



# 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 2002

## A message from Secretary Maria Contreras-Sweet.

from the *Business, Transportation, and Housing Agency*



California's abundance of natural resources combined with its phenomenally skilled and diverse population propelled its economy. California has mimbed from the seventh the fifth largest economy in the world.

But this prosperity has not at all. California's population is growing and now exceeds 33 million people. That in turn presents challenging our natural resources, our highways and roads, our ability to provide enough classrooms.

And, Governor Davis is investing \$9.2 billion to make every region of the state modern, spacious and safe.

Building a better California means planning for the future. So when I took office three years ago, Governor Davis created the Commission on Building for the 21<sup>st</sup> Century. He asked me to co-chair this blue-chip council of Californians representing every as-

*Continued on page*

Many people are wondering how California can overcome this problem, especially in the face of a budget deficit. How will we build a better California? Governor Gray Davis has a plan for that: He is investing in California's infrastructure.

At a time when the country is experiencing an economic downturn, the Governor has created 900,000 new jobs in California by investing in the state's infrastructure. For example, at least 67,000 new jobs through every state in the Oakland Coliseum Mill created with the construction of the New Eastern Span of the San Francisco-Oakland Bay Bridge.

Governor Davis has invested nearly \$7 billion to improve transportation across California, the single largest general fund investment in state history. He is improving the 500,000 miles

## Brokers — Don't allow property owners to have signatory or withdrawal power over your trust accounts.

Over the years the Department has received many inquiries from brokers asking if property owner can be signatory in the broker's trust account when the broker maintains separate trust accounts for the particular owner's property.

The information that addresses this question is found primarily in Real Estate Law Section 10145. The pertinent part states: "All funds deposited by the broker in trust account shall be maintained there until disbursed by the broker in accordance with instructions from the person entitled to the funds." Some brokers point to Regulation 2834 as being inconsistent with Section 10145. But another look shows that only employees of the broker who are subject to the broker's control and direction can also make withdrawals. The wording of Regulation 2834 shows that such other signatories are merely authorized to act on behalf of the broker pursuant to his or her explicit policies and instructions. In this regard, Regulation 2834 makes it clear that authorizing contractual licensees or bonded employees to withdraw trust funds does not relieve the broker of his or her responsibility. The liability is provided by law in handling trust funds in the broker's custody."

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**REAL ESTATE BULLETIN**

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Vol. 62, No. Spring 2002

STATE OF CALIFORNIA  
GRAY DAVIS, Governor

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

DEPARTMENT OF REAL ESTATE  
PAULA REDDISH ZINNEMANN, Commissioner

**Home Loans  
+ Teachers  
= Sales**



from the California Housing Finance Agency

**S**elling homes to California's public school teachers has gotten even easier.

Another new program for educators offers an 80% first loan and a 17% "silent" second loan featuring deferred payments and simple interest. The "80/17" is an innovative partnership between the California State Teachers' Retirement System (CalSTRS) and the California Housing Loan Insurance Fund (CaHLIF), the mortgage insurance arm of the California Housing Finance Agency (CHFA). The maximum combined total for the first and second loan is \$450,000; in designated high cost counties, the maximum is \$550,000.

"The 80/17 can be good news for real estate licensees," says CaHLIF Officer Lorrie Blevins. "Since teachers only have to qualify for a loan on 80% of the purchase price, more educators may be able to buy a home." While 80/17 works effectively across the board, it was originally designed for those wishing to purchase a home in high-cost areas. Real estate licensees may find the 80/17 a useful tool in assisting homebuyers who want to live in a certain area but can't afford to.

Since the program went statewide last November, more than 130 applications have been received from educators, amounting to over \$30 million in mortgages. Outgoing CalSTRS Chief Executive Director James D. Mosman is pleased with the partnership between CalSTRS and CaHLIF. "It sets the standard of cooperation to provide common good and California teachers reap the benefits."

All employees of California's public schools and members of CalSTRS are eligible for the 80/17. More information is available by calling (916) 322-8936 and participating lender information is provided on the CalSTRS Web site at [www.calstrs.ca.gov](http://www.calstrs.ca.gov)

CHFA was created in 1975 as California's affordable housing bank to help meet the housing needs of people with low to moderate incomes. CalSTRS provides retirement benefits to California's public school educators from kindergarten through community college and serves about 496,000 California teachers.

**PRINCIPAL OFFICE**

We're located: 2201 Broadway, Sacramento, 95818-2500  
Mailing Address: P.O. Box 187000, Sacramento, 95818-7000

**Administration**

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- Thomas L. Pool, *Asst. Comm., Legislation & Public Information Services*
- Sam Perrotti, *Assistant Commissioner, Subdivisions.*
- Fa-Chi Lin, *Chief Auditor.*
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- Betty R. Ludeman, *Managing DC IV, Education.*
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Consumer Information.....	(916) 227-0864
Mortgage Loan Activities.....	(916) 227-0770
General Licensing Information.....	(916) 227-0931
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Salesperson Examinations.....	(916) 227-0900
Original Licensing (sales/brokers).....	(916) 227-0904

**NORTHERN ENFORCEMENT AREA — DISTRICT OFFICES**

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- 320 W. 4th Street, Suite 350, **Los Angeles**, 90013-1105  
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**Did you know**  
**California has the most FHA single family loan originations in the nation.**

# Who is watching the Web?A



The Internet More May. tion with his or her brokerage. Itb  
 It May Mt Have Mken MerM is a good practice for salespersonsb  
 the Real Estate and Mort-M to have their Web sites reviewed  
 gage Misiness As Some People MadM by their broker prior to the siteb  
 forecasted, Mut M M M MynamicM going online. It is also beneficialb  
 medium Mr Me Marketing M Malm for brokers to establish systems tob  
 estate Services.M monitor the activities conducted

Today, Mist Ms M Mmes Mast, M by salespersons on the Web site.b  
 the Advent Mf Mew MchnologyM The Department is currentlyb  
 brings Challenges M Mhe MepleM monitoring the Internet for com-b  
 who regulate the activity embracedM pliance with the Real Estate Law.b  
 by this Mchnology. One of the chal-M Numerous violations have beenb  
 lenges M M Msure Mat Mforma-M noted in regards to how informa-b  
 tion Ming Sent Mt Mer Me Mter-M tion is being presented. Remem-  
 net M M Compliance Mth Me REALM ber, the Internet is just anotherb  
 Estate Law. Each And Mery Mo-M advertising bmedium. The sameb  
 ker who either operates AMeb M M rules apply to the Internet as thoseb  
 or has employees that operate WebM which apply if you are running andb  
 sites Meeds M Mview Mose WebM ad in the local newspaper or put-b  
 sites Meeds M Mview Mose WebM ad in the local newspaper or put-b  
 sites Meeds M Mview Mose WebM ad in the local newspaper or put-b

ance. Section 10177(h) of the Busi-M  
 ness and Professions Code requiresM  
 a Broker M M exercise ReasonableM  
 supervision Mver Me Activities MM  
 his M M M salespersons. Reason-M  
 able Mupervision, Ms Mefined MyM  
 Regulation 2725, includes the es-M  
 tablishment M Policies, Mles, Mo-M  
 cedures and Systems M Mview, M  
 inspect M M Manage Me ActivitiesM  
 of M salespersons. Therefore, MMo-M  
 ker should establish M Policy MM  
 ensure Mat Me Moker M Mview-M  
 ing Ml Web Mtes Msed M M nec-M

identification pursuant to b  
 Business & Professions Code b  
 Section 10235.5, 10236.4, and b  
 Com-missioner's Regulation b  
 2847.3b

