



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

Winter 2002

Employing Brokers Take exam & license applicants under your wing

The recent high volume of real estate activity throughout the state has resulted in a large increase of new license applicants. Following are some helpful ideas that brokers may be able to convey to potential new licensees, helping to reduce application processing delays.

When applying for an examination

- *Complete the application* precisely according to the instructions provided.
- *Double-check* to ensure the application is completed in full.
- *Include the proper fee.* Applications are often returned to applicants because proper fees are not enclosed.
- *Provide the social security number and date of birth* on the application. This allows the applicant to access examination information on the DRE Web site and the Interactive Voice Response telephone system.
- *Provide a daytime telephone number* so DRE staff can call if additional information is needed.
- *Provide the applicant's legal name* on the application. Official course transcripts must reflect the name listed on the application. Any name discrepancies will require documentation showing that the applicant's name was changed or new transcripts showing the applicant's legal name.

Note:

- Applicants will be scheduled for the first available test date unless it is indicated on the application to not be scheduled prior to a certain date. Once an applicant has been scheduled for the examination, any requests for a different test date will require a new fee.
- Applications submitted via fax do not receive confirmation of receipt from the DRE. The applicant may check with their credit card company within 7–10 business days to confirm that the fee has been credited to their account.
- Once a properly completed examination application is received, it usually takes an average of 3–4 weeks for a test date to be assigned.
- For more helpful tips, please refer to "Examinees" in the DRE Web site www.dre.ca.gov.

When applying for an original license

- *Get fingerprinted* as soon as possible after passing the examination. Applicants are provided a "live scan" fingerprint form which must be processed by an approved live scan provider. It can take from two weeks to several months to obtain a response from the Department of Justice (DOJ) and/or FBI. DRE does not control the time for response from DOJ and FBI. Until responses are received from both DOJ and

Primary license requirements

For many licensees, satisfying minimum course requirements and passing the substantive broker or sales exams are the biggest hurdles to obtaining a real estate license. However, from the Department's perspective the Real Estate Law (Sections 10000 et seq. of the Business and Professions Code) establishes a higher measurable hurdle for some license applicants and that is his or her honesty and truthfulness. As noted by the California Supreme Court over 84 years ago in its decision upholding the regulation of the real estate industry through the licensing process:

"...the single primary purpose of the act [Real Estate Law] is to require of real estate brokers and salesmen that they be honest, truthful and of good reputation*. All of its provisions, including the requirement of a license, are but incidental to this single purpose and designed to accomplish it..."

Where the occupation is one wherein those following it act as the agents and representatives of others and in a more or less confidential fiduciary capacity, it certainly can be fairly said that those pursuing it should have a particular degree of the qualifications of honesty, truthfulness and good reputation*. The occupation of a real estate agent is of just this sort ... He acts for others in a more or less confidential and fiduciary capacity. As a result, this is particularly required of him for the proper discharge of his duties of

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REAL ESTATE BULLETIN

Official Publication of the
California Department of Real Estate

Vol. 62, No. 4 Winter 2002

STATE OF CALIFORNIA
GRAY DAVIS, Governor

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

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The *REAL ESTATE BULLETIN* (ISSN 07347839) is published quarterly by the State of California, Department of Real Estate, 2201 Broadway, Sacramento, CA 95818, as an educational service to all real estate licensees in the state under the provisions of Section 10083 of the Business and Professions Code. Periodical class postage paid at Sacramento, California.

Postmaster — Send address changes to *REAL ESTATE BULLETIN*, P.O. Box 187000, Sacramento, CA 95818-7000.

Employing Broker

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FBI, the Department cannot issue an original license. *Note:* All applicants have one year from the date they passed their examination to apply for their license.

- *Answer all questions* on the original application completely and truthfully.
- *Pay special attention* to the questions regarding:
 - Any disciplinary action taken against a business or professional license,
 - Any prior convictions, and
 - Any pending criminal charges.

Each of these questions must be answered by providing a “yes” or “no” response. If a “yes” response is provided, the applicant must provide additional accurate and detailed information as requested on the application. Complete information will assist in a faster evaluation of the application.

In the license application, the applicant will be asked to disclose *all* criminal convictions that may have occurred in their past, as well as any criminal charges that may be pending at the time of the application. In the event that an applicant has one or more offenses to report, extra care should be taken to disclose *all* convictions regardless of how long ago they occurred, or whether or not the conviction has been expunged under Penal Code Section 1203.4. Failure to disclose one or more convictions will result in substantial delays in the evaluation and final disposition of the license application. Further, the failure to disclose a criminal conviction in and of itself may be considered to be an attempt to obtain a license by fraud or misrepresentation and could result in the denial of the license application. Irrespective of any advice that the applicant may receive from others, the applicant alone is responsible for disclosing all misdemeanor and felony convictions.

- *Obtain all required signatures.* If an employing broker is listed, their signature must also be included.
- *Submit the proper fee.* The fee is determined by how the applicant qualified for their examination or if additional college level statutory courses are being submitted at the time of license application. Please refer to the fee schedule for additional information.
- *Include all former names* on the license application and on the document for legal presence requirements. If the document submitted for proof of legal presence (i.e., birth certificate, passport, etc.) has a name that is different than the name on the license application, the “different” name must be listed as a former name on the original application and on the Statement of Public Benefits form (RE 205).

Note: More tips are provided on the DRE Web site www.dre.ca.gov in **Licensees, Applying for a License.** 🏠

Real Estate Advisory Commission

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License requirements

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honesty and truthfulness, and the Legislature has the right to require some assurance of their possession by everyone following the occupation..." *Riley v. Chambers*, 181 Cal 589, 593.

