibility
- 30 year amortization
- Expanded eligibility

Continued on page 10

Patel, Chandrakant K. (REB)

8682 Beach Blvd. #201, Buena Park
Effective: 10/15/02

Polo Financial Services, Inc. (REC)

21820 Burbank Blvd., Ste. 185, Woodland Hills
Effective: 10/23/02

Priority Bancorp, Inc. (REC)

16152 Beach Blvd., #230, Huntington Beach
Effective: 10/23/02

Rostami, Edward Alen (RES)

21820 Burbank Blvd., #185, Woodland Hills
Effective: 10/23/02

West Coast Motel Brokers (REC)

10568 Magnolia, #118, Anaheim
Effective: 10/15/02

Fainchtein, Enrique (REB)

4311 Wilshire Blvd., Ste. 415, Los Angeles
Effective: 11/6/02

Landess, Margaret Mary (RES)

9879 Foothill Blvd., Rancho Cucamonga
Effective: 9/9/02

Nalley, Joseph Russell (REB)

30908 Andrews Way, Temecula
Effective: 11/7/02

Shubeck, Barbara Jon (RES)

PO Box 2295, Santa Maria
Effective: 11/7/02

Tam, Richard Ming (REB)

824 E. Hellman Ave., #C, Monterey Park
Effective: 11/7/02

Oakland Region

Pearsall, Kenneth Ross Joseph (REB)

2123 Curtner Ave., San Jose
Effective: 10/24/02

Sacramento Region

Jackson, Dorothy Jean (REB)

9433 Blackwain Pl., Stockton
Effective: 8/27/02

San Diego Region

Yin, Qunhong (RES)

9878 Hibert St., San Diego
Effective: 10/2/02

Los Angeles Region

Araiza, Silvia (RES)

3939 West 170th St., Torrance
Effective: 11/7/02

Barro, John Richard (RES)

1526 E. Workman Dr., West Covina
Effective: 9/16/02

Regulation of “tenancy in common” projects

This article addresses the application of the Subdivided Lands Law, Section 11000 et seq. of the California Business and Professions (B&P) Code to “tenancy in common” (TIC) apartment projects.

A TIC offering is one in which prospective purchasers are offered undivided interests in an apartment building accompanied by the right to exclusive occupancy of a residential unit, but without any unit assignment reflected in the conveyance or other recorded instrument. The relationship among the various TIC owners is governed by a written TIC agreement. The TIC agreement spells out in writing which owner is entitled to occupy which apartment within the multi-unit building.

The impetus for the creation of TICs has been the demand for affordable housing ownership primarily in cities and localities where housing costs are high. Marketing of TICs is generally directed at first-time home buyers who join together to purchase a multi-


unit rental building.

Because of affordability considerations, the purchaser of a TIC is typically required to advance only a portion of the purchase price for the purchaser’s interest. The interests thus acquired are typically subject to an existing mortgage or deed of trust encumbering the entire property (blanket encumbrance). Therefore, the TIC agreement usually includes arrangements for a cash reserve for continuing debt service on the blanket encumbrance. The funds for the reserve are collected from the purchasers. Since the entire project could be foreclosed if payments are not made on this mortgage, the TIC agreement typically allows the other owners to repossess the unit of an owner who fails to pay his or her share of debt service assessments. This means that, to protect one’s investment, a purchaser must be able to trust in the ability of the other owners to meet their obligations.

TIC projects consisting of five or more units are subdivisions subject to

the provisions of the Subdivided Lands Law. Long before any form of common interest development was made expressly subject to the Subdivided Lands Law, the Attorney General issued a series of opinions concluding that a set of five or more undivided interests, each accompanied by exclusive residential occupancy rights, which are created for sale, lease or financing, is a subdivision described in Section 11000 of the B&P Code. Regardless of the label employed to describe the right of exclusive occupancy, it is an estate or interest or possessory interest in the property itself, and therefore, a “lot” or “parcel” as those terms are used in Section 11000.

