Loan fraud – it’s a crime

It’s been in the news. Very few topics have been covered as extensively as loan fraud. The Department of Real Estate (DRE) is aggressively pursuing and investigating more and more cases involving licensees arranging questionable or fraudulent loan transactions, and these licensees are paying the price.

A recent enforcement case involved a pattern of conduct that is far too common in today’s market. These respondents engaged in a scheme to defraud federally insured financial institutions and other lenders by recruiting individuals to purchase homes, and then falsely lead the purchasers to believe they were purchasing homes as investments in a lease to own business venture.

The straw purchasers were recruited with the proposal to purchase a single family home on behalf of others with bad credit who wished to buy the homes and had been “pre-qualified.” The respondents promised the straw buyers a percentage of the profits for participating in the scheme when the homes were transferred to the eventual buyers. The straw buyer’s only qualification was to hold a good credit rating.

When the respondents found individuals willing to participate, they arranged a purchase transaction and submitted false loan applications on behalf of the straw purchasers by representing to the lenders the following untruths: 1) the straw buyers were going to occupy the homes as their primary residence and, 2) falsified financial information regarding the straw buyers’ employment and income.

In one case, the respondents sold two homes to a retired nanny claiming...
DRE employees are not permitted to act as “expert witnesses” for private parties

The Department of Real Estate ("DRE" or "the department") has some very experienced attorneys, auditors, investigators and subdivision specialists on its staff. Some DRE employees have spent many years in their respective areas and have become recognized specialists or experts in their fields. On occasion, DRE employees are asked to appear as expert witnesses on behalf of a party other than a governmental entity in civil, criminal or administrative proceedings. However, in spite of their subject matter expertise, department employees are not permitted to act as “expert witnesses” in those matters.

Section 19990 of the California Government Code (Section 199990) lists a number of activities that are considered to be “incompatible”, conflicting and/or inconsistent with employment as a State employee. Included in the list of proscribed acts are (i) using State time, facilities, equipment or supplies for private gain, and (ii) using the prestige or influence of the State or the appointing authority for the employee’s private gain or advantage, or the private gain of another. Section 19990 also requires all State departments to determine which specific activities are incompatible for its employees.

DRE has adopted an Incompatible Activities Statement for its employees. The Statement prevents employees from performing a number of acts, including (i) conducting any activity for which a real estate license is required or (ii) claiming, charging, receiving and/or accepting any consideration, other than from the department, for performing official acts or duties. The Statement also specifically prohibits “Voluntarily agreeing to act or accepting employment as an expert witness on behalf of someone other than the Department or another 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”. An employee who violates this prohibition could be subject to disciplinary action.

Thus, private litigants should not plan on calling DRE employees as expert witnesses in any proceedings. The department recognizes that the Incompatible Activities Statement precludes private litigants of the ability to use the expertise and specialized knowledge of department employees in litigating and/or resolving disputes. Yet DRE believes that the goal of fair and impartial enforcement of the Real Estate and Subdivided Lands Law is best served by ensuring that its employees remain neutral.

Section 19990 and the Incompatible Activities Statement both apply only to current employees. Therefore, persons interested in an “expert” with DRE experience are free to contact former DRE employees regarding their availability and possible participation as witnesses. It should be noted that such former employees might still not be able to act as an “expert witness” because of legal restrictions or prohibitions pertaining to ethics, the use and/or disclosure of confidential information, and/or post-employment activities.

[Edited, Modified and Re-written in part by Wayne Bell, Chief Legal Counsel, on 12/4/07]
October 14, 2007 marked the end of year one of the current two-year legislative session. A total of 964 bills wound their way through the process and landed on the Governor’s desk. Of these bills, 750 were signed into law and 214 were vetoed. The following brief legislative summaries are of legislation from the 2007 session that affect real estate licensees and subdividers. These summaries 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 on-line at www.leginfo.ca.gov. Please note that “SB” refers to a Senate bill and “AB” to an Assembly bill and the Chapter number refers to the sequence that the bill was filed with the Secretary of State. The name appearing after the bill number is the name of the author. All statutes are effective January 1, 2008 unless otherwise noted.

**AB 691 (Silva) Homeowner Association Managers; cooperative project shall be issued in the tenant's primary language.**

**AB 839 (Emmerson) Real estate license renewals; military extension (Chapter 194)**

Existing law allows a licensee who is called to active military service to extend the amount of time he or she has to renew a real estate license. Military service includes active duty in the United States Army, the United States Navy, the United States Air Force, the Marine Corps, and the Merchant Marine in time of war, the Coast Guard, and all officers of the Public Health Service detailed by proper authority for duty either with the Army or the Navy.

AB 839 extends the definition of military service to include those in the National Guard.

The Department of Real Estate sponsored AB 839.

**AB 840 (Emmerson) Real estate licenses: discipline (Chapter 140)**

Existing law allows the Department of Real Estate to deny a real estate license applicant or to discipline a real estate licensee for a felony conviction or a misdemeanor conviction where the crime involved “moral turpitude” and the crime bore a substantial relationship to the duties of a real estate licensee.

AB 840 amends existing law to strike the moral turpitude standard.

The Department of Real Estate sponsored AB 840.

**AB 980 (Calderon) Real estate transfer fees: residential property. (Chapter 689)**

Some home builders have instituted the use of private transfer fees to fund the maintenance of amenities, improvements or open space. The funds generated by the transfer fee are typically paid to a third party entity, not associated with the developer or homeowner association. These fees are generally imposed upon initial sale of a newly constructed home and upon the 'transfer' or subsequent sales of the home. Existing law does not impose any limits on the amount, duration or use of the transfer fees.

