

# Open House

A newsletter from the Nevada Real Estate

Department of Business & Industry

Summer 2007

## Commissioners, New President Appointed to Real Estate Commission

### The Mission of the Real Estate Division Education Fund:

To ensure awareness of relevant laws and practices by all licensees through proactive education and information efforts.

### Inside this issue:

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Before leaving office, former Governor Kenny Guinn appointed two new members to the Nevada Real Estate Commission. Bert Gurr and Janice Copple, both from Northern Nevada, filled vacancies left by Ben Green and Lee Gurr. Their terms will run from November 2006 to October 2009.

Commissioner Bert Gurr is serving his first three-year term. Gurr has been licensed in Nevada since 1973, and

was recently elected President of Elko County Association of REALTORS (ECAR). His wife, Lee Gurr, served on the Commission from 2000 to 2006.

For more than 20 years, Gurr has been a member of countless committees, including Bylaws & Policy, Strategic Planning, and Land Use and Property Forum, to name a few. Additionally, he is a past president of NAR and a two-time recipient of ECAR's "REALTOR of the Year."

Commissioner Janice Copple has held a Nevada real estate license since 1977. She is currently licensed as a Broker-Salesperson and has been associated with Coldwell Banker, Plummer & Associates for the past 15 years.

Over the past 20 years, Copple has served on the Professional Standards Committee for Reno/Sparks Association of REALTORS, NVAR and NAR. She is a current NVAR Mediator and was named "2006 Agent of the Year" by Coldwell Banker, Plummer & Associates. Copple is also serving her first term on the Real Estate Commission.



Curry Jameson, President of the Real Estate Commission, welcomes Bert Gurr to the Commission.



Janice Copple is sworn in as one of the newest Commissioners for the Real Estate Division.

## Open House

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the authors' viewpoints and should  
not be mistaken for official policy of  
the Real Estate Division. They are  
included because they address  
relevant issues that may be of interest  
to Nevada licensees.

#### REAL ESTATE COMMISSION

**CURRY JAMESON**  
*President*  
Washoe County

**CHARLIE MACK**  
*Vice President*  
Clark County

**BETH ROSSUM**  
*Secretary*  
Clark County

**JANICE COPPLE**  
Washoe County

**BERT GURR**  
Elko County

### New President Elected

Commissioner Curry Jameson was  
elected as President of the Real Estate  
Commission for fiscal year 2007.

A native of Reno, Jameson is owner and broker of  
Realty Executives of Northern Nevada. He has  
been listed in "Who's Who in Real Estate" and has  
earned numerous awards, including REALTOR® of  
the Year for the Reno/Sparks Association.

Jameson was first appointed to the Commission by  
Governor Guinn in December 2004. Prior to being  
elected President, he served as Secretary of the Commission. He was  
officially sworn in during the September 18, 2006 Real Estate  
Commission meeting.

Commissioner Jameson recently presided over the November 2006  
meeting, where a record was set for the largest number of CE course  
applications presented at a Nevada Real Estate Commission meeting.  
Two weeks after the three-day meeting, a videoconference was held to  
conclude the education items listed on the agenda.

### About the Commission

Each member of the Nevada Real Estate Commission serves a three-  
year term and is eligible to be re-appointed for one additional  
consecutive term. The five-member Commission adopts regulations  
governing the activities of real estate licensees in Nevada. It also  
conducts disciplinary hearings and acts in an advisory capacity to the  
Nevada Real Estate Division. ■

Photos courtesy of Nevada Association of REALTORS.



Curry Jameson, President of  
the Nevada Real Estate  
Commission for Fiscal Year  
2007.

## Las Vegas Licensing Section Gets a Facelift

**R**enovation of the Real Estate Division's Licensing Counter in Las  
Vegas has been completed. The newly remodeled area,  
completed in June 2006, presents a more pleasant, environment for both  
visitors and employees.

The completed remodeling  
of the licensing counter  
allows for increased  
customer satisfaction due  
to additional, partitioned  
workstations. Being able  
to serve more customers  
at one time should reduce  
the wait time in line. In  
addition, the stations have  
all been partitioned. This  
will allow more privacy for  
customers while conducting  
transactions. ■



The addition of two workstations in the Las Vegas office  
allows for more customers to be served at a time.

# Revisions to Residential Disclosure Guide Outlined

The Nevada Residential Disclosure Guide was revised in January 2007. Changes to the 24-page booklet, which was first released in July 2006, are shown below.

**NOTE: Words that have been added to the guide are shown in bold text below; deleted words are in [brackets].**

## Common-Interest Communities—Pages 4 & 5

*(Additional information)*

This portion has been divided into two sections: **Resale Package** and **Public Offering Statement**.

## Consent to Act—Page 6

*(For more information)*

NRS reference was modified as follows: 645.**252**-254.

## Construction Defects—Page 7

*(When Is It Due?)*

“... or if escrow is less than 30 days, then immediately upon signing **the sales agreement**. If a claim is made while in escrow, the disclosure must be made within 24 hours of **notice of complaint**.”

## Duties Owed By a Nevada Real Estate Licensee—Page 8

*(Who must provide the disclosure?)*

A licensee who acts as an agent in a real estate transaction must disclose to each party [in the transaction] **for whom the licensee is acting as an agent and any unrepresented