Even though good reputation is no longer a prerequisite to licensure, this quotation largely reflects the historic and current policies and efforts of the Department to screen out persons who are unfit for licensure, particularly those whose past conduct has resulted in criminal convictions. Two recent cases filed by the Department, one to revoke a license and the other to deny an application, provide a current glimpse of how broadly the concept of fitness for licensure extends not only to traditional concepts of "honesty and truthfulness," but to other conduct and how that conduct is viewed by the Department and the courts when screening an applicant's qualifications for licensure. It begins with current law that allows the Department to deny or revoke a license based on a crime that is substantially related to license activity. In this regard, the Department has enacted a regulation (Section 2910, Title 10 of the Code of Regulations) to define what crimes are substantially related to license activity. Each of the cases discussed comes within the parameters of this regulation.

In the first case, the licensee had been charged with various felony violations of rape, stalking, etc., of his estranged ex-wife. Following a jury trial, he was only found guilty of four counts of assault, four counts of battery and one count of felony stalking. He was sentenced to state prison on the stalking conviction. He then appealed the convictions. All were upheld in an unpublished decision. The Department, after reviewing the facts of the case as reiterated in the appellate court decision, filed an accusation to revoke the licensee's salesperson license. At the hearing on the accusation, the licensee denied guilt for the rape, stating that the sexual acts were consensual. The Department however argued that

DRE Web Site Wins Award!

The Association of Real Estate License Law Officials (ARELLO) honored the Department of Real Estate Web site with the 2002 ARELLO Excellence in Communication Award. Commissioner Paula Reddish Zinnemann is pictured accepting the award for the DRE at ARELLO's Annual Conference.

ARELLO found the DRE Web site to be superior to other real estate licensing and regulatory agencies' Web sites. Judging was based upon five criteria – program design, communication system standards, innovation, resources and benefit.

The DRE is proud of its Web site and continues to improve it to better assist consumers and the real estate industry. New items added to the Web site since the last issue of the *Real Estate Bulletin* include *Most Common Enforcement Violations*, *Sources of Home Loans*, *Subdivision Public Report Application Guide* and the *Operating Cost Manual for Homeowner Association Budgets*. If you haven't already done so, review the on-line services available using *eLicensing* at www.dre.ca.gov. 🏠



Sandy Taraszki (Past President) and Commissioner Paula Reddish Zinnemann

respondent's version was inconsistent with the underlying facts as recited in the appellate decision. Those acts included the threat of serious injury by the use of a deadly weapon and other abhorrent and violent conduct.

The administrative law judge ("ALJ") who heard the case recommended that the accusation be dismissed because the crimes of battery, assault and stalking did not inherently involve moral turpitude nor were they substantially related to licensed activity. He did not accept the appellate court's recitation of the facts surrounding the convictions, and instead concluded that based on the jury verdict, the facts did not prove moral turpitude or that the crimes were substantially related to license activity. Pursuant to the authority in the Administrative Procedure Act (Government Code Section 11408 et seq.), the Department rejected the ALJ's proposed decision, ordered the transcript of the proceeding and in accordance with the law, issued a new decision revoking the licensee's salesperson license. The Department found that based on the facts recited in the appellate case, the crimes did indeed involve moral turpitude and were substantially related.

The licensee appealed the

Department's decision by filing a petition for writ of mandamus in the Superior Court. The Superior Court, in rejecting the licensee's argument that his criminal convictions did not involve moral turpitude and were not substantially related to licensed activity, upheld the Department's decision. The court made the following finding:

"Petitioner fails ... to carry the burden imposed upon him to show that there is no rational connection between the crimes of which petitioner was convicted and the qualifications, functions or duties of a real estate licensee. Petitioner was convicted of harassing, menacing and assaulting his ex-wife. The duties of a real estate broker or a salesman create opportunities for petitioners to entice women into situations in which such conduct could be repeated. It is not altogether irrational for the Real Estate Commissioner to determine that the protection of the public requires that petitioner not be licensed to sell real estate."

In a second similar case involving an applicant who was convicted of inflicting corporal injury on his spouse or cohabitant by using his closed fist to hit

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Broker Supervision – It's A Must

Reprinted, in part, from June 2002 Mortgage Matters

When the quarterly *Real Estate Bulletin* arrives at your home or office, you may look at the Disciplinary Action section to see if you know anyone who's license has been disciplined by the DRE. Some of the most common reasons for disciplinary actions are trust fund handling and record keeping violations, a topic covered in an article entitled "Ten Most Common Violations Found in DRE Audits" which appeared in a prior *Real Estate Bulletin* (Winter 2000), and is now available on the DRE Web site www.dre.ca.gov (click on **Licensees**, then **Complying with the Real Estate Law**, then **Ten Most Common Violations Found in DRE Audits**). However, a violation for which brokers are often disciplined, and that receives less attention, involves the failure to provide adequate and reasonable supervision of their salespeople.

Commissioner's Regulation 2725 states, in part, that "A broker shall exercise reasonable supervision over the activities of his or her salespersons." "Reasonable supervision" includes as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage numerous activities in which a salesperson may be involved. These activities include, but are not limited to, any transaction requiring a real estate license, trust fund handling, and advertising any service for which a license is required. The regulation allows the number of salespersons employed and the number of branch offices to be taken into consideration when determining the form and extent of such policies, rules, procedures and systems. Brokers who have many salespersons and/or many branch office locations will need to demonstrate a much more sophisticated system for ensuring supervision than a broker with only a few salespersons and/or doing business from one location. An example of aspects of a supervisory system include written policies and procedures, regularly scheduled training, branch office visits and regular reports of salespersons' activities. A broker may also use the services of other brokers or salespersons employed by the broker to assist in the supervision, as long as the broker does not relinquish overall responsibility for that supervision.