AB 980 requires the disclosure
Disciplinary Action: June 07 - Aug 07

✓ A list of actions is not published in this Bulletin until the 30-day period allowed for court appeal has expired, or if an appeal is filed and the disciplinary action is stayed, until the stay is dissolved. Names of persons to whom licenses are denied on application are not published.

✓ Licensees are listed alphabetically by the District Office region of responsibility.

✓ The license type is listed in parentheses after the licensee’s name. [REB – Real estate broker; RREB – Restricted real estate broker; RES – Real estate salesperson; RRES – Restricted real estate salesperson; PRLS – Prepaid rental listing service; RPRLS – Restricted prepaid rental listing service; REO – Real estate officer; REC – Real estate corporation]

✓ Below are brief summaries of various regulations and code sections. The full text of the sections is available on the DRE Web site www.dre.ca.gov under Real Estate Law and/or Regulations.

✓ Disciplinary actions that are “stayed” means there is “a delay in carrying out” all or part of the recommended discipline.

Commissioner's Regulations

2715 Licensee’s failure to maintain current business or mailing address with DRE
2725 Failure of broker to exercise reasonable supervision over the activities of his or her salespersons
2726 Failure to have broker-salesperson agreements
2731 Unauthorized use of fictitious business name
2752 Broker’s failure to notify DRE of salesperson employemn
2753 Broker’s failure to retain salesperson’s license at main office or return the license at termination of employment
2831 Failure to keep proper trust fund records
2831.1 Inadequate separate trust fund beneficiary records
2831.2 Failure to reconcile trust account
2832 Failure to comply with trust fund handling provisions
2832(a) Failure of broker to place trust funds into hands of owner, into a neutral escrow depository or trust fund account within three business days of receipt
2832(d) Failure of broker holding trust funds contingent on offer of acceptance to properly place funds within 3 business days of acceptance
2832.1 Failure to obtain permission to reduce trust fund balance in a multiple beneficiary account
2834 Trust account withdrawals by unauthorized or unboned person
2835(b) Retention of broker funds in trust account
2840 Failure to give approved borrower disclosure
2900(d) Failure of broker handling escrows to maintain records and accounts
2905(e) Failure by broker to make escrow records available for inspection
2905(g) Broker-handled escrow disbursement without written instructions
2905(h) Failure to disclose interest in the agency holding the escrow
2905(i) Failure to render written statement upon closing broker-handled escrow
2951 Improper record keeping for broker handled escrows
2970 Failure to submit advance fee material for review
2972 Advance fee accounting

Business and Professions Code

490 Substantially related criminal conviction
498 License obtained by fraud or misrepresentation
10085 Failure to submit advance fee materials
10130 Acting without license
10137 Unlawful employment or payment of compensation
10145 Trust fund handling
10145(a) Trust fund handling
10145(c) Failure by salesperson to deliver trust funds to broker
10146 Advance fee handling
10148 Failure to retain records and make available for inspection
10159.2 Failure by designated officer to supervise licensed acts of corporation
10159.2(a) Failure by designated officer to supervise licensed acts of corporation
10159.5 Failure to obtain license with fictitious business name
10160 Failure to maintain salesperson licenses in possession of broker
10161.8 Failure of broker to notify Commissioner of salesperson employment
10163 Failure to obtain a branch office license
10176(a) Making any substantial misrepresentation
10176(i) Fraud or dishonest dealing in licensed capacity
10177(a) Procuring a real estate license by misrepresentation or material false statement
10177(b) Conviction of crime
10177(d) Violation of real estate law or regulations
10177(f) Conduct that would have warranted denial of a license
10177(g) Negligence or incompetence in performing licensed acts
10177(h) Failure to supervise salespersons or licensed acts of corporation
10177(j) Fraud or dishonest dealing as principal
10177(k) Violation of restricted license condition
10177(n) Violation of real estate syndicate provisions of corporate securities law
10178 Failure of broker to notify Commissioner of salesperson termination
10231 Accepting loan funds for other than a specific loan
10231.1 Retaining lender’s funds for more than 25 days without a written agreement with the lender
10232 Failure to Notify DRE of threshold status
10232.2 Failure to file or maintain trust fund status
10232(f) Failure of broker to notify Commissioner within 30 days of first mortgage transaction or of any material change in required notice
10238(f) Violation of restriction to sell notes in excess of 10 qualified persons
10238(j) Violation of trust fund handling and records maintenance
10238(k)(3) Failure to submit independent certified public accountant report
10240 Failure to provide mortgage loan disclosure statement
10241 Improper mortgage loan disclosure statement

Financial Code

4975 et seq. Violation of covered loan requirements

REVOKED LICENSES

FRESNO REGION

Gonzalez-Castro, Erika (RES)
Violation: 7/19/07
Effective: 7/19/07
2300 Oak Crest Dr., Turlock

Wessel, June Lorraine (RRES)
Violation: 7/9/07
Effective: 7/9/07
5186 Kaiser Ave., Santa Barbara

LOS ANGELES REGION

Aguilar, Oscar (RES)
Violation: 8/6/07
Effective: 8/6/07
2172 Avalon Ave., Pomona

Alonzo, Olivia D. (RES)
Violation: 6/18/07
Effective: 6/18/07
16377 Main St., Ste. C, Hesperia