The initial sale of such an interest is regarded as an initial sale of a subdivided interest, and is thus subject to the purchase money handling, blanket encumbrance, and public report requirements described in Section 11000 applicable to any subdivision. These requirements for residential projects exist for the protection of the members of the public who purchase lots or homes from subdivision developers, and to make sure that pertinent information is provided residential purchasers before the subdivided lands are offered for sale. The exemption provisions of Section 11000.1(b) of the B&P Code do not apply, because a TIC purchase is not intended as a risk based investment, but rather the purchase of a residence.

The purchaser of a TIC interest should consult with an attorney before buying for help in evaluating the risks involved in the transaction. 

information. Once the complaint is assigned for investigation, the complaining party will be notified of the name of the investigator as well as the outcome of the inquiry. While the Department will review anonymous complaints reporting problem transactions, it is especially important that the complaint in-



The complaint process

The Department’s Enforcement Section investigates complaints against real estate brokers and salespersons who are accused of, among other things, misleading or defrauding consumers. If following an investigation, evidence is developed that substantiates that a violation of the Real Estate Law has occurred, the case will be referred to the Legal Section for the filing of formal disciplinary action to suspend or revoke the license. In addition to processing complaints

against real estate licensees, the Department investigates complaints against subdividers who are accused of violating the Subdivided Lands Law and, if a violation is established, further sales may be stopped by the issuance of

a Desist and Refrain Order until compliance is achieved.

The Department’s Enforcement Section receives several thousand complaints each year and to ensure that staff time is effectively utilized, each complaint is analyzed for potential violations of the Real Estate Law or Subdivided Lands Law before an investigation is initiated. Accordingly, when notifying the Department of a problem transaction or an industry practice that requires investigation, it is important to provide a clear and detailed description of the transaction and documentation in support of the complaint. Upon receipt, the complaint will be reviewed and the complaining party may be asked to provide additional

Information should be summarized in a chronological manner describing: who, what, where & when.

important to provide a clear and detailed description of the transaction and documentation in support of the complaint. Upon receipt, the complaint will be reviewed and the complaining party may be asked to provide additional

What's new on the DRE Web Site

The latest enhancements to the DRE Web site www.dre.ca.gov include:

- *Help Avoid Denial of Your License Application* – instructions and tips about disclosures required on license applications
- Improved *eLicensing* menu
- 2003 Real Estate Law
- Recovery Account information
- Time-shares information
- Chinese translations of *Living in a California Common Interest Development, Sources of Home Loans, and Using the Services of a Mortgage Broker*
- Message from Commissioner Paula Reddish Zinnemann
- Real Estate Advisory Committee meeting notices and minutes

Complaint process

Continued from page 8

formation provided is well documented and that valid sources for corroborating witnesses are included. Without proper documentation and corroborating witnesses, the Department cannot analyze the legitimacy of the complaint or develop sufficient evidence to support a case for disciplinary action.

In preparing a complaint, information should be summarized in a chronological manner using these guidelines:

- Tell us **what** happened or what the circumstances are that require investigation. Start from the beginning and describe the events as they occurred, or the situation that requires investigation. If it involves a real estate transaction, be specific as to **what** was said and **who** said it.
- Tell us **who** was present during these conversations or acts.
- Tell us **when** and **where** these conversations/acts took place.

When submitting a complaint, remember that documentary evidence is especially important! Therefore, leg-

Down payment assistance funds available

from the California Housing Finance Agency



In November 2002, voters approved Proposition 46, the Emergency Shelter Trust Fund Act of 2002, authorizing \$2.1 billion for new housing. Seniors, families with children, teachers, people with disabilities, veterans, and working people can potentially benefit from the bond funds. The California Housing Finance Agency (CalHFA), the state's affordable housing bank, will administer a portion of Proposition 46 funds allocated as follows:

- ✓ **Extra Credit Teacher's Program – \$25 million**
Provides a below market interest rate CalHFA first loan, together with a forgivable interest CalHFA second loan to assist qualified credentialed school staff to purchase their first home. It is designed in most cases to provide up to 100% of the financing needed for the purchase of a home. This program is intended to assist low performing schools recruit and retain credentialed school staff to increase their academic standing and thus provide pupils with high quality education. At the same time, the Extra Credit Teacher Program makes homeownership a possibility for credentialed school staff who otherwise would not be able to purchase a home without an affordable loan and down payment assistance.
- ✓ **School Facilities Fee Refunds – \$50 million**
Offers down payment assistance to first-time home buyers purchasing newly constructed homes in the form of a grant.
- ✓ **California Housing Down Payment Assistance (CHDAP) – \$117.5 million**
Provides a low interest rate and deferred payment loan for down payment or closing cost assistance to first-time home buyers.

Prop 46 funds will be released in stages over a 36-month period, beginning January 2003. For more information about these CalHFA programs or a list of approved CalHFA lenders, go to www.calhfa.ca.gov. 🏠

ible photocopies of all documents relating to the transaction such as listings, offers, deposit receipts, notes and trust deeds, correspondence, copies of the front and back of checks, escrow documents, advertising, etc. should be attached to the written complaint.

It should be noted that the burden of proof necessary for license disciplinary action exceeds that required to prove a case in civil court proceedings. Prior to filing a disciplinary action, the Department must have **clear** and **convincing evidence** that a violation of the Real Estate Law has occurred. In this regard, disciplinary hearings are presided over by an Administrative Law Judge who is employed by a state agency independent of the Department of Real Estate. The hearings are conducted in a manner similar to court trials, but without a jury. At the hearing, the Depart-

ment has the burden of proving the charges contained in the pleadings and usually does so by calling witnesses and presenting documents in evidence. After the hearing is concluded, the Administrative Law Judge prepares a proposed decision which is sent to the Real Estate Commissioner for consideration and final decision.

The Department is serious about its mission to protect the public in real estate transactions through a well-balanced enforcement program. In carrying out its mission, the Department welcomes the support of industry professionals in identifying problem transactions and licensee misconduct. Following the guidelines presented in this article when submitting complaints will greatly assist the Department in creating a safe marketplace for consumers and industry professionals alike. 🏠

Mixed use subdivisions

Mixed use subdivisions, combining commercial and residential land uses in one common interest development, are gaining in popularity in urban areas. Mitigating potential discord between commercial and residential mixed use owners requires proper planning and design and an effective homeowners association.

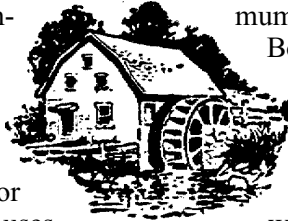
A subdivider must apply for a subdivision public report for every common interest subdivision of five or more units in which at least one unit is residential. The Department reviews the application and the management documents for legal requirements and fairness.

Since there are different development standards for commercial and residential uses, the design and planning of the subdivision begins with the local government entitlement process. At that time, the local government will determine which commercial uses are appropriate for that development. Local jurisdictions often prefer a retail use rather than a restaurant use because noise and parking problems can be more easily mitigated.

Parking issues are resolved during the review process. The amount of required commercial parking will be determined by the type of commercial use. Local governments use a parking space formula based on the type of commercial use and the square footage of commercial space to be occupied. Residential parking is calculated based on the number of condominium units in the subdivision.

After design, planning and other local entitlement issues (such as the hours of operation of the commercial use) are resolved, the CC&Rs and other governing documents for the subdivision can be crafted based on the decisions made during the local review process. Properly designed homeowners associations help facilitate the differing interests and goals of both residential and commercial owners. The method selected for structuring the mixed use governing documents should compliment the design of the development. Properly prepared governing documents should allocate voting pow-

ers fairly between commercial and residential owners. To avoid domination by one form of land use over the other, the documents should guarantee that the minority interest has a minimum level of control on the Board of Directors.