➤ Licensees are advertising un-b  
 der unauthorized fictitious b  
 names, which results in a li-b  
 cense status check showing nob  
 person is licensed under that b  
 name. Remember, unlicensed b  
 fictitious business names may b  
 not be used in any form of b  
 advertising.b

Additional advertising viola-b  
 tions pursuant to Commissioner's b  
 Regulation 2848 were noted for b  
 licensees engaged in loan sollicita-b  
 tion.b

In order to avoid becoming b  
 entangled in a web of legal prob-b  
 lems, ensure that your Web site is b  
 in compliance with the Real Es-b  
 tate Law. Further information is b  
 available on the DRE Web site b  
[www.dre.ca.gov](http://www.dre.ca.gov) (see FAQs b  
 Internet Business/Advertising).b

## Message.

Continued from page 1

pect of life in the state, from entre-b  
 preneurs to experts to everyday b  
 residents. b The Commission de-b  
 veloped for the Governor's consid- b  
 eration proposals on building a b  
 better California without falling b  
 into the age-old trap passing the b  
 buck to the taxpayers.b

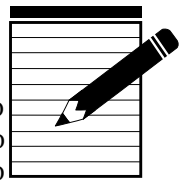
The Commission addressed b  
 the eight building blocks that com- b  
 prise the foundation on which our b  
 state rests: education, energy, b  
 housing, land, public buildings, b  
 technology, transportation and b  
 water. From building neighbor-b

hood schools to maximizing re-b  
 newable energy sources to encour- b  
 aging affordable housing, the state b  
 now has proposals for streamlin- b  
 ing government and taking full b  
 advantage of public-private part- b  
 nerships to develop California's b  
 infrastructure without passing the b  
 expense on to taxpayers.b

For example, the Commission b  
 calls for a unified California part- b  
 nership for a larger share of fed- b  
 eral transportation programs in b  
 the upcoming reauthorization in b  
 Washington. The long-term ben- b

efit is more broadsb  
 and better public b  
 transportation for b  
 our children. The short-term ben- b  
 efit is money being spent and jobs b  
 being created today.b

Building a better California. b  
 It's what every generation of Cali- b  
 fornian has done before. Combine b  
 a long-term plan with the leader- b  
 ship of Governor Davis, the talent b  
 of the people of California, and it's b  
 exactly what we will do again. b



# Signatory . withdrawal power.

Continued from page 1

Once a broker has properly deposited trust funds into his or her trust account, the broker becomes obligated by Section 10145 to fulfill the role of trustee regarding the deposited funds, is held to a fiduciary duty to the brokers principals, and must be able to account to the principal for all disbursed funds.

Some brokers have asked, "Can I then have the owner and myself both be signatories on a separate trust account just for that owner's properties and require both of our signatures on all checks or other withdrawals?" The answer again is "no." The reason is that the broker would be relinquishing his or her trusteeship. A practical solution that the Department may offer for this issue would be to set up two separate bank accounts. For illustration purposes, let's call them Account "A" and Account "B." Account "A" would be a trust account the broker uses to handle all trust funds received and disbursed for a particular property per Business & Professions Code Section 10145 and Regulation 2834. Account "B" would be a bank account opened and solely owned by the property owner to be used as a "reservoir" account. The property owner may dictate the level of funds to be maintained in Account "A" and instructs the broker to transfer any excess funds from Account

# New disclosure requirement. Right to negotiate property inspections

On January 1, 2002, Assembly Bill 152 became effective. This legislation added Section 1010.11 to the Business & Professions Code and requires the Department of Real Estate and the Real Estate Commissioner to publish a disclosure to inform purchasers of their right to negotiate property inspections with the seller of the property under terms mutually agreeable to both parties. Notwithstanding any provision in the purchase contract to the contrary, any prospective buyer has the right to negotiate with the seller to allow an inspection of property (used for residential purposes) by the buyer or the buyer's designee under terms mutually agreeable to the prospective buyer and seller.

Real estate brokers and salespersons involved in subdivisions should be aware that purchasers have the right to negotiate with the seller to allow for property inspection.

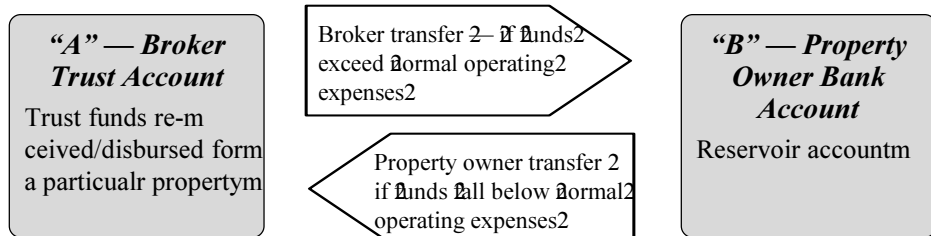
"A" to "B" by making a deposit directly to Account "B." For example, the property owner may instruct the broker to make a transfer to Account "B," at the beginning or the middle of each month if the level of funds in Account "A" exceeds the estimated amount of the normal operating expenses. Likewise, in the rare occasions when the level of funds in Account "A" unexpectedly falls below the estimated amount of normal operating expenses, the broker may ask the property owner to make a transfer of the amount of funds needed from Account "B" to Account "A." By taking this approach, the trusteeship of the brokers would be maintained and would also afford the property

owners a substantial level of control of their money yielded from their properties.

Perhaps the most difficult scenario to understand regarding this issue is, "What happens when the broker dies?" When a broker dies, the funds in his or her trust account will likely become (at least temporarily) a part of his estate. But that would be true even if an owner could withdraw funds from the broker's trust account. If an owner were to so withdraw funds, a court would likely require their return until a proper determination of ownership by the estate could be made.

None of this is a new line of thought. Brokers who operate contrary to the provisions of the Real Estate Law and the dictates of professionalism are relinquishing their trusteeship. In doing so, any such brokers are exposing themselves to the potential for a variety of civil liabilities and legal actions, and upon the Department's discovery of such practices, their real estate licenses may be jeopardized.

## Property owner instructions to broker



# Disciplinary Action — Sept. 2001 to Nov. 2001.



- ✓ 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; RPRLS – Restricted real estate listing service; RPRLS – Restricted real estate 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 Commission.