Anderson, David Leonard (RES)
Violation: 6/18/07
Effective: 6/18/07
16377 Main St., Ste. C, Hesperia
Brennan, Lawrence Michael (RREB, REO)
24 Fremont St., Newport Beach
Effective: 6/21/07
Violation: 10148, 10159.2, 10177(d)(g)(h), 10232.2, 10238.(k)(3)

Chang, Johe Yeuhwa (RREB)
2633 S Baldwin Ave., Arcadia
Effective: 7/17/07
Violation: 490, 10177(b)

Chatman, Fearl Sharayne (RES)
4517 Pickford St., #5, Los Angeles
Effective: 7/10/07
Violation: 490, 10177(b)

Chung, Min Young (REB, REO)
4130 W. Commonwealth Ave., Fullerton
Effective: 6/12/07
Violation: 490, 10177(b)

County Realty & Finance, Inc. (REC)
205 West 1st St., Ste. 202, Tustin
Effective: 8/6/07
Violation: 2731, 2831, 2831.1, 2832.2, 2832, 2834, 2840, 2909(d)(e)(h), 2951, 10145, 10148, 10159.5, 10176(a), 10177(d)(g)(h), 10240, 10241

Elterman, Richard Harold (RES)
512 W. Struck, Orange
Effective: 6/18/07
Violation: 490, 10177(b)

Emami, Dianoush (REB)
17772 Irvine Blvd., Ste. 102, Tustin
Effective: 6/28/07
Violation: 490, 10177(b)

Franco, Alfredo (REB)
4122 Philadelphia St., Ste. B, Chino
Effective: 8/8/07
Violation: 490, 498, 10177(a)(b)

Gonzalez, Frank J. (RES)
10026 Mattock St., Downey
Effective: 6/18/07
Violation: 490, 10177(b)

Gonzalez, Oscar Fabien (REB)
9515 Orizaba St., Downey
Effective: 8/20/07
Violation: 490, 10177(b)

Gonzalez, Rogelio Jr. (RES)
1039 Grossmont Dr., Whittier
Effective: 6/18/07
Violation: 490, 10177(b)

Gran, Ronna Lynn (RES)
317 Culper Ct., Hermosa Beach
Effective: 6/18/07
Violation: 490, 10177(b)

Hadizadeh, Nasrin (RES)
4610 Densmore Ave. #101, Encino
Effective: 8/28/07
Violation: 490, 10177(b)

Harris, Artesia Jamar (RES)
19671 Beach Blvd., #101, Huntington Beach
Effective: 6/12/07
Violation: 490, 10177(b)

Harris, Furman Lloyd (RES)
2560 Northshore Ln., Westlake Village
Effective: 8/7/07
Violation: 490, 10177(b)

Herrel, Lynette L. (RES)
2226 Malcolm Ave., Los Angeles
Effective: 7/17/07
Violation: 490, 10177(b)

Johnson, Paul Allen (RES)
31 Skyline Ln., Pomona
Effective: 6/7/07
Violation: 490, 10177(b)

Lemire, Kimberly Katherine (RES)
550 Rye Ave., La Habra
Effective: 6/7/07
Violation: 490, 10177(b)

Levey, David Mark (REB)
24411 Bimloe Lane, Laguna Niguel
Effective: 7/30/07
Violation: 490, 10177(b)

Lo, Hankon Hon (RES)
16221 Castana Ave., Bellflower
Effective: 6/18/07
Violation: 490, 10177(b)

Marin, Miguel (RES)
8645 San Carlos Ave., South Gate
Effective: 6/20/07
Violation: 10145(c), 10176(i), 10177(d)

Mehlinger, Richard H. (REB)
9454 Wilshire Blvd., #830, Beverly Hills
Effective: 7/5/07
Violation: 490, 10177(b)

Muschetto, Matt Anthony (RES)
2320 Villarreal Dr., Orange
Effective: 6/18/07
Violation: 490, 10177(b)

Myers, Kevin Grant (RES)
9421 Tanner Ave., Fountain Valley
Effective: 6/18/07
Violation: 490, 10177(b)

Nava, Tony M. Jr. (RES)
3501 Hart Ave., Rosemead
Effective: 7/23/07
Violation: 10177(a)

Nix, Richard Allen (RES)
20718 Christine Ave., Torrance
Effective: 7/16/07
Violation: 490, 10177(b)

Olbrich, Douglas Brian (RES)
1037 S. Danvace Dr., West Covina
Effective: 7/2/07
Violation: 498, 10177(a)

Perez, Alberto (RES)
19538 Four Oaks, Canyon Country
Effective: 8/7/07
Violation: 490, 10177(b)

Peterson, Jeff Scott (RES)
5680 Crestline Place, Rancho Cucamonga
Effective: 7/16/07
Violation: 490, 10177(b)

Pirrottet, Jon C. (RES)
1074 Parkview Dr., Ste. 205, Covina
Effective: 6/18/07
Violation: 10177(b)

Pitchford, Mary Ann (RES)
1313 W. Park Western Dr., #15, San Pedro
Effective: 6/14/07
Violation: 490, 10177(b)

Potter, D. Sidney (RES)
P.O. Box 287, Pasadena
Effective: 6/22/07
Violation: 498, 10177(b)

Prosser, Diana Darlene (REB)
180 Newport Center Dr., Ste. 180, Newport Beach
Effective: 6/6/07
Violation: 490, 10177(b)