Many of the more serious violations committed by salespersons (mishandling of trust funds, unlawfully collecting advance fees, misrepresentations and dishonest dealings with consumers) can occur due to the lack of proper supervision. When the Department receives a complaint against a licensee and initiates an investigation, one aspect of that investigation may include whether or not the broker is providing the required supervision. Brokers who fail to supervise their employees are not only inviting possible disciplinary action against the salesperson for various violations of the Real Estate Law and regulations, but are also potentially exposing themselves to discipline by the DRE for failure to supervise that employee. The Commissioner can suspend or revoke a broker's license under Business and Professions Code Section 10177(h) which states "As a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required."

Brokers should review their policies and procedures in light of Commissioner's Regulation 2725 to ensure they are properly supervising their salespeople. By doing so, you can better ensure that the actions of your salespeople are in the best interests of your clients. The Business and Professions Code and Commissioner's Regulations are located in the Real Estate Law book and can also be accessed on the DRE Web site www.dre.ca.gov (click on **Regulations**). Questions may also be directed to the Mortgage Loan Activities Unit by calling (916) 227-0770. 🏠

License requirements

Continued from page 3

her in the face while he held her down, an administrative law judge made the following findings:

"The crime of infliction of corporal injury upon a spouse is a crime which bears a substantial relationship to the qualifications, functions, and duties of a real estate salesperson. The primary goal of licensing statutes is the protection of the public from unscrupulous and irresponsible persons. Cf. *Clerici v. Department of Motor Vehicles* (Fifth Dist. 1990) 224 Cal. App. 3d 1016, 1027. The purpose of the departmental regulatory statutes is not to punish, but to protect members of the public when they deal with licensees. Cf. *Clerici v. Department of Motor Vehicles* (Fifth Dist. 1990) 224 Cal. App. 3d 1016, 1027; (citing *Brewer v. Department of Motor Vehicles* (1979) 93 Cal. App. 3d 358, 367). Real estate licensees are continuously interacting with members of the public. Clients, particularly those with complaints and demands, can be a source of frustration. A person who cannot control his temper and who has violently battered an individual is manifestly unfit for licensure as a real estate salesperson."

These two cases reflect the concern the original sponsors of the Real Estate Law had for the basic and fundamental qualifications needed for licensure as a real estate broker or salesperson. Abhorrent personal conduct which could be carried over into licensed activities and cause harm or injury to the public is part and parcel of the issue of fitness for licensure. Substantial knowledge of the laws is not enough if that knowledge can't be used or brought to bear in the proper civil context. Protecting the public from individuals who have acted out with conduct that is totally outside the norm and indicates that it may be carried over to licensed activity to the detriment of the public is grounds for denying a license when it results in a criminal conviction.

*Good reputation is no longer a legal requirement for a license. 🏠

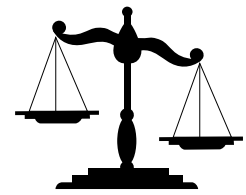
Disciplinary Action — June 2002 to August 2002

- ✓ 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
2726	Failure to have broker-salesperson agreements
2731	Unauthorized use of fictitious business name
2791	Improper handling of subdivision purchase money
2800	Failure to notify DRE of material change in subdivision
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
2835	Retention of broker funds in trust account

Business and Professions Code

480(c)	Denial of license on grounds of false statement in license app.
490	Substantially related criminal conviction
498	License obtained by fraud or misrepresentation
10130	Acting without license
10137	Unlawful employment or payment of compensation
10141.5	Failure to record or deliver trust deed within one week after closing
10145	Trust fund handling
10145(a)	Trust fund handling
10148	Failure to retain records and make available for inspection
10159.2	Failure by designated officer to supervise licensed acts of corporation
10162	Failure to maintain a place of business
10176(a)	Making any substantial misrepresentation
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(k)	Violation of restricted license condition
10177.5	Civil fraud judgment based on licensed acts
10240	Failure to give mortgage loan disclosure statement
11010	Failure to file application for public report
11012	Material change in subdivision offering without notifying DRE
11018.2	Sale of subdivision lots without a public report

REVOKED LICENSES

Los Angeles Region

Allen, Bernard Blake (REB)
3605 Long Beach Blvd., #109,
Long Beach
Effective: 7/10/02
Violation: 490, 10177(b)

Claypool, David Kersten (RES)
1621 Doublegrove St.,
West Covina
Effective: 10/17/01
Violation: 490, 10177(b)

Foster, Christopher Kane (RES)
2680 E. Highland Ave., #821,
Highland
Effective: 7/10/02
Violation: 490, 10177(b)

Garrett, Merle Edwin (REB)
21923 Vera St., Carson
Effective: 7/31/02
Violation: 10176(i),
10177(d)(h)(k)

Ho, Albert Wesley (REB)
19451 Pompano Ln., #104,
Huntington Beach
Effective: 6/17/02
Violation: 490, 10177(b)

Hoseini, James M. (REB)
24949 Palmilla Dr., Calabasas
Effective: 7/5/02
Violation: 490, 10177(b)

Merle E. Garrett Real Estate, Inc. (REC)
21923 Vera St., Carson
Effective: 7/31/02
Violation: 10176(i), 10177(d)(g)