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. Disciplinary actions that are "stayed" means "a delay in carrying out" all or part of the recommended discipline.

## Commissioner's Regulations

- 2715n Licensee's failure to maintain current business or mailing address with DREn
- 2725n Failure to broker to exercise reasonable supervision over the activities of his or her salespersons
- 2726n Failure to have broker-salesperson agreements
- 2731n Unauthorized use of fictitious business names
- 2752n Broker's failure to notify DRE of salesperson employment
- 2753n Broker's failure to retain salesperson's license at main office or return the license
- 2800(a)n Material change in subdivision offering
- 2800(p)(2)n Material change - Failure to pay subdivision assessments
- 2831n Failure to keep proper trust fund records
- 2831.1n Inadequate separate trust fund beneficiary records
- 2831.2n Failure to reconcile trust accounts
- 2832n Failure to comply with trust fund handling provisions
- 2832(a)n 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(e)n Failure of broker acting as escrow holder to deposit trust funds in trust account by next business day following receipt
- 2832.1n Failure to obtain permission to reduce trust fund balance in multiple beneficiary accounts
- 2834n Trust account withdrawals by unauthorized or unbonded person
- 2834(b)n Unauthorized or unbonded person making withdrawals from corporate trust fund accounts
- 2835n Retention of broker funds in trust accounts
- 2840n Failure to give approved borrower disclosures
- 2950(d)n Failure of broker handling escrows to maintain records and accounts
- 2950(f)n Failure by broker handling escrow to deposit trust funds in trust account
- 2950(g)n Broker-handled escrow disbursement without written instructions
- 2950(h)n Failure to advise all parties of licensee's interest in agency holding escrow
- 2951n Improper record keeping for broker handled escrows

## Business And Professions Code

- 480(c)n Denial of license on grounds of false statement in license application
- 490n Substantially related criminal conviction
- 9n License obtained by fraud or misrepresentation
- 10130n Acting without license
- 10137n Unlawful employment or payment of compensation
- 10145n Trust fund handling
- 10145(a)n Trust fund handling
- 10145(c)n Failure by salesperson to deliver trust funds to broker
- 10146n Advance fee handling
- 10148n Failure to retain records and make available for inspection
- 10159.2n Failure by designated officer to supervise licensed acts of corporation
- 10159.5n Failure to obtain license with fictitious business names
- 10160n Failure to maintain salesperson licenses in possession of broker
- 10161.8n Failure of broker to notify Commissioner of salesperson employment

- 10161.8(a)n Failure of broker to notify Commissioner of salesperson employment
- 10163n Failure to obtain a branch office
- 10176(a)n Making any substantial misrepresentation
- 10176(e)n Commingling trust funds with brokers funds
- 10176(g)n Secret profit or undisclosed compensation
- 10176(i)n Fraud or dishonest dealing in licensed capacity
- 10177(a)n Procuring a real estate license by misrepresentation or material false statement
- 10177(b)n Conviction of crime
- 10177(d)n Violation of real estate law or regulations
- 10177(f)n Conduct that would have warranted denial of a license
- 10177(g)n Negligence or incompetence in performing licensed acts
- 10177(h)n Failure to supervise salespersons or licensed acts of corporation
- 10177(j)n Fraud or dishonest dealing as principal
- 10177(k)n Violation of restricted license condition
- 10177.5n Civil fraud judgment based on licensed acts
- 10229(h)(5)n Failing to forward multi-lender accountant's report to DREn
- 10232n Failure to notify DRE of threshold status
- 10232.2n Failure to file or maintain trust fund status
- 10232.25n Failure to file trust fund status reports
- 10240n Failure to give mortgage loan disclosure statements
- 11012n Material change in subdivision offering without notifying DREn

## REVOKED LICENSES

### Fresno Region

**Bernard, Thomas James (REB)A**  
556 E. Mariners Cir., Fresno  
Effective: 11/29/01n  
Violation: 490, 10177(b)n

**Cuevas, Cesar (RES)A**  
2246 Racquet Club, Los Banos  
Effective: 10/24/01n  
Violation: 490, 498, 10177(a)(b)n

**Elcano, Stephen A. (RES)A**  
235 Beech St., Bakersfield  
Effective: 9/13/01n  
Violation: 498, 10177(a)n

**Riker, Thomas Lloyd (RES)A**  
344 Falcon Crest Dr.,  
Arroyo Granden  
Effective: 10/22/01n  
Violation: 498, 10177(a)n

### Los Angeles Region

**Barba, Javier David (RES)A**  
13215 E. Penn St., Ste. 815,  
Whittier  
Effective: 11/26/01n  
Violation: 490, 10177(b)n

**Bay Ridge Group, Mc. (REC)A**  
12062 Valley View St., Ste. 137,  
Garden Groven  
Effective: 10/4/01n  
Violation: 2726, 2831, 2831.1,  
2831.2, 2832.1, 2834, 10145,  
10148, 10177(d)(g), 10232,  
10232.25n

**Carrasco, Julio R. (RES)A**  
10226 Lakewood Blvd., Downey  
Effective: 11/19/01n  
Violation: 480(c), 10177(a)n

**Choi, Xong Shik (RES)A**  
1973 S. State College Blvd.,  
Anaheim  
Effective: 11/5/01n  
Violation: 10137, 10176(a),  
10177(d)(j)n

**Coleman, James Raul (RES)A**  
14682 Kelly St., Adelanton  
Effective: 11/13/01n  
Violation: 498, 10177(a)n

**Collins, Desiree (RES)A**  
5159 Terramar Way, Oxnard  
Effective: 10/23/01n  
Violation: 490, 10177(b)n

**Cruz, Aulia (RES)A**  
PO Box 40257, Downey  
Effective: 11/29/01n  
Violation: 10176(a)(i), 10177(j)n

**Dunne, Matthew Gene (RES)A**

955 Calle Canta, Glendalen  
Effective: 10/24/01n  
Violation: 490, 10177(b)n

**Esguerra, Jessica David (REB)A**

17922 S. Horst Ave., Artesian  
Effective: 10/17/01n  
Violation: 2725, 2840, 10177(d)n  
(g)(h), 10240n

**Ferguson, Keith Michael (RES)A**

201 16<sup>th</sup> St., #4,n  
Huntington Beachn  
Effective: 11/16/01n  
Violation: 490, 10177(a)(b)n

**Fetzer, William Fleming IV (RES)A**

821 Autumn Ln., Coronan  
Effective: 10/4/01n  
Violation: 480(c), 10177(a)n

**Hart, Wallace Bang (RES)A**

1060 Calle Del Cerro, #1107,n  
San Clementen  
Effective: 9/13/01n  
Violation: 498, 10177(a)n

**Houston, Thomas William (RES)A**

3867 Huron Ave., #6, Culver Cityn  
Effective: 10/24/01n  
Violation: 490, 10177(b)n

**Hsu, George Shincheng (REB)A**

5220 N. Rosemead Blvd., Ste. A,n  
San Gabrieln  
Effective: 9/17/01n  
Violation: 2831, 2831.2, 2832.1,n  
2950(d)(g), 2951, 10145,n  
10176(e)(g)(i), 10177(d)(g)n