Quinteros, Tatihana (REB, REO)
1224 E. Katella Ave., Ste. 207, Orange
Effective: 8/6/07
Officer of: County Realty & Finance, Inc.
Violation: 2731, 2831, 2831.1, 2831.2, 2832, 2834, 2840, 2909(d)(e)(h), 2951, 10145, 10148, 10159.5, 10176(a), 10177(d)(g)(h), 10240, 10241

Rowell, Deborah Sue (RES)
28 Optima, San Clemente
Effective: 6/18/07
Violation: 490, 10177(b)

Sandoval, Maria Lourdes (RES)
1210 W. Cornell St., Rialto
Effective: 7/2/07
Violation: 490, 10177(b)

Secured Equities Corporation (RECE)
25401 Cabot Rd., #117, Laguna Hills
Effective: 6/18/07
Violation: 10148, 10177(d)(g), 10232.2, 10238.(k)(3)

Shaffron, Dayna (RES)
12414 Deerbrook Ln., Los Angeles
Effective: 6/18/07
Violation: 490, 10177(b)

Vaccinati, Pat Deepa (RES)
3901 Park View Ln., Apt. C-7, Costa Mesa
Effective: 8/16/07
Violation: 490, 10177(b)

Valladares, Louis (RES)
1133 Gatlin Ave., Hacienda Heights
Effective: 7/31/07
Violation: 490, 10177(b)

Vertrees, William Thomas Jr. (RES)
2439 Orange Ave., #D, Costa Mesa
Effective: 7/3/07
Violation: 490, 10177(b)

Welch, Larry Joe (RES)
838 S. Mansfield Ave., Los Angeles
Effective: 7/30/07
Violation: 498, 10177(a)

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**SACRAMENTO REGION**

1st Option Mortgage, Inc. (REC)
950 Reserve Dr. #160, Roseville
Effective: 8/10/07
Violation: 10137, 10176(a), 10177(d)(g)(h)(i)

Crooks, Patricia Sue (RES)
2782 21st St., Sacramento
Effective: 7/9/07
Violation: 490, 10177(b)

Faust, John Edward (RES)
1638 Glenmore Dr., Fairfield
Effective: 8/7/07
Violation: 490, 10177(b)

Galio, Joseph Salvatore (REB)
4740 Northgate Blvd. #135, Sacramento
Effective: 8/23/07
Violation: 490, 10177(b)

Hernandez, Ralph Darrell (RES)
2530 Vander Ln., Redding
Effective: 6/14/07
Violation: 10177(a)

Mccain, Michael Scott (RES)
9272 Madison Ave., Carmichael
Effective: 7/12/07
Violation: 490, 10176(a)

McHone, Brandon J. (RES)
943 Appleridge Pl., Suisun City
Effective: 8/7/07
Violation: 490, 10177(b)

Rosetti, Dino Robert (REB)
950 Reserve Dr. #160, Roseville
Effective: 8/10/07
Violation: 10137, 10148, 10159.2, 10176(a), 10177(d)(g)(h)(i)
Inc.

10177(d)(g)(h)

2950(d)(g)(i), 2951,

10160, 10161.8,

10241

SAN DIEGO REGION

Gavilanes, Humberto (RES)

Montecastro, Hendrix Moreno

Majano, Walter (REB)

Majano, Walter (REB)

Montecastro, Hendrix Moreno

Guzman, Carlos Frederico (REB)

San Diego County

Paladino, Renee Kay (REB)

Ayala, Martha (REB, REO)

Bowers, Brian (RES)

Bowers, Brian (RES)

Domadia, Ashok C. (RES)

Kumar, Jasmine (RES)

Telenzak, Stephen Michael (RES)

Ulmos, Luis A. (RES)

REVOKE WITH A RIGHT TO A RESTRICTED LICENSE

FRESNO REGION

Gonzalez, Rosario (RES)

Guzman, Carlos Frederico (REB)

Fresno County

Crawford, Deborah (REB)

Domadia, Ashok C. (RES)

Gonzalez, Raúl (REB)

Kumar, Jasmine (RES)

Wade, James Lawrence (REB)

OAKLAND REGION

Ballesteros, Michael Nagal (RES)

Berkeley, Charles Ryan (REB)

Buono, Rafael Hernando (RES)

Calnet Finance & Investment, Inc.

Caveney, Daniel William (RES)

Daoang, James (RES)

Gonzalez, Raúl (REB)

Kumar, Jasmine (RES)

Wade, James Lawrence (REB)
Lam, Marks Hung Sing (REB, REO)
1786 35th Ave., San Francisco
Effective: 6/4/07
Officer of: Calnet Finance & Investment San Francisco, Inc.
Violation: 10159.2(a), 10177(d)
Right to RRES license on terms and conditions

Mineo, G. I. (RES)
P.O. Box 2641, San Ramon
Effective: 7/30/07
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Reyes, Melody B. (RES)
233 Hazelwood Dr., South San Francisco
Effective: 6/20/07
Violation: 10177(b)(f)
Right to RRES license on terms and conditions

Smith, Michael Curtis (RES)
1320 Gordon Ln., Santa Rosa
Effective: 6/14/07
Violation: 490(a), 10177(b)
Right to RRES license on terms and conditions

Stewart, Kasey David (REB)
1865 Winchester Blvd. #200, Campbell
Effective: 8/21/07
Violation: 490(a), 10177(b)
Right to RRES license on terms and conditions