Miranda, Luis M. (REB)
2520 Tulare Pl., Oxnard
Effective: 8/5/02
Violation: 490, 10177(b)

Miremadi, Valerie B. (REB)
3834 Bowsprit Cir.,
Westlake Village
Effective: 7/18/02
Violation: 490, 10177(b)

Podolsky, Yevgeny (RES)
16058 Acre St., North Hills
Effective: 6/12/02
Violation: 490(a), 498,
10177(a)(b)

RMB Investment, Inc. (REC)
13274 Fiji Way, #245,
Marina Del Rey
Effective: 8/22/02
Violation: 10177(d)

Talbot, Jay Steve (RES)
1214 B Westlake Blvd.,
Westlake Village
Effective: 6/12/02
Violation: 10176(e)

Teague, Olga Zorka (RES)
47-295 Via Koron, La Quinta
Effective: 8/5/02
Violation: 490, 10177(b)

Wallace, Jerry Eugene (RES)
74479 Candlewood St.,
Palm Desert
Effective: 8/7/02
Violation: 498, 10177(a)

Oakland Region

Benaroya, Albert Larry (RES)
1399 Ygnacio Valley Rd., #35,
Walnut Creek
Effective: 6/6/02
Violation: 490, 10177(b)

Brennan, William Patrick (RREB)
455 Moraga Rd., Ste. E, Moraga
Effective: 7/24/02
Violation: 2831, 2831.1, 2831.2,
2832(a), 2832.1, 10145, 10177(d)

Carlos, Marilou Tomacruz (REB)
295 89th St., #308, Daly City
Effective: 6/24/02
Violation: 10177.5

Goltiao, Ephraim Giron (RES)
1659 N. Capitol Ave., #168,
San Jose
Effective: 7/23/02
Violation: 490, 10177(b)

Guel, Elizabeth Michelle (RES)
1965 7th Ave., Santa Cruz
Effective: 8/27/02
Violation: 490, 10177(b)

Rozzi, Penny Lee (REB)
26544 Carmel Rancho Blvd.,
#358, Carmel
Effective: 6/25/02
Violation: 490, 10177(b)

Ruiz, Chester Antonio (REB, RES)
939 Laurel St., Ste. A, San Carlos
Effective: 7/9/02
Violation: 10176(a)(i),
10177(d)(g)

**Tabarez, Carmencita Menchie**

(REB)
144 Brentwood Dr., Ste. 101, S.
San Francisco
Effective: 7/22/02
Violation: 2715, 10141.5,
10162, 10176(a), 10177(d)(g)

San Diego Region**Robbins Espinoza, J. Lynn (RES)**

8421 Whelan Dr., San Diego
Effective: 8/1/02
Violation: 490, 10177(b)

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

Fresno Region**Duttarar, Duane Leo (REB)**

1735 Minnewawa, #108, Clovis
Effective: 7/26/02
Violation: 2726, 10176(a),
10177(d)
Right to RREB license on terms
and conditions

Karp, Kimberly Dawn (RES)

4000 Wind Meadow Ln., Salida
Effective: 8/6/02
Violation: 498, 10177(a)
Right to RRES license on terms
and conditions

Saleh, Adnan Said (RES)

2680 Juniper Ave., Morro Bay
Effective: 6/13/02
Violation: 10177(d)(g), 11010,
11018.2
Right to RRES license on terms
and conditions

**Tylar Property Management
Company, Inc. (REC)**

2350 W. Shaw, Ste. 108, Fresno
Effective: 7/29/02
Violation: 2831.2, 2832.1,
10145, 10177(d)
Right to RREC license on terms
and conditions

Wapner, Mel Joel (REB, REO)

2350 W. Shaw, Ste. 108, Fresno
Effective: 7/29/02
Officer of: Tylar Property
Management Company, Inc.
Violation: 2831.2, 2832.1,
10145, 10177(d)(h)
Right to RREB license on terms
and conditions

Los Angeles Region**Fallowfield, Lynda L. (RES)**

43888 Barletta St., Temecula
Effective: 8/1/02
Violation: 475(b), 498, 10177(a)
Right to RRES license on terms
and conditions

Kanotz, Chris (RES)

3 Pointe Dr., #212, Brea
Effective: 6/6/02
Violation: 498, 10177(a)
Right to RRES license on terms
and conditions

Luo, Diana (RES)

3019 Allgeyer Ave., #B, El Monte
Effective: 8/15/02
Violation: 490, 10177(b)
Right to RRES license on terms
and conditions

Macke, James Edward (RES)

29 Rainbow Ridge, Irvine
Effective: 7/5/02
Violation: 10130, 10177(d)
Right to RRES license on terms
and conditions

Maxwell, William Seth (REB)

3159 Voltaire, Topanga
Effective: 6/26/02
Violation: 2715, 2831, 2832,
2834, 10145, 10148, 10162,
10176(i), 10177(d)(g), 10177.5
Right to RRES license on terms
and conditions

Nicholson, Lawrence Dean (REB)

206 E. Backs Ln., #C, Placentia
Effective: 6/3/02
Violation: 490, 10177(b)
Right to RRES license on terms
and conditions

Seiler, David John (REB)

1026 Mountcrest Ct.,
Anaheim Hills
Effective: 7/31/02
Violation: 2831.1, 2832, 10145,
10176(i), 10177(d)
Right to RREB license on terms
and conditions

Shen, Michael Yan-Feng (REB)