**Johnson, Jessica Marlene (RES)A**

5022 Adams St., Chinon  
Effective: 11/16/01n  
Violation: 490, 10177(b)n

**Johnston, Diane Louise (RES)A**

PO Box 1295, Orangen  
Effective: 11/20/01  
Violation: 490, 10177(b)n

**Lavey, Fred Henry Jr. (RR)ES)A**

1000 N. Coast Hwy, #1,n  
Laguna Beachn  
Effective: 9/19/01n  
Violation: 490, 10176(e)(i),n  
10177(b)(d)(j)(k)n

**Mayer, Laura Ace (RES)A**

655 Baker St., #L205,n  
Costa Mesan  
Effective: 11/5/01n  
Violation: 498, 10177(a)n

**Moland, Berick Andre (RES)A**

3133 West 79<sup>th</sup> St., Los Angelesn  
Effective: 11/1/01n  
Violation: 490, 10177(b)n

**Newberry, Matt M. (RES)A**

451 W. Bonita Ave., Ste. 5,n  
San Dimasn  
Effective: 10/23/01n  
Violation: 490, 10177(b)n

**Post, Christopher Dean (RES)A**

520 Murray Canyon Dr., #815,n  
Palm Springsn  
Effective: 10/24/01n  
Violation: 490, 10177(b)n

**Potter, Sandra Francine (RES)A**

2061½ Santa Rosa, Altadenan  
Effective: 10/15/01n  
Violation: 490, 10177(b)n

**Rader, Michael (RES)A**

PO Box #142, Sunlandn  
Effective: 10/25/01n  
Violation: 490, 10177(b)n

**Stone, Marty (RES)A**

24421 Philemon, Dana Pointn  
Effective: 9/18/01n  
Violation: 10130, 10137,n  
10177(d)n

**Tarin, Richard Gilbert (RES)A**

1063 West 6<sup>th</sup> St., Ste. 101,n  
Ontarion  
Effective: 9/24/01n  
Violation: 490, 10177(b)n

**Truong, Jessica T. (RES)A**

9702 Bolsa Ave., #40,n  
Westminstern  
Effective: 10/23/01n  
Violation: 490, #98, 10177(a)(b)n

**Viola, Robert Joseph (REB)A**

17445 Ivy Ave., Fontanan  
Effective: 10/26/01n  
Violation: 2731, 10148(a),n  
10159.5, 10176(i), 10177(d)(g)n

**Ward, Janice Patricia (RES)A**

PO Box 5109, Balboa Islandn  
Effective: 5/14/01n  
Violation: 490, 10177(b)n

**Ward, Thomas Robert (REB)A**

836 Carty Dr., Oxnardn  
Effective: 9/20/01n  
Violation: 490, 10177(b)n

**Wiborg, Roy B. (RES)A**

8712 Oland Ave., Sun Valleyn  
Effective: 9/25/01n  
Violation: 490, 10177(b)n

**Zandate, Greg (RES)A**

11142 State St., #B, Lynwoodn  
Effective: 10/25/01n  
Violation: 490, 10177(b)n

**Oakland Region****Al Baldini Realty, Inc. (RREC)A**

4977 Mission St., San Franciscon  
Effective: 11/5/01n  
Formerly known as: Century 21n  
Baldini Realty, Inc.n  
Violation: 10177(d)n

**Bokov, Serge (RR)ES)A**

477 n<sup>th</sup> Ave., #9, San Franciscon  
Effective: 10/9/01n  
Violation: 490, 10177(b)n

**Bremner, John Bruce (REB)A**

P.O. Box 1650, Rossn  
Effective: 9/4/01n  
Violation: 490, 10177(b)n

**Campbell, Steven Robert (REB)A**

346 Paul Ave., Salinasn  
Effective: 11/9/01n  
Violation: 490, 10177(b)n

**Dhami, Balbir S. (REB)A**

1642 Coraltree Pl., San Josen  
Effective: 9/24/01n  
Violation: 10177.5n

**Gomez, Edgar Anibal (REB)A**

4221 Mission St., San Franciscon  
Effective: 11/29/01n  
Violation: #10177.5n

**Graves, Teresa Marie (RES)A**

1607 McGinness Ave., San Josen  
Effective: 11/1/01n  
Violation: 490, 10177(b)n

**Katz, Ken (REB)A**

PO Box 270, Salinasn  
Effective: 9/26/01n  
Violation: 490, 10177(b)n

**Nguyen, Shena N. (RES)A**

38 Amberwood Cir.,n  
San Franciscon  
Effective: 9/13/01n  
Violation: 490, #98, 10177(a)(b)n

**Panzich, Reyna Elizabeth (RES)A**

725 Capitola Ave., #F, Capitolan  
Effective: 10/9/01n  
Violation: 490, #98, 10177(a)(b)n

**Schram, Rachel A. (RES)A**

785 N. Fair Oaks, #3, Sunnyvalen  
Effective: 11/29/01n  
Violation: 490, 10177(b)n

**Trujillo, Aaron Chris (RES)A**

5169 Kiowa Ct., Antiochn  
Effective: 9/13/01n  
Violation: 490, 10177(b)n

**Sacramento Region****Lewis, Richard Vincent (RES)A**

PO Box #52, Clearlaken  
Effective: 11/9/01n  
Violation: 10130, 10137, 10145,  
10177(d)n

**Margerum, Kevin (REB)A**

3090 Pioneer Hill Rd., Placervillenn  
Effective: 10/24/01n  
Violation: 10148, 10177(d)n

**Niell, Eric Ronnie (REB)A**

PO Box #64, Meadow Vistan  
Effective: 10/17/01n  
Violation: 490, 10177(b)n

**San Diego Region****Bendah, Golda (RES)A**

6264 Bernadette Ln., San Diegon  
Effective: 9/24/01n  
Violation: 490, 10177(b)n

**Berend, Steven Hughes (REB)A**

2717 Reynard Way, San Diegon  
Effective: 9/17/01n  
Violation: 490, 10177(b)n

**Daly, Frank Joseph (REB)A**

12759 Poway Dr.,n  
Ste. 102, Powayn  
Effective: 9/13/01n  
Violation: 2726, 2753, 2831,n  
2831.1, 2831.2, 2832, 2834,n  
10145, 10148, 10163, 10177(d)n