Tulcana, Edgar Antonio (RES)
190 West 41st Ave., San Mateo
Effective: 7/5/07
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Wang, Jason Ming Yu (RES)
10181 Western Dr., Cupertino
Effective: 7/5/07
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Conte, Alicia Marie (RES)
2510 Longvalley Dr., Newcastle
Effective: 8/10/07
Violation: 1030, 10177(d)
Right to RRES license on terms and conditions

Duffy, George (REB, REO)
1143 Junction Dr., Manteca
Effective: 6/18/07
Violation: 2831, 2831.1, 2831.2, 2832(a), 10130, 10137, 10145, 10177(d), 10240
Right to RREB license on terms and conditions

Ford, Anthony K. (RES)
3170 Van Houseen Dr., Ukiah
Effective: 8/6/07
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Herbert, John Howell (RES)
1409 Ridge Dr., Redding
Effective: 7/13/07
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Naidoo, Ofelia Olivia (RES)
10223 Canadaco Way, Elk Grove
Effective: 6/26/07
Violation: 10176(a)(i), 10177(g)
Right to RRES license on terms and conditions

Tyler, Robert Thomas (REB)
365 Duncan Hill Rd., Auburn
Effective: 6/5/07
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Walker, Thana Marie (RES)
P.O. Box 5772, Corning
Effective: 6/5/07
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Estrada, Jose (RES)
1231 Tori Dr., Hemet
Effective: 8/7/07
Violation: 10177(b)
Right to RRES license on terms and conditions

Jennings-Sapp, Nancy (RES)
3031 Golf Crest Ridge Rd., El Cajon
Effective: 6/5/07
Violation: 10130, 10145(c), 10177(d)(g)
Right to RRES license on terms and conditions

McManus, Robert A. (RES)
P.O. Box 891423, Temecula
Effective: 6/20/07
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

O’Brian, Bonita Jacqyelyn (RES)
26038 Madison Ave., Murrieta
Effective: 8/9/07
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Rigsby, Russell Lee (RES)
1294 Edgar Ave., Beaumont
Effective: 8/14/07
Violation: 490, 10177(b)
Right to RRES license on terms and conditions

Hayes, Kevin L. (REB, REO)
1423 K St., Modesto
Effective: 7/5/07
Officer of: Red Oak Realty and Lending
Violation: 2831.1, 2831.2, 2832, 2832.1, 10145, 10159.2, 10177(d)(h)
Suspended for 60 days—30 days stayed for 2 years on terms and conditions

Ahmed, Nasim (REB, REO)
3595-1 Inland Empire Blvd., Ontario
Effective: 6/20/07
Officer of: N A D Realty, Inc.
Violation: 2831.2, 2832.1, 10145, 10159.2, 10177(d)(h)
Suspended for 90 days—stayed for 2 years on terms and conditions

Balyan, Jacqueline Beoglyan (REB, REO)
2727 W. Alameda Ave., Burbank
Effective: 8/13/07
Officer of: First Capital Financial Resources, Inc.
Violation: 10159.2, 10177(h)
Suspended for 90 days—stayed for 2 years on terms and conditions

First Capital Financial Resources, Inc. (REC)
2727 W. Alameda Ave., Burbank
Effective: 6/20/07
Violation: 10137, 10145, 10177(d), 10236.4
Suspended for 90 days—stayed for 2 years on terms and conditions

N A D Realty, Inc. (REC)
3595-1 Inland Empire Blvd. Ontario
Effective: 6/20/07
Violation: 2831.2, 2832.1, 10145, 10177(d)
Suspended for 90 days—stayed for 2 years on terms and conditions

Shepherd, Markus Steven (REB, REO)
19028 Ventura Blvd., Ste. 232, Tarzana
Effective: 6/4/07
Officer of: Emerald Mortgage Corp.
Violation: 10137, 10177(d)
Suspended for 60 days—stayed for 2 years on terms and conditions

Thacher, Robert Morton (REB)
7144 Airway Way, Yucaipa Valley
Effective: 6/8/07
Violation: 2731, 2831.2, 2840, 2950(h), 2951, 10145, 10177(d), 10231, 10232.2
Suspended for 60 days—stayed for 2 years on terms and conditions

Gross, Leonard Aburn (REB, REO)
1999 Harrison St., Ste. 1650, Oakland
Effective: 7/5/07
Violation: 2831.1, 10145, 10148, 10159.2, 10177(d)(h), 10238(j)(1)
Suspended for 60 days—stayed for 2 years on terms and conditions

Heyden, Randall Gilbert (REB)
88 Rowland Way, Ste. 200, Novato
Effective: 7/26/07
Violation: 10159.2, 10177(d)(h)
Suspended for 30 days—stayed for 2 years on terms and conditions

Kay-Co Investments, Inc. (REC)
88 Rowland Way, Ste. 200, Novato
Effective: 7/26/07
Violation: 2831.2, 2832.1, 2832, 2832.1, 2834, 10145, 10177(d)(f), 10240, 10241
Suspended for 30 days—stayed for 2 years on terms and conditions

Lewis, Andrew A. (REB)
475 S. San Antonio Rd., Los Altos
Effective: 8/23/07
Violation: 4975(a)(1), (a2), (c), (10176(i), 10177(g)(h))
Suspended for 60 days—stayed for 2 years on terms and conditions

Mowat, Lois Camille (REB)
19 Bates Blvd., Orinda
Effective: 8/31/07
Violation: 2726, 2831, 2831.1, 2832, 2831.2, 10145, 10177(d), 10231.1, 10238(f(k)), 10240, 10241
Suspended for 120 days—stayed for 2 years on terms and conditions