There are two methods generally used for structuring governing documents to fairly deal with shared space issues between residential and commercial owners. Under the first method, governing documents establish one association with CC&Rs for joint and separate ownership of commercial and residential property. Under the other method, governing documents provide for separate associations, linked by shared use agreements detailing policies and procedures for management and operation of the commercial and residential interests. Issues concerning maintenance, repairs and replacement of common facilities and for the use of shared spaces would be controlled either by a single set of CC&Rs or by shared use agreements.

Generally, one association is more appropriate for the management of a single structure mixed use development. Increased interaction between residential and commercial owners in a single structure mixed use subdivision renders a greater need for increased control over those type of developments.

A carefully crafted homeowners association can establish workable rules governing the conduct of owners and their guests, including members of the public who visit the retail or commercial facilities, and operation of the association. This will help avoid many of the problems which could otherwise occur. Properly created mixed use developments will enable housing consumers to enjoy affordable and convenient dwelling alternatives. 🏠

CalVet Home Loans

Continued from page 7

- Construction and rehabilitation loans available
- Home and loan protection plans included
- Unbeatable earthquake and flood protection
- Low loan fees and veteran friendly credit guidelines
- No financing points charged to the seller, resulting in more negotiating room on the sales price and payment of fees

And, if the veteran would like to build, with the CalVet Home Loans Construction Loan they can purchase the land, build the home, and have their permanent financing set up with just one loan package. This saves your buyers hours of frustrating paperwork, and thousands of dollars in the process. It totally eliminates the high-priced interim financing that is tough to qualify for and hard to get. You will have an easier time putting your deal together, and the veteran will get a great loan in the process.

Easy loan processing

If you haven't worked with CalVet Home Loans lately, you will find our fast processing and on-going support throughout the escrow easy and painless. And just like other loans, you can work directly with CalVet Home Loans to make sure the process flows smoothly for you and your buyer.

Mortgage lenders

Mortgage brokers certified by CalVet Home Loans may now originate loans and receive the 1% origination fee. Other fees may be negotiated between buyer and seller.

Help veterans and earn more too

Here at CalVet Home Loans we go the extra mile to say "thanks" to our veterans. Without them we wouldn't enjoy the quality of life and freedoms that are available to us today. We hope you will want to say "thanks," and help them take advantage of the best loan available. If you would like more information, just call toll free: 1-800-952-5626 to get the number of your closest CalVet Home Loans District Office. Our professional staff will help you every way they can to arrange for, and quickly close, a CalVet Home Loan for your veteran buyers. 🏠

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- Please do not deface or cover

Real Estate Bulletin — Spring 2003

Significant increase in examinations

The Examination Section has been experiencing a significant increase in the number of examination applicants as indicated in the chart below. Half way, or six months, through fiscal year 02–03, the DRE has scheduled 60,832 examinations — a 73% increase over the first half of the previous fiscal year. For salesperson exams alone, in December 2002 there was an increase of 105% over the salesperson exams scheduled in December 2001 and 181% over those scheduled in December 2000. If the applications continue at this pace during the second half of the fiscal year, the Department will have scheduled over 120,000 examinations by June 30, 2003.

In order to accommodate the increasing number of examinees, the DRE has increased the size of the examination room in the San Diego District Office and added additional testing sites in Oakland and Los Angeles. The additional workload is being addressed, to

the extent possible, by staff working overtime.

The Department is continually reviewing all areas of the examination and licensing process to improve efficiency and help reduce processing times. A significant improvement was the initiation of the *eLicensing* on-line system which currently allows licensees to process renewal applications, change mailing addresses and request duplicate licenses via the Internet. Salespersons can use *eLicensing* to change their employing broker. During the latter part of this calendar year, it is expected that this system will be further enhanced to allow previously qualified examination applicants to re-

schedule on-line, which will further help to reduce processing times.

In these periods of increased workloads, DRE staff is making every effort to process all applications in a timely manner. The patience and understanding of examinees and licensees is greatly appreciated. 🏠