**Lawson, Brian R. (RES)A**

500 N. Grape St., Escondidon  
Effective: 11/29/01n  
Violation: 498, 10177(a)n

**Letourneau, Robert Gordon (RES)A**

1565 Hotel Circle South,n  
San Diegon  
Effective: 9/13/01n  
Violation: 490, 10177(b)n

**Malec, David Arthur (RES)A**

12751 Poway Rd., #103, Powayn  
Effective: 9/26/01n  
Violation: 10145(c), 10176(i),n  
10177(d)n

**Martin, Ricky Ao (RES)A**

1966 Longfellow Rd., Vistan  
Effective: 10/24/01n  
Violation: #90, 10177(b)n

**Morse, Thad K. (RES)A**

508 Toucan Dr., Vistan  
Effective: 10/24/01n  
Violation: 498, 10177(a)n

## REVOKED WITH A RIGHT TO Ae RESTRICTED LICENSEe

**Fresno Region****Hart, Timothy Harold (RES)A**

4974 N. Fresno St., #363, Fresno  
Effective: 11/1/01n  
Violation: 10130, 10177(d)n  
Right to RRES license on termsn  
and conditionsn

**Williams, Shellee R. (RES)A**

PO Box 247, Auberryn  
Effective: 9/26/01n  
Violation: 498, 10177(a)n  
Right to RRES license on termsn  
and conditionsn

**Los Angeles Region****Alvarado, Elena Orozco (REB)A**

2537 W. Beverly Blvd.,n  
Ste. 103, Montebellon  
Effective: 11/19/01n  
Violation: 2831, 2831.2,n  
2832(e), 2832.1, 2950(d)(f)(g),n  
2951, 10145, 10177(d)n  
Right to RREB license on termsn  
and conditionsn

**Brabant, Robert Kowell (REB)A**

7300 State St., Huntington Parkn  
Effective: 9/5/01n  
Violation: 2832.1, 10145(a),n  
10177(d)(g)n  
Right to RREB license on termsn  
and conditionsn

**Bradarich, Maria Rossana (REB,A  
REO)A**

29050 S. Western Ave., Ste. 252,n  
Rancho Palos Verdesn  
Effective: 11/15/01n  
Officer of: Seapoint Realty, Inc.n  
Violation: 2831, 2831.2, 10145,n  
10177(d)n  
Right to RREB license on termsn  
and conditionsn

**Cicala, Rhipil John (REB, REO)A**

1436 Queen Summit Dr.,n  
West Covinan  
Effective: 11/29/01n  
Officer of: Klamath Rivern  
Development Co.n  
Violation: 2800(a), 2800(p)(2),n  
10177(d), 11012n

**Right to RREB license on termsn  
and conditionsn****First Alliance Mortgage CompanyA  
(REC)A**

17305 Von Karman Ave., Irvinen  
Effective: 10/24/01n  
Violation: 10177(d), 10229(h)(5),n  
10232.2, 10232.25n  
Right to RREC license on termsn  
and conditionsn

**Gross Financial Group, Inc. (REC)A**  
817 N. Broadway, Ste. B,n  
Santa Anan  
Effective: 9/4/01n  
Violation: 2752, 2840, 10161.8,n  
10176(g), 10177(d)(g), 10240n  
Right to RREC license on termsn  
and conditionsn

**Klamath River Development Co. A (REC)A**  
1436 Queen Summit Dr.,n  
West Covinan  
Effective: 11/29/01n  
Violation: 2800(a), 2800(p)(2),n  
10177(d), 11012n  
Right to RREC license on termsn  
and conditionsn

**Lee, Franklin B. (RREB, RREO)A**  
11304½ South St., Cerritos  
Effective: 9/4/01n  
Violation: 2752, 2831.2, 2832,n  
2835, 10145, 10159.2, 10161.8,n  
10165, 10177(d)(g)(h)(k)n  
Right to RRES license on termsn  
and conditionsn

**Lugo, Elisa (RES)A**  
2134 Jasmine St., Oxnardn  
Effective: 10/25/01n  
Violation: 10130, 10177(d)(f)(g)n  
Right to RRES license on termsn  
and conditionsn

**Montes, Enrique Efren (REB, A REO)A**  
817 N. Broadway, Ste. B,n  
Santa Anan  
Effective: 9/4/01n  
Officer of: Gross Financialn  
Group, Inc.n  
Violation: 2831, 2832, 10145,n  
10159.2, 10177(d)(h)n  
Right to RREB license on termsn  
and conditionsn

**NKL, Mc. (REC)A**  
11304½ South St., Cerritos  
Effective: 9/4/01n  
Violation: 2752, 2831.2, 2832,n  
2835, 10145, 10161.8, 10165,n  
10177(d)(g)(k)n  
Right to RREC license on termsn  
and conditionsn

**Perez, Michelle Lynn (RES)A**  
129 Nantucket Ln., Aliso Viejon  
Effective: 9/17/01n  
Violation: 498, 10177(a)n  
Right to RRES license on termsn  
and conditionsn

**Rangell, Beric Andrew (REB)A**  
9047 Lakewood Blvd., Downeyn  
Effective: 9/19/01n  
Violation: 2726, 2831, 2832,n  
2832.1, 2950(g), 2951, 10145,n  
10148, 10177(d)n  
Right to RREB license on termsn  
and conditionsn

**Reed, Barbara Carroll (REB)A**  
32098 Hilltop Blvd.,n  
Running Springs  
Effective: 11/14/01n  
Violation: 490, 10177(b)n  
Right to RRES license on termsn  
and conditionsn

**Rezex, Abraham Julian (REB, REO)**  
7444 E. Florence Ave.,n  
Ste. H, Downeyn  
Effective: 10/11/01n

Violation: 10148, 10177(g)n  
Right to RREB license on termsn  
and conditionsn

**Safeguard Properties, Inc. (REC)A**  
1565 Scenic Ave., Ste. E&F,n  
Costa Mesan  
Effective: 10/22/01n  
Violation: 2731, 2832, 2832.1,n  
2840, 10137, 10145, 10163,n  
10177(d)(g), 10240n  
Right to RREC license on termsn  
and conditionsn

**Safeguard Property Management, A Inc. (REC)A**  
1565 Scenic Ave., Ste. E,n  
Costa Mesan  
Effective: 10/22/01n  
Violation: 2832.1, 10130,n  
10145, 10177(d)(g)n  
Right to RREC license on termsn  
and conditionsn

**Seapoint Realty, Inc. (REC)A**  
29050 S. Western Ave., Ste. 252,n  
Rancho Palos Verdesn  
Effective: 11/15/01n  
Violation: 2831, 2831.2, 10145,n  
10177(d)n  
Right to RREC license on termsn  
and conditionsn

**Slaven, Robert R. (RREB)A**  
1976 Scenic Ridge Dr.,n  
Chino Hillsn  
Effective: 9/11/01n  
Violation: 2831, 2831.1, 2831.2,n  
2832, 2832.1, 2834, 10145,n  
10177(d)(g)(h)(k)n  
Right to RRES license on termsn  
and conditionsn

**White, Robert Andrew (REB)A**  
11411 Rancho Del Oro, Riversiden  
Effective: 11/5/01n  
Violation: 2831, 2831.2, 2834,n  
10145(a), 10176(i), 10177(d)(g)n  
Right to RRES license on termsn  
and conditionsn