Vanderpool, Mark Steven (REB)
2333 San Ramon Vly Blvd., #295, San Ramon
Effective: 8/23/07
Violation: 2726, 2831, 2831.1, 2832, 2831.2, 10145, 10159.2, 10177(d)(h), 10238(j)(1)
Suspended for 60 days—stayed for 2 years on terms and conditions

Acadian Properties, Inc. (REC)
140 B St., Ste. 3, Davis
Effective: 7/2/07
Violation: 2832.1, 2834, 10145, 10177(d)
Suspended for 60 days—stayed for 2 years on terms and conditions

Montijo, Trinie Ann (REB, REO)
408 G St., Davis
Effective: 7/2/07
Officer of: Acadian Properties, Inc.
Violation: 2831.1, 2831.2, 2831.3, 10159.2, 10177(d)(h)
Suspended for 60 days—stayed for 2 years on terms and conditions

Red Oak Realty and Lending (REC)
100 Gold Dredger Dr., Oroville
Effective: 7/5/07
Violation: 2831.1, 2831.2, 2832, 2831.3, 10145, 10159.2, 10177(d)(h)
Suspended for 60 days—stayed for 2 years on terms and conditions

San Diego Equity Funding, Inc.
DICKEY, WILLIAM GLENN (REB)
5920 Friars Rd., Ste. 206, San Diego
Effective: 7/3/07
Violation: 2831, 2831.1, 2831.2, 10159.2, 10177(d)(h), 10232, 10232(a)
Suspended for 30 days—stayed for 2 years on terms and conditions

Lingo, Kristopher Lee (REB)
5920 Friars Rd. S206, San Diego
Effective: 8/30/07
Violation: 10159.2, 10177(h)
Suspended for 60 days—stayed for 2 years on terms and conditions

Vanderhorst, Fred John (REB, REO)
1240 Lancer Glen, Escondido
Effective: 7/11/07
Officer of: Mortgage Marketing, Inc.
Violation: 2831.2, 2831.1, 10145(a), 10177(d), 10240
Suspended for 30 days—stayed for 30 days on terms and conditions

W G D Real Estate Services, Inc. (REC)
5920 Friars Rd., Ste. 206, San Diego
Effective: 7/31/07
Violation: 2831, 2831.1, 2831.2, 10177(d), 10232, 10232(a)
Suspended for 30 days—stayed for 2 years on terms and conditions

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

FRESNO REGION
Burton, Robert Vaughn (REB)
1305 Vine St., Paso Robles
Effective: 8/2/07
Sanderson, Diane Rochelle (RES)
P.O. Box 504, Riverbank
Effective: 7/30/07

LOS ANGELES REGION
Barnes, Bradley Edward (RES)
P.O. Box 50025, Pasadena
Effective: 6/18/07
Dorn Platz & Company (REC)
210 S. Orange Grove Blvd., Pasadena
Effective: 6/18/07
Edgefield Real Estate, Inc. (REC)
1500 Adams Ave., Ste. 201, Costa Mesa
Effective: 8/7/07
Ellington Ct. Realty, Inc. (REC)
435 N. Oakhurst Dr.,#904, Beverly Hills
Effective: 7/18/07
Emerald Mortgage Corp. (REC)
18425 Burbank Blvd., #615, Tarzana
Effective: 6/4/07
Jangozian, Ara (RES)
343 W. Vine St., Glendale
Effective: 7/3/07
Kesler, Frances (REB)
8950 W. Olympic Blvd., #397, Beverly Hills
Effective: 6/28/07
Mason, Timothy Paul (REB)
2097 E. Washington St., 1E 324, Colton
Effective: 6/7/07
National Homebuyers Alliance (REC)
3734 W. Slauson Ave., Los Angeles
Effective: 7/23/07

SACRAMENTO REGION
Fellini, Mario III (REB)
655 University Ave., 230, Sacramento
Effective: 7/23/07
McKenny, Robin Lynn (REB)
3963 Glenwood St., Eureka
Effective: 8/30/07
Murphy, Deborah Jean (RES)
551 N. Loma Dr., Lodi
Effective: 7/2/07
Parry, Michele A. (RES)
1602 Bunk House Way, Roseville
Effective: 8/28/07
Piazza, Tina Marie (RES)
715 Mokelumne St., Woodbridge
Effective: 7/3/07

SAN DIEGO
Allcare Nursing, Inc. (REC)
26273 Horsetail St., Murrieta
Effective: 7/30/07

Arbor Terrace Real Estate, Inc. (REC)
41120 Elm St., Ste. H218, Murrieta
Effective: 7/30/07
Montecastro, Bayani Dolos (RES)
26273 Horsetail St., Murrieta
Effective: 7/30/07
Mortgage Marketing, Inc. (REC)
285 S. Palm Canyon Dr., Palm Springs
Effective: 7/11/07

PUBLIC REPROVAL

SACRAMENTO REGION
Wolf, Ernest Spencer (REB)
76101 Coveloa Rd., Coveloa
Effective: 6/21/07
Violation: 2726, 2731, 2832, 2970, 2972, 10085, 10145, 10146, 10159.5, 10177(d)

INDEFINITE SUSPENSIONS
(under Recovery Acct. provisions)

FRESNO REGION
Stanton, Ellen E. (REB)
145 Heilnen, Lemoore
Effective: 6/21/07

**Commissioner’s Message**

Continued from page 1

would encourage you or any distressed borrower to visit these sites to learn about available resources.