21040 Sandpiper, Walnut
Effective: 7/9/02
Violation: 490
Right to RREB license on terms
and conditions; RREB license
suspended for 90 days—60 days
stayed

Watkins, Michelle Elizabeth (REB)

5736 Showalter Ct.,
Rancho Cucamonga
Effective: 6/24/02
Violation: 490, 10177(b)
Right to RRES license on terms
and conditions

Sacramento Region**Lannon, Soren (RES)**

9175 Greenback Ln., Orangevale
Effective: 6/26/02
Violation: 490, 10177(b)
Right to RRES license on terms
and conditions

**Lippstreu, Edward Thomas Jr.
(REB)**

1300 Oliver Rd., Fairfield
Effective: 7/2/02
Violation: 10177(d)
Right to RREB license on terms
and conditions

Simmonds, Gregory Albert (RES)

8139 Sunset Ave., #111,
Fair Oaks
Effective: 8/1/02

Violation: 10177.5

Right to RRES license on terms
and conditions

Sinclair, Daniel Nuner (REO)

10 Welch Ln., Ione
Effective: 8/2/02
Officer of: The Sinclair Bayfield
Company
Violation: 2791, 2800, 10159.2,
10177(d)(g)(h), 11012
Right to RREB license on terms
and conditions

**The Sinclair Bayfield Company
(REC)**

10 Welch Ln., Ione
Effective: 8/2/02
Violation: 2791, 2800,
10177(d), 11012
Right to RREC license on terms
and conditions

San Diego Region**Weeks, Judith Ann (REB)**

8781 Cuyamaca St., #A, Santee
Effective: 6/24/02
Violation: 10148, 10177(d)
Right to RRES license on terms
and conditions

PUBLIC REPROVAL

Los Angeles Region**Maddock, Gordon Harry (REB, REO)**

900 South 1st Ave., Arcadia
Effective: 8/1/02
Violation: 10159.2, 10177(d)

Oakland Region**Baldwin Realty Co., Inc. (REC)**

256 E. Hamilton Ave., Ste. A,
Campbell
Effective: 8/1/02
Violation: 10177(d), 10240

**SUSPENDED WITH
STAY**

Fresno Region**Bozeman, Johnny Ray (REB)**

2218 Brundage Ln.,
Bakersfield
Effective: 8/7/02
Violation: 10137, 10177(d)(h)
Suspended for 120 days-stayed
for 2 years on terms and
conditions

Lopez, Carmen Corina (RES)

PO Box 10-789, Earlimart
Effective: 8/7/02
Violation: 10130, 10177(d)(f)
Suspended for 120 days-all but 60
days stayed for 2 years on terms
and conditions

McKinley, Wade (REB)

1735 Minnewawa, #104, Clovis
Effective: 8/29/02
Violation: 10145, 10177(d)
Suspended for 90 days-stayed for
2 years on terms and conditions

Los Angeles Region**Aikens, Kenneth L. (RES)**

2410 N. Towne Ave., #24,
Pomona
Effective: 8/1/02
Violation: 10130, 10177(d)
Suspended for 30 days-stayed for
1 year on terms and conditions

Aposhian, Houry (REB, REO)

2529 Foothill Blvd., #104,
La Crescenta
Effective: 8/5/02
Officer of: Pacific Horizon
Bancorp, Inc.
Violation: 2831.1, 2831.2, 2834,
2835, 10145(a), 10177(d)(g)(h),
10240
Suspended for 90 days-stayed for
2 years on conditions

Baert, Virginia K. (REB)

9259 E. Ives St., Bellflower
Effective: 7/31/02
Violation: 10137, 10177(d)
Suspended for 90 days-all but 50
days stayed for 2 years on terms
and conditions

Pacific Horizon Bancorp, Inc. (REC)

2529 Foothill Blvd., #104,
La Crescenta
Effective: 8/5/02
Violation: 2831.1, 2831.2, 2834,
2835, 10145(a), 10177(d)(g),
10240
Suspended for 90 days-stayed for
2 years on conditions

Oakland Region**Bill Henson Co., Inc. (REC)**

21308 Mission Blvd., Hayward
Effective: 8/28/02
Violation: 10145, 10177(d)
Suspended for 30 days-stayed for
2 years on terms and conditions

**Henson, William Robert (REB,
REO)**

21308 Mission Blvd., Hayward
Effective: 8/28/02
Officer of: Bill Henson Co., Inc.
Violation: 10145, 10177(d)
Suspended for 30 days-stayed for
2 years on terms and conditions

**INDEFINITE SUSPENSIONS
(under Recovery Acct.
provisions)**

Hall, Robert Nathaniel (RES)

3904 S. Dalton Ave., Los Angeles
Effective: 7/30/02

Jheong, Michael H. (RES)

720 S. Plymouth Blvd., #9,
Los Angeles
Effective: 6/5/02

Peck, Richard Aaron (REB)

111 Anza Blvd., #430,
Burlingame
Effective: 7/23/02

Williams, Mark Thomas (REB)

8490 Hydra Ln., San Diego
Effective: 6/5/02

California Supreme Court confirms emotional distress damages for victims of housing discrimination

By Dennis Hayashi, Director, California Department of Fair Employment and Housing

The California Supreme Court ruled in favor of the Fair Employment and Housing Commission ("FEHC" or "Commission") on July 29, 2002, in a decision that recognizes the Commission's authority to award emotional distress damages in housing discrimination cases.