**Zwick, Brian Mitchell (REB, REO)A**  
5310 Via Santander, Yorba Lindan  
Effective: 10/10/01n  
Violation: 490, 10177(b)n  
Right to RRES license on termsn  
and conditionsn

### Oakland Region

**Baldini, Al A. (RREB)A**  
20 Acorn Dr., Hillsboroughn  
Effective: 11/5/01n  
Violation: 10159.2, 10177(d)(h)n  
Right to RRES license on termsn  
and conditionsn

**Clemons, James Allen (REB)A**  
1999 S. Bascom Ave., #480,n  
Campbelln  
Effective: 11/20/01n  
Violation: 10177(d), 10234n  
Right to RREB license on termsn  
and conditionsn

**Cunningham, Mark Scott (REB)A**  
1750 Bridgeway, Ste. 103-B,n  
Sausaliton  
Effective: 10/25/01n  
Violation: 10176(a)n  
Right to RREB license on termsn  
and conditionsn

**Keltner, Frederick Aea (REB)A**  
5553 Del Oro Dr., San Josen  
Effective: 11/16/01n  
Violation: 2831.1, 2831.2,n  
2832(a), 2832.1, 2835, 10145,n  
10146, 10176(e)(g), 10177(d)n  
Right to RREB license on termsn  
and conditionsn

**Montiel, Rhene M. (REB)A**  
3901 Grand Ave., #200, Oaklandn  
Effective: 10/1/01n  
Violation: 2832(a), 2832.1,n  
2834, 10145, 10163, 10165,n  
10177(d)n  
Right to RREB license on termsn  
and conditionsn

**Thayer, Fred Tim (RES)A**  
PO Box 505, Belmontn  
Effective: 11/7/01n  
Violation: 490, 10177(b)n  
Right to RRES license on termsn  
and conditionsn

**Tran, Thomas Minh Thuan (RES)A**  
926 Sundance Dr., Fremontn  
Effective: 11/19/01n  
Violation: 490, 10177(b)n  
Right to RRES license on termsn  
and conditionsn

### Sacramento Region

**Burris, Mary M. (REB)A**  
8210 Capwell Dr., Oaklandn  
Effective: 11/27/01n  
Formerly known as: Michellen  
Ollarn  
Violation: 10177(g)n  
Right to RREB license on termsn  
and conditionsn

**King, Rebecca Aynn (REB)A**  
1260 Lake Blvd., Ste. 285, Davisn  
Effective: 10/1/01n  
Violation: 2715, 2831, 2831.2,n  
2832(a), 2832.1, 2834, 10145,n  
10177(d)n  
Right to RREB license on termsn  
and conditionsn

**Palazzo, Michael Roy (REB)A**  
440 Drake Circle, Sacramenton  
Effective: 10/3/01n  
Violation: 10177(g)n  
Right to RREB license on termsn  
and conditionsn

### San Diego Region

**Aguirre, Manuel Rios (REB)A**  
579 Telegraph Canyon Rd.,n  
Chula Vistan  
Effective: 9/26/01n  
Violation: 2831, 2831.2,n  
2832(a), 10145, 10148, 10159.5,n  
10160, 10161.8(a), 10165,n  
10177(d)n  
Right to RREB license on termsn  
and conditionsn

**Don Berry & Associates (RREC)A**  
3060 Bonita Rd., Ste. 201,n  
Chula Vistan  
Effective: 11/1/01n  
Violation: 2831, 2831.1, 2831.2,n  
2832.1, 2834, 10145, 10160,n  
10161.8(a)(b), 10165, 10177(d)n  
Right to RREC license on termsn  
and conditionsn

**Morris, Phillip Gail (REB)A**  
4550 Kearny Villa Rd.,n  
Ste. 111, San Diegon  
Effective: 10/1/01n  
Violation: 2831, 2831.2, 2832,n  
2832.1, 2834, 10145, 10177(d)n  
Right to RREB license on termsn  
and conditionsn

**Perry, Donald Walter (RREB)A**  
3060 Bonita Rd., Ste. 201,n  
Chula Vistan  
Effective: 11/1/01n  
Violation: 10159.2, 10177(d)n  
(g)(h)n  
Right to RREB license on termsn  
and conditionsn

**Weidinger, Joseph Thomas (RES)A**  
3963 Gresham St., San Diegon  
Effective: 11/8/01n  
Violation: 498, 10177(a)n  
Right to RRES license on termsn  
and conditionsn

## SUSPENDED INDEFINITELYe

### Los Angeles Region

**Farias, Ruth Georgenne (REB, REO)**  
5086 Westminster Blvd.,n  
Westminstern  
Effective: 9/17/01n  
Violation: 2832, 10145,n  
10177(d), 10229, 10232,n  
10232.25n  
Suspended for 90 daysn

### San Diego Region

**Cooper, Thomas Charles (REB, A REO)A**  
1265 Crystal Springs Dr.,n  
Chula Vistan  
Effective: 10/3/01n  
Violation: 10159.2, 10177(c)(d)n  
(g)(h)n  
Suspended for 40 daysn

**Schuetz, Daniel John (RES)A**  
4443 n<sup>th</sup> St., #100, San Diegon  
Effective: 10/3/01n  
Violation: 10130, 10177(d)n  
Suspended for 40 daysn

## PUBLIC REPROVALe

### Los Angeles Region

**Walls, Raymond Lewis (REB, REO)**  
1565 Scenic Ave., Ste. E,n  
Costa Mesan  
Effective: 10/22/01n  
Violation: 10159.2, 10177(h)n



## SUSPENDED WITH THE STAYE

### Los Angeles Region

#### Cestari, Mark Edward (RES)A

11407 Stonecress Ave.,n  
Fountain Valley

Effective: 10/22/01n

Violation: 10130, 10177(d)n

Suspended for 90 days-all but n  
days stayed for 1 year on terms  
and conditionsn

#### Clare, Audi Michelle (REB, REO)A

18826-B Soledad Canyon Rd.,n  
Santa Clarita

Effective: 9/10/01n

Officer of: Santa Clarita Realty,n  
Inc.n

Violation: 10177(h)n

Suspended for 90 days-stayed for  
2 years on terms and conditionsn

#### Kilmurray, Robert Bruce (REB)A

100 S. Ola Vista, Ste. E.n  
San Clemente

Effective: 10/23/01n

Violation: 2831, 2832, 2832.1.n

2834, 10145(a), 10148, 10161.8,n  
10176(e)(f), 10177(d)n

Suspended for 120 days-stayed  
for 2 years on terms & conditionsn

#### Leung, Jenny Myeleng (REB)A

18472 Colima Rd., #211,n  
Rowland Heights

Effective: 11/15/01n

Violation: 10137, 10177(g)n

Suspended for 90 days-stayed for  
2 years on terms and conditionsn

#### Rooks, Robert Denis (REB)

17088 Coolfield Dr., Covinan

Effective: 10/2/01n

Violation: 2831, 10148,n  
10177(d)(g)n

Suspended for 90 days-stayed for  
2 years on terms and conditionsn

#### Santa Clarita Realty, Inc. (REC)A

18826-B Soledad Canyon Rd.,n  
Santa Clarita

Effective: 9/10/01n

Violation: 2731, 2831.2, 2834,  
10145, 10177(d)n

Suspended for 90 days-stayed for  
2 years on terms and conditionsn

#### Talavera, Meriberto (RES)A

2544 Orange Ave., #A,n  
Costa Mesa

Effective: 10/22/01n

Violation: 10130, 10177(d)n

Suspended for 90 days-all but n  
days stayed for 1 year on terms  
and conditionsn