Finally, I want to remind you that we need to rid our industry of individuals who violate the law. Time and time again, in legislative hearings, and meetings with consumer groups I am told unscrupulous licensees are often at the root of a consumer’s problem. If you become aware of an incident of mortgage related fraud or misconduct by a please re- the DRE. continue disciplin- a g a i n st these real estate licensees who take advantage of consumers and fail to comply with regulatory requirements. It is worth noting that the DRE is uncovering more and more fraudulent transactions with criminal complaints or federal indictments coming on the heels of a DRE disciplinary action.

And, I have personally witnessed many agents selflessly assist clients in addressing loan related situations. It is my hope that when I meet with various legislators and consumer advocates in the future, that I am told a real estate licensee helped rectify a problem situation rather than create it. And from what I have seen and heard, I expect this will happen. 🐦
Legislation Update
Continued from page 3

of the existence of a transfer fee for properties that are subject to such a fee. Disclosure will generally be in the form of a recorded notice and a requirement that a seller provide a buyer with a statement indicating, among other things, the amount of the transfer fee based on the asking price and how the fee is calculated.

The California Association of Realtors® sponsored AB 980.

SB 223 (Machado) Real estate appraisals (Chapter 291)
Existing law precludes a licensed appraiser from doing an appraisal if the appraiser’s compensation is affected by the sales commission generated by the transaction for which the appraisal was made.

SB 223 prohibits a person with an interest in a real estate transaction involving an appraisal to improperly influence or attempt to improperly influence, through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. A person, who violates the provision of this bill and is licensed under any state licensing law, will be in violation of the licensing law under which the person is licensed.

SB 223 was an urgency bill and was effective the day it was chaptered on October 5, 2007.

SB 385 (Machado) State agencies: accounts: reports. (Chapter 301)
Existing law allows a real estate broker to, among other things, arrange loans secured by real property, including nontraditional mortgage products, as defined.

Recently, federal financial institution regulatory agencies and the Conference of State Bank Supervisors (CSBS), together with the American Association of Residential Mortgage Regulators (AARMR), published guidance on nontraditional mortgage product risks and a statement on subprime mortgage lending. The guidance and statement set forth suggested best practices for underwriting and marketing nontraditional and subprime loans.

SB 385 requires the Departments of Real Estate, Financial Institutions (DFI) and Corporations (DOC) to apply the guidance on nontraditional mortgage products and the statement on subprime mortgage lending published by CSBS and AARMR to their respective licensees. This bill also allows the departments to adopt clarifying emergency and final regulations with respect to the guidance and subprime statement. In this regard, the Department of Real Estate (DRE) has issued regulations providing for added disclosures for nontraditional loans. Licensees should familiarize themselves with these as well as future regulation proposals, as they become available on the DRE Web site at www.dre.ca.gov.

As to the Guidance and Statement published by CSBS and AARMR, they can be found at the following Web sites:

SB 385 also extends the authority of the DRE to the principal lending activities of real estate brokers who make more than eight loans a year.

SB 528 (Aanestad) Common Interest Developments: open meetings (Chapter 250)
Existing law does not require HOA boards to solely adhere to the matters set-forth on the agenda. SB 528 requires all issues to be discussed at a board meeting to be on the agenda so that homeowners have advance notice of what issues the HOA board will be acting on. This bill also requires that meeting notices include the agenda for the meeting.

VETOED BILL OF INTEREST

SB 226 (Negrete McLeod) Real estate broker license: qualifications VETOED

Existing law requires a real estate broker license applicant to complete specified course work and have two years experience as a real estate salesperson licensee, as specified, before the DRE can issue a real estate broker license to the applicant. The two years of experience as a salesperson can be waived if the broker license applicant can demonstrate the equivalent of two years general real estate experience or has graduated and obtained a degree from a four-year college or university, "which course included specialization in real estate".

SB 226 would have required the Real Estate Commissioner to adopt regulations to establish the educational criteria that constitutes a "specialization in real estate”.

Existing law requires real estate brokers who arrange loans secured by real property to disclose, among other things, their license identification number in all mortgage lending advertising and on specified mortgage loan disclosures.

This bill would have required real estate licensees to disclose their license identification number on first point of contact marketing materials.

The Governor’s veto message stated, in part:

“This bill is substantially similar to a bill that I vetoed last year. Instead of directly repealing one method in which a person can become a real estate broker as last year’s bill did, this bill attempts to revise the method via a regulatory route. There is no more evidence this year than last that this licensing method has harmed consumers in the over thirty years it has been in statute.

While I cannot sign the bill, I do support one aspect of the bill. I urge the Legislature to consider legislation next year that authorizes the Department of Real Estate Commissioner to require real estate brokers and salespersons to display his or her license number on consumer first contact materials.”

The California Association of Realtors® sponsored SB 226.
Loan Fraud
Continued from page 1

she was a financial executive earning $9,000 per month from a shell company which they had established, for seemingly no other purpose than to create fictitious employment information for borrowers. In a separate series of transactions, the respondents sold 8 properties to a landscape contractor earning about $40,000 per year by claiming the contractor was an investment analyst with their company earning $14,000 per month. This pattern continued with multiple borrowers. The defrauded lenders required no verification of the supplied information since these were “stated income” loans.