The case, *Konig v. FEHC*, 2002 Daily Journal D.A.R. 8447, challenged a 1997 decision by the Commission in a case of racial discrimination by a housing provider, Nancy Ann Konig, a Caucasian female who owned a duplex in Long Beach. The Commission found that Konig denied rental housing to an African-American woman because of her race and ordered Konig to pay a civil penalty of \$10,000. The Commission also awarded the complainant \$10,000 for emotional distress damages and the lost housing opportunity. In May of 1998, the Los Angeles Superior Court overturned the portion of the judgment awarding emotional distress damages on the ground that the FEHC lacked authority to award such damages, and the Second District Court of Appeal, 93 Cal. Rptr 690, upheld the trial court's judgment in March of 2000. The California Supreme Court reversed that decision.

The issue of the FEHC's authority to award such damages was previously considered by the Supreme Court in 1991 in *Walnut Creek Manor v. Fair*

Employment & Housing Comm. In *Walnut Creek Manor*, the Supreme Court held that the FEHC's award of emotional distress damages to a housing discrimination complainant violated the judicial powers clause of the California Constitution. In response to the *Walnut Creek Manor* decision, the Fair Employment and Housing Act (FEHA) was amended in 1992 to include Government Code Section 12989 which gives complainants and respondents the right to file an action in Superior Court as an alternative to FEHC (administrative) proceedings.

In the *Konig* case, the court analyzed the legislative changes to the FEHA and determined that the FEHC can award emotional distress damages without violating the Constitution. The Court found that the amendments, particularly Section 12989, remedied the concerns raised in *Walnut Creek Manor*.

Why is this decision in the *Konig* case significant? With the confirmation that the Commission can legally award emotional distress damages in housing discrimination cases, victims can now receive full and effective remedies that might otherwise have been denied. The DFEH believes this decision will further promote the elimination of discriminatory housing practices in California and set the standard for victims' remedies in states across the country.

Additionally, the ability of the FEHC to award emotional distress damages ensures that the FEHA affords protections equal to those available under federal law. Finally, the Supreme Court has reaffirmed the Commission's expertise in housing discrimination cases and the Commission's process as a streamlined and economical means of resolving complaints.

More information about housing discrimination and the FEHA may be found on the Department of Fair Employment and Housing's Web site: www.dfeh.ca.gov. 🏠

Postal Statement

Statement of Real Estate Bulletin issued quarterly was filed with Postmaster on September 26, 2002. Location of office of publication and headquarters of publisher is 2201 Broadway, Sacramento, CA 95818. Publisher: Paula Reddish Zinnemann., Real Estate Commissioner, State of California; Editor: Thomas L. Pool, Manager of Legislation & Public Information, Department of Real Estate; Managing Editor: John Liberator, Chief Deputy Commissioner, Department of Real Estate; all with offices at the address given above. Owner: Department of Real Estate, State of California, 2201 Broadway, Sacramento, CA 95818-7000.

Bondholders, mortgagees, and other security holders: none. Average number of copies each issue during preceding 12 months: 285,625; paid circulation through dealers, etc.: none; mail subscriptions: 279,769; total paid circulation: 279,769; free distribution: 500; total distribution: 280,269; office use, leftover, etc.: 5,356; total press run: 285,625. Actual number of copies of single issue published nearest to filing date: 290,000; sales through dealers and carriers, etc.: none; mail subscriptions: 284,656; free distribution: 500; total distribution: 285,156; office use, leftover, etc.: 4,844; total press run: 290,000.

LICENSE SURRENDERED

(Licenses voluntarily surrendered per B&P Code §10100.2 during an administrative action or investigation)

Los Angeles Region

Brandenburg, Ronald Davis (RREB)
15282 Newsboy Cir., Huntington Beach
Effective: 7/2/02

Clark, Kersti Rita (REB)
1210 East 6th St., Ste. 1, Corona
Effective: 7/31/02

Dang, Amie Thao Diep (RES)
3881 Hamilton St., Irvine
Effective: 7/31/02

Miller, John Charles (REB)
714 N. Maria Ave., Redondo Beach
Effective: 7/17/02

Wang, Jennifer Yung (REB)
2744 Cardillo Ave., Hacienda Heights
Effective: 8/26/02

Sacramento Region

Lippstreu Realty, Inc. (REC)
1245 Travis Blvd., Ste. A, Fairfield
Effective: 7/23/02

San Diego Region

Ricci, David Nick (RES)
7855 Avenida Navidad, San Diego
Effective: 6/7/02

SUSPENDED INDEFINITELY

Los Angeles Region

Abrams, Allan (REB)
8452 Reseda Blvd., #104, Northridge
Effective: 7/17/02
Violation: 2715, 10162, 10165, 10177(d)

Real Estate Advisory Commission New members meet for first time

The first meeting of the newly appointed Real Estate Advisory Commission (REAC) was held in Long Beach on October 11, 2002. After introducing the new members, Commissioner Paula Reddish Zinnemann announced the successful and well-received launch of the Department's new *eLicensing* system. The REAC and attendees were also informed that the DRE Web site had been awarded the 2002 Association of Real Estate License Law Officials (ARELLO) Excellence in Communication Award.

Chief Deputy Commissioner John Liberator reported on DRE operations, most notably the significant increase in exam applicants and growth of the real estate licensee population.

Tom Pool, Assistant Commissioner of Legislation reported on a few of the 1,174 bills passed in the 2001–2002 legislative session. For more information, see the legislation update on page 9 of this *Bulletin*.