#### W E Grant Credit Construction, A Inc. (REC)A

106 W. Manchester Ave., #G,n  
Los Angeles

Effective: 9/4/01n

Violation: 10148, 10177(d)n

Suspended for 90 days-all but n  
days stayed for 2 years on terms  
and conditionsn

#### Zaragoza, Nector M. (REB)A

121 N. State College Blvd., #4,n  
Anaheim

Effective: 11/14/01n

Violation: 2731, 2840, 2950(h),n  
10177(d), 10240n

Suspended for 90 days-stayed for  
2 years on terms and conditionsn

### Oakland Region

#### Bar K, Inc. (REC)A

201 Lafayette Circle, Lafayette

Effective: 10/31/01n

Violation: 2832, 10177(d)n

Suspended for 180 days-stayed  
for 2 years on terms & conditionsn

#### Ng, Barney Joe (REO)A

201 Lafayette Circle, Lafayette

Effective: 10/31/01n

Officer of: Bar K, Inc.n

Violation: 2832, 10177(d)n

Suspended for 180 days-stayed  
for 2 years on terms & conditionsn

### Sacramento Region

#### Chandler, Sherene Patricia (REB)A

810 Davis St., Ste. A, Vacaville

Effective: 10/4/01n

Violation: 2834, 10137, 10177(d)

Suspended for 90 days-stayed for  
2 years on terms and conditionsn

#### O'Connor, John Joseph (REB,A REO)A

13624 Hornbrook Rd., Hornbrook

Effective: 6/13/01n

Violation: 10137, 10177(d)(h)n

Suspended for 120 days-all but n  
days stayed for 3 years on terms  
and conditionsn

### San Diego Region

#### American Home Buyers Mortgage, A Inc. (REC)A

1450 Frazee Rd., Ste. #06,n  
San Diego

Effective: 11/29/01n

Violation: 2726, 2831, 2831.1,n

2831.2, 2832.1, 2834(b), 10145,n  
10161.8(a), 10165, 10177(d),n

10240n

Suspended for 60 days-stayed for  
2 years on conditionsn

#### American Home Marketing, Inc. A (REC)A

1450 Frazee Rd., Ste. #06,n  
San Diego

Effective: 11/29/01n

Violation: 2726, 2831, 2831.1,n

2831.2, 2834(b), 10145,n  
10161.8(a), 10165, 10177(d)n

Suspended for 60 days-stayed for  
2 years on conditionsn

#### Cooper, Robert Glenn (REB, REO)A

1607 Pepperwood Dr., El Cajon

Effective: 10/3/01n

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

Suspended for 10 days-stayed for  
2 years on terms and conditionsn

#### Epperson, Alan Owen (REB)A

25672 Weston Dr.,n

Laguna Niguel

Effective: 10/1/01n

Violation: 2726, 2831, 2832,n  
10145, 10177(d)n

Suspended for 90 days-stayed for  
2 years on terms and conditionsn

## Suggestions

Thank you to all who offered suggestions for  
improvement of the *Real Estate Bulletin*. Your  
ideas are still welcome. Please send them to:

Real Estate Bulletin Editor  
Department of Real Estate  
P.O. Box 187000b  
Sacramento CA 95818-7000b

#### Forness, John Francis (REB, REO)A

7439 Jackson Dr., San Diego

Effective: 9/5/01n

Violation: 2725, 2731, 2752,n

2831, 2831.2, 2832, 2834,n

10161.8(b), 10163, 10177(d)(h)n

Suspended for 100 days-stayed  
for 2 years on terms & conditionsn

#### Krause, Jo A (RES)A

7930 Forrestal Rd., San Diego

Effective: 10/31/01n

Violation: 10130, 10177(d)n

Suspended for 100 days-stayed  
for 2 years on terms & conditionsn

#### Qualifund Financial, Inc. (REC)A

4443 n<sup>th</sup> St., Ste. 100, San Diego

Effective: 10/3/01n

Violation: 10137, 10177(d),n

10240n

Suspended for 40 days-stayed for  
2 yearsn

#### Swanson, Robert Austus (REB, REO)

1450 Frazee Rd., Ste. #06,n

San Diego

Effective: 11/29/01n

Officer of: American Home

Marketing, Inc.; American Home  
Buyers Mortgage Inc.n

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

Suspended for 60 days-stayed for  
2 years on conditionsn

Effective: 10/17/01n

#### Romero, Sergio (RES)A

PO Box 10519, Costa Mesa

Effective: 11/14/01n

#### SMC Lending, Inc. (REC)A

41593 Winchester Rd., Ste. 118,n

Temecula

Effective: 9/19/01n

#### Waltz, Barry C. (REB)A

1884 Eastman Ave., #102,n

Venturan

Effective: 9/17/01n

### Oakland Region

#### Goodman, Richard Donald (REB,A REO)A

2012 Park Blvd., Oaklandn

Effective: 9/4/01n

Officer of: Richard Goodman

Mortgage Corp.n

#### Richard Goodman Mortgage Corp. A (REC)A

2012 Park Blvd., Oaklandn

Effective: 9/4/01n

### San Diego Region

#### KFG Real Estate, Inc. (REC)A

4180 Ruffin Rd., Ste. 295,n

San Diego

Effective: 9/5/01n

## INDEFINITE SUSPENSIONS

(under Recovery Acct.  
provisions)

#### All Financial Services, Inc. (REC)A

1026 Manhattan Beach Blvd.,n

Ste. B, Manhattan Beach

Effective: 11/26/01n

#### Hernandez, Thomas Andrew (RES)A

1843 Elmhurst Cir., Claremontn

Effective: 11/26/01n

#### Morote, Zoila E. (RES)A

9027 Florence Ave., Ste. C.n

Downey

Effective: 10/25/01n

#### Peck, Richard Aaron (REB)A

111 Anza Blvd., #430,n

Burlingame

Effective: 9/19/01n

#### Willis, Michael D. (RES)A

P.O. Box 1344, Alpinen

Effective: 9/19/01n



# DRE employees cannot serve as expert witnesses

The Department of Real Estate witnesses in civil, criminal or administrative proceedings. Licensed attorneys, auditors, Section 19990 of the Government Code lists a number of activities that are considered to be incompatible with employment as a state officer or employee. Included in those prohibited acts is: from using state time, facilities, equipment or supplies for private gain or benefit. Section 19990b also requires all state departments

to determine which specific activities are incompatible for its employees.