As is the case when dealing with someone who is willing to defraud a lender, other parties involved in the transaction had “better take cover” as the chances for their being defrauded by the participants are high as well. In this particular case, in addition to supplying fraudulent information to the lenders, the respondents also made a series of false statements to the straw buyers to induce them into participating in the scheme. The straw buyers were told they were in the business of helping people with bad credit acquire homes through the use of the purchaser’s good credit. It was just a way of helping people obtain the “American Dream” of homeownership. The respondents also represented that they had pre-qualified people who were waiting to take over the homes and the loan payments from the purchasers and that these individuals would pay a deposit, make all mortgage payments, property taxes, the related insurance and the maintenance. It was further represented that the pre-qualified individuals would then purchase the homes after two years at a price adjusted for appreciation of about 7 to 10 percent per year. In actuality, no pre-qualified purchasers existed and the respondents simply let the homes go into default which created substantial losses for the lenders and ruined credit ratings for the straw buyers.

Over 19 homes were sold by the respondents in this manner, accounting for over 8 million dollars in loans and over $277,000 in loan broker commissions. That is not much when you consider the consequences of their actions. Needless to say, the Department filed accusations and revoked the licenses of the individuals involved. In addition, the individuals responsible were indicted by the United States Attorney’s Office on 14 counts of bank fraud, 14 counts of making false statements in loan applications, 7 counts of mail fraud and conspiracy to launder funds. It is doubtful that they think their scheme was such a good idea at this point.

Unfortunately, this case is not an isolated incident. DRE has Accusations against a large number of licensees who have been involved in similar schemes and criminal investigations are pending with respect to several of them. From the standpoint of the Department’s Enforcement Program, we continue to investigate complaints regarding transactions that have occurred with damage already done, and we will continue to remove unscrupulous licensees from the business and prevent possible fraudulent acts from occurring. Furthermore, the federal and local levels of government will continue to investigate and prosecute as appropriate.

Real estate licensees are in a more unique position of being able to prevent the problems from occurring in the first place, by recognizing red flags, asking appropriate questions, and giving the principals in your transactions the full picture of what is involved in terms of making a purchase and carrying the payments once the purchase is made.

Remember the old adage “AN OUNCE OF PREVENTION IS WORTH A POUND OF CURE”. While a lot of damage has been done in the real estate market, we can prevent more of the same from occurring in the future. Please take the time to ensure that the principals in your transactions understand all terms and report abuses in the marketplace to the Department of Real Estate and to federal and local prosecutors where appropriate.

Real estate licensees are in a more unique position of being able to prevent the problems from occurring in the first place by recognizing red flags.

Continuing Education
Continued from page 1

- A participant will be required to present one of the following forms of identification either immediately prior to admittance to a live presentation or immediately before the administration of the final examination for a correspondence course:
  - A current California driver’s license
  - A current identification card issued by DMV
  - Any identification issued by a government agency or recognized real estate trade organization within the immediately preceding five years that bears a photo, signature and identification number of the participant

The addition of the examination requirement for all continuing education courses will also have an impact on a licensee’s ability to petition for equivalency credit for attendance at any unapproved course. Before a petition will be granted, one of the items the applicant must submit is a final grade report for the final examination.

If you have any questions or comments concerning the continuing education program, please contact the Education Section staff at (916) 227-0894.

For more detail on the specific regulations, you may visit http://www.dre.ca.gov/pdf_docs/ce_regs_sec3005.pdf.
Real estate publications

Ordering information
DRE publications are available:

On the Internet — All DRE publications are available free of charge on the DRE Web site at www.dre.ca.gov.

In person from District Offices — Complete Parts A, B, and C (if appropriate). Offices are located in Sacramento, Los Angeles, Oakland, Fresno, and San Diego.

By mail — Photocopy or remove this page from your Bulletin. Complete Parts A, B, and C (if appropriate). Mail it with the proper fee to:
Department of Real Estate
Book Orders
P.O. Box 187006
Sacramento, CA 95818-7006

By fax — Complete Parts A, B, and C. Fax form to (916) 227-0361.

By phone — Have credit card information ready, then call Book Order desk at (916) 227-0852.

Acceptable payment methods
- Personal check, cashier’s check or money order should be made payable to: Department of Real Estate.
- VISA, MasterCard, and American Express credit cards may be used to purchase DRE publications.
- Cash is acceptable only if purchasing in person and only if it’s the exact amount of purchase.

California sales tax
Use 7.25% tax rate, unless purchase location or delivery address is in the following counties:
- Alameda (8.25%), Fresno (7.875%), Los Angeles (8.25%), Marin (7.75%), Sacramento (7.75%), and San Diego (7.75%). Requests and fees will be returned if the appropriate sales tax is not included.

Miscellaneous information
- Publications noted as free are limited to one copy; DRE grants requestor permission to reproduce these publications for complimentary distribution only.
- Prices are subject to change.
- Orders received with incorrect payments will be returned.
- All sales are final — no refunds.
- Allow 4–6 weeks for delivery.
- Volume discounts are available. Contact DRE at (916) 227-0852 prior to ordering.

### PART A PUBLICATIONS

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2008 Real Estate Law Book and CD

Each year, the Real Estate Law Book and CD is updated to reflect changes in laws and regulations. The 2008 Real Estate Law Book and CD will be available for purchase in January 2008. 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 Procedure Act (from the Government Code); and
- Pertinent excerpts from various California Codes.

The cost will be $25, plus tax. Orders will be accepted after January 1, 2008. Use the order form on page 11 or submit a Publications Request (RE 350). (The RE 350 is available on the DRE Web site or from any District Office.)

The 2008 Real Estate Law will also be available on the DRE Web site at www.dre.ca.gov.