Bill Moran, Assistant Commissioner of Enforcement provided insight into new methods of enforcement being used by the DRE in collaboration with other agencies. Moran reported that DRE and Attorney General's Office recently worked together to prosecute an unlicensed Prepaid Rental Listing Service (PRLS) under the Unfair Business Practices Act, effectively putting the PRLS out of business. The DRE is also working with local District Attorney's offices to ensure that unlicensed individuals performing real estate transactions who refuse to cease and desist are appropriately penalized.

Commissioner Zinnemann asked the REAC and meeting attendees to provide input regarding continuing education correspondence courses and examination requirements.

The meeting concluded with the REAC members engaging in open discussion on a variety of issues, a brief question and answer session with the audience and closing remarks from the Commissioner. Further information about the REAC and the meeting is available on the DRE Web site www.dre.ca.gov in **About the DRE**. 🏠



Pictured from left to right: Commissioner Paula Reddish Zinnemann (DRE), Maxene Johnston (REAC), Mark Lamken (REAC), Alexis C. Wong (REAC), Dave Brooks (REAC), Chief Deputy Commissioner John Liberator (DRE), Norman Orr (REAC), Joyce Harris (REAC), Richard Gaylord (REAC) and Jacqueline Carlisle (REAC).

Education and Research Section

The Education and Research Section is responsible for the review and approval of all real estate license continuing education course offerings as well as pre-license qualification courses offered by private schools. It also administers a research program authorized under Section 10451.5 of the Business & Professions Code and assists the Real Estate Commissioner with the advancement of education and research in the field of real estate.

2001-02 Fiscal Year Accomplishments

- Approved 377 continuing education course offerings and 36 pre-license qualification courses.
- Oversaw funding to the California Community Colleges for use in updating instructor/student guides for pre-license courses.
- Oversaw completion of a study of DRE license examinations. The study evaluated and reviewed DRE's test questions for currency and relevancy to today's practices.

Projects in Process

- Revising and updating forms used to apply for approval of continuing education offerings and pre-license courses.
- Working with the Community Colleges Real Estate Education Center to develop links on the DRE Web site to colleges which offer approved pre-license courses.
- Overseeing development of two consumer videos and accompanying student and instructor guides. The videos, on the home buying and rental processes, will be used by adult education providers and community organizations. The videos and guides will also be distributed to high schools to educate students at the high school senior level. 🏠

CHFA gets new look

from California Housing Finance Agency

The California Housing Finance Agency (CHFA) is announcing a new “branding” campaign to all its partners in the affordable housing market place. Why the change? In an effort to reach a broader audience and cultivate new affordable housing partnerships, CHFA arranged for independent focus groups to be conducted earlier this year to gather information about perceptions and attitudes toward CHFA. Participants included key stakeholder groups: employees, lenders, multifamily, non-profits, government/public policy, industry/finance, and low-income advocacy.

The focus groups brought out some key observations about CHFA’s market positioning:

- **Low brand identity and name recognition:** Respondents indicated that, while CHFA provides valuable services and programs to the housing industry, its brand identity and name recognition is low.
- **Being a state agency is a good thing:** Both consumers and housing industry representatives believe the state has an important role to play in addressing the housing crisis. The fact that CHFA is a self-supporting state agency and its mission is to put more people into affordable homes are good things.
- **CHFA is synonymous with affordable housing:** Many said that CHFA has made tremendous improvements during the past two years and that the organization is known for its work in advancing the cause of affordable housing.

In response to these collective perceptions from its stakeholders, CHFA is pleased to announce a refining of its market positioning, the renaming of the California Housing Finance Agency’s acronym (currently CHFA), and the introduction of a new logo with its benefit statement. The previous acronym for which it has been known over the years—CHFA (pronounced cha-fuh), is changing to CalHFA. In addition, the Agency’s new logo will serve as a visual icon, combining the letters “Cal” for (State of) California, and “HFA” for Housing Finance Agency, with the graphic of a house and the new benefit statement: “Affordable Housing is Our Business.” By the end of 2002, all communications, marketing materials, and Web site content will reflect CHFA’s new branding identity.



The process of re-branding the Agency is the first step in its plan to keep pace with its expanding audience and the growing needs of the affordable housing marketplace. CalHFA remains focused on its mission to support the needs of renters and first-time homebuyers by providing financing and programs that create safe, decent and affordable housing opportunities. CalHFA also will continue to partner with county officials, local housing agencies, builder/developers, real estate brokers/salespersons, and others to help deliver its programs.

*Seasons Greetings
& Happy 2003*

2002 Legislative Summary

The brief descriptions below of 2002 legislation are intended to alert you to pertinent changes to the law. We encourage you to consult the statutes for complete information. Copies of the bills can be obtained online at www.leginfo.ca.gov. All statutes are effective January 1, 2003 unless otherwise noted.

AB 337 (Correa) — Real Estate Disclosure (Chapter 771)

This bill provides that an owner of real property subject to Improvement Bond Act of 1915 assessments may fulfill a requirement to disclose those assessments by delivering to a prospective purchaser a notice “substantially equivalent” to the notice currently required by law. The bill also sets forth the criteria that a private entity must adhere to in order to produce disclosure compliance documents that satisfy the special tax assessment disclosure requirements imposed by existing law. The California Association of Realtors sponsored AB 337.

AB 555 (Dutra) — Certification of HOA Managers (Chapter 1116)

AB 555 sets forth “certification requirements” for those homeowner association (HOA) managers wishing to be called “certified” and makes it illegal to claim to be a “certified” HOA manager without first meeting the criteria for “certification.” The bill also extends the subject matter for which credit can be received for continuing education. The California Association of Community Managers (CACM) sponsored AB 555.