The Department of Real Estate has adopted an Incompatible Activities Statement for DRE employees. The Statement precludes employees from performing a number of acts, including: conducting any activity for which a real estate license is required or receiving any consideration, other than from the Department, for performing official acts or duties. There are a number of other specifically prohibited acts listed in the Statement. Included among those acts is, "Voluntarily agreeing to accept employment as an expert witness on behalf of someone other than the Department or other state or local public agency to testify on matters or issues related to the employee's duties with the Department, including testifying at a deposition or any action (i.e., civil, criminal, administrative, etc.) to determine whether a real estate licensee has fulfilled the obligations and duties associated with activities requiring a real estate license." In this regard, litigants should not plan on using Department of Real Estate employees as experts in any proceeding.

The Department recognizes that the Incompatible Activities Statement deprives litigants of the ability to use the expertise of Department employees in resolving disputes. However, the Department believes that the goal of fair and impartial enforcement of the Real Estate Law is best served by insuring that its employees remain neutral and disinterested in everything but the enforcement of that law. The Incompatible Activities Statement applies only to current employees. Therefore, persons interested in an expert with Department of Real Estate experience are free to contact and use former DRE employees.

## Department of Real Estate Forum

On January 25<sup>th</sup> Commissioner Paula Reddish Zinnemann convened Department of Real Estate Forum and introduced guest speakers Mel Bernard and Anthony Mutuzulu from the Inspector General's Office and the Department of Housing and Urban Development (HUD). Messrs. Bernard and Mutuzulu presented information on HUD's enforcement efforts and investigative techniques. They also provided specific examples of mortgage fraud schemes and potential penalties for those caught, including incarceration and restitution in excess of one million dollars.

Chief Deputy Commissioner John Liberatore reported on Departmental operations followed by a presentation by Ma-Chi Lin, the Department's Chief Auditor, about the new Medatory Hearing Act and some of the things the Department's auditors will be looking for to determine if brokers are arranging transactions subject to the Act's provisions and compliance.

Bill Moran, Assistant Commissioner, Enforcement spoke about license processing delays and other difficulties encountered by license applicants who fail to disclose crimes when applying for a license. He reported that many brokers did not do so. He said the most common excuses the DRE hears in these situations. Brokers were encouraged to advise their license applicants to be certain they disclose all misdemeanor and felony convictions, except for simple traffic violations, such as speeding tickets.

The meeting concluded with questions from the audience and ensuing discussion.



Attendees were provided the opportunity to engage in an open forum with the DRE.



From left to right: Fa-Chi Lin, Audits Chief; Commissioner Paula Reddish Zinnemann; Chief Deputy Comm. John Liberatore.

# Predatory Lending Audits

The term “predatory lending” can encompass a variety of home mortgage lending practices. Homeowners in certain communities, particularly the elderly and minorities, are targeted with offers of high-cost, no-secured credit. Elderly homeowners typically are moving in mixed income and have little or no secured debt (they are sometimes “equity rich” but “cash poor”). Most borrowers use the collateral of their homes for debt consolidation, home improvement, or other consumer credit purposes. Most predatory lending occurs in the “subprime mortgage market” which offers a segment of the mortgage market dedicated to borrowers who do not qualify for prime rates or for present credit problems.

Predatory loans carry high upfront fees that are added to the balance, which decreases the homeowner’s equity. Lenders then raise the amount of the borrower’s home equity and do not make an account of the borrower’s ability to make the scheduled payments. When borrowers have trouble repaying the debt, they are often encouraged to refinance the loan into another unaffordable, high-fee loan that rarely provides economic benefit to the consumer. The cycle of high-cost refinancing can ultimately deplete the homeowner’s equity and result in foreclosure.

Governor Davis recently signed SB 489, the Predatory Lending Bill. (Note: SB 444, Migden, Chapter 33 was a biller bill SB 489 and made various technical changes (AB 489.) This new law Chapter 32 Division 1.6 (Section 4970 through Section 4979.8 of the Financial Code), significant terms of consumer protection. It is designed to protect those people who state who

The law prohibits predatory lending practices such as:

- “Flipping” (the frequent making of new loans to refinance existing loans),
- “Packing” (the selling of additional products without the borrower’s informed consent), and
- Charging excessive fees.

The Department of Real Estate will develop and implement new audit procedures to determine compliance with the new lending law by mortgage loan brokers (MLBs).

The new audit procedures will first determine if a loan meets one of the following two conditions to be subject to the new law:

- The loan must be a “consumer loan” as defined in Section 4970(d) of the Financial Code. A consumer loan has the following characteristics:
  - Secured by real property.
  - The real property securing the loan must be located in California.
  - The property must be, or intended to be, the principal dwelling of the borrower.
  - The property must be one-to-four residential units.
- The “consumer loan” must also be a “covered loan.”

A “covered loan” is one where the original principal balance (or face value of the promissory note) of the loan is not more than \$250,000, and satisfies one of the following criteria:

- The annual percentage rate is 8% more than the yield on US Treasury Securities with comparable maturity dates on the

15<sup>th</sup> of the month immediately preceding the month in which the application for the loan is received by the creditor; or

- The total points and fees payable by the borrower will exceed 6% of the total amount of the loan.

The new audit procedures will further determine whether the auditee violated the prohibited acts and limitations for covered loans.

The following are examples of prohibited acts:

- A covered loan shall not include a prepayment penalty after the first 36 months after the date of consummation of the loan.
- Originating a covered loan to finance a prepayment penalty through a new loan if both loans were originated by the same person.
- A covered loan shall not contain a provision for negative amortization such that the payment schedule for regular monthly payments causes the principal balance to increase, unless the covered loan is a first mortgage with disclosure made to the borrower.
- Originating a covered loan with provisions that the interest rate will increase as a result of a default.

For details of all the prohibited acts under the predatory lending law, refer to Section 4973 of the Financial Code which is available on the DRE Web site (see Real Estate Law — Pertinent Excerpts from the California Codes).

Chapter 32, the Predatory Lending law, will become effective July 1, 2002. 🏠

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The Department of Real Estate (DRE) Website provides the most up-to-date information for licensees and the public. You can manage your mailing address, check your license status, obtain forms, access publications, and continuing education courses, view Internet advertising guidelines, and contact information and more!

The entire website was reviewed and updated in January 2002. In addition, the following features were added:



**2002 Real Estate Law** – Includes the Real Estate Law, Regulations of the Real Estate Commissioner and other pertinent excerpts from the California Codes related to real estate.

**Escrow Violations** – Can be used to determine if a specific escrow company, title company or real estate broker with an escrow division has been the subject of administrative action by the Department of Corporations, California Department of Insurance or DRE.



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**Escrow Violations** – Can be used to determine if a specific escrow company, title company or real estate broker with an escrow division has been the subject of administrative action by the Department of Corporations, California Department of Insurance or DRE.



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You can keep up with changes between *Bulletins* by visiting **What's New**.

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