AB 643 (Lowenthal) — Registration of HOAs (Chapter 1117)

AB 643 requires homeowner associations to register with the Secretary of State in order to create a registry of California homeowners associations. The Executive Council of Home Owners (ECHO) sponsored AB 643.

Continued on page 10

Legislative Summary

Continued from page 9

AB 1486 (Dutra) — Private Mortgage Insurance (PMI) (Chapter 429)

This bill increases the allowable total indebtedness on which PMI may be written from 100% to 103% of the fair market value.

AB 1868 (Koretz) — Property Nuisance Abatement (Chapter 1057)

This bill allows injunctions in nuisance abatement actions to apply to subsequent owners and lessees of the property. In addition, this bill allows a court in a controlled substance abatement action to require the owner or person in control of the property to reside in the property until the nuisance is abated. The Los Angeles County District Attorney's Office sponsored AB 1868.

AB 2167 (Koretz) — Real Estate License Educational Requirements (Chapter 86)

This bill requires real estate sales agents to take a college level class in real estate practices, instead of an optional course, either prior to being issued a real estate salesperson license or within 18 months of becoming licensed. In addition, AB 2167 requires final exams for the four mandatory continuing education courses a licensee needs in order to renew his or her real estate license for the first time.

The new requirements become operative July 1, 2003. The Department of Real Estate sponsored AB 2167.

AB 2289 (Kehoe) — Common Interest Developments (Chapter 1111)

AB 2289 makes numerous changes to the procedures followed by homeowners associations when a homeowner is delinquent on fees and assessments. These changes include a waiting period prior to the notice of recordation of a lien, a meeting by the association's board with the homeowner to discuss the matter upon the homeowner's request, and additional mandatory disclosures and notices

DRE assists Seniors Against Investment Fraud (SAIF) efforts

In October, the Department of Real Estate participated in a senior empowerment conference sponsored by the Department of Corporations' Seniors Against Investment Fraud program and co-sponsored by the Better Business Bureau of Northeast California.

Representatives from a myriad of state and federal agencies, law enforcement, community groups and senior service providers gathered to advise seniors how to avoid becoming a victim of fraud. Knowledgeable DRE staff provided information about predatory lending, reverse mortgages, trust deed investments and more.

SAIF is a statewide outreach campaign under the California Department of Corporations and funded by the Governor's Office of Criminal Justice Planning. The primary purpose of SAIF is to take a lead role in alerting and educating all Californians over the age of 50 about investment and telemarketing fraud crimes and how to avoid being victimized. SAIF trains and utilizes hundreds of committed senior volunteers to serve as "local trainers" and "local ambassadors" who carry the message to seniors throughout their communities. More information about SAIF is available at www.corp.ca.gov/saif/saif.htm.

throughout the process. The bill also limits the circumstances during which an association may deny a homeowner access to his or her property.

AB 2546 (Nation) — Real Estate Marketing: CIDs (Chapter 817)

This bill limits the requirements/restrictions that a homeowners' association (HOA) may place on an owner seeking to market his or her interest in a common interest development (CID). In addition, this bill voids any rule or regulation of an association that arbitrarily or unreasonably restricts an owner's ability to market his or her interest in a common interest development. The California Association of Realtors sponsored AB 2546.

AB 2548 (Nation) — Licensed Activity (Chapter 167)

This bill amends the Real Estate Law relating to real estate licensing exemptions by deleting an obsolete reference to the Federal Home Loan Bank Board, which was abolished, and replacing the reference with the Office of Thrift Supervision of the United States Department of the Treasury (OTS), which assumed the regulatory authority of the Federal Home Loan Bank Board. AB 2548 was sponsored by State Farm.

AB 2776 (Simitian) — Disclosure of Airport Proximity (Chapter 496)

This bill requires potential homebuyers to be notified if the house they intend to buy is located within an airport influence area, as defined. Some of the provisions of this bill are not effective until January 1, 2004.

SB 1879 (Poochigian) — Real Estate Disclosures (Chapter 770)

SB 1879 is effective immediately. This bill allows property owners and their agents to immediately comply with current law by informing prospective purchasers when property is located in a special assessment district by using either the title report or the seller's last tax bill to disclose the amount of the tax to the prospective purchaser. The California Association of Realtors sponsored SB 1879. 🏠



Official Publication
CALIFORNIA DEPARTMENT OF REAL ESTATE
P.O. Box 187000
Sacramento, California 95818-7000

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Real Estate Bulletin — Winter 2002

Broker and salesperson licenses
can be renewed at www.dre.ca.gov



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Broker, salesperson, officer and
branch duplicate license requests

Salesperson requests to
change employing broker

Mailing address changes

To use *eLicensing*, you must have an accurate social security number and date of birth on file with the DRE and be licensed in good standing. License renewals may not be filed using *eLicensing* if you hold a restricted license or have not established permanent legal presence.


2003 Real Estate Law Book and CD set

The Real Estate Law will be packaged differently in 2003. *Each book will contain a CD!*

The DRE anticipates availability of the 2003 Real Estate Law book and CD set in mid to late January. This important reference for licensees contains:

- The Real Estate Law (from the Business and Professions Code),
- The Real Estate Commissioner's Regulations (from the California Code of Regulations),
- Portions of the Administrative Procedures Act and
- Pertinent excerpts from various California Codes.

The cost will be \$25, plus tax. Orders will be accepted after January 1, 2003. Use the order form on page 11 or submit a Publications Request (RE 350).

The 2003 Real Estate Law will also be available on the DRE Web site www.dre.ca.gov free of charge. 

2003 Real
Estate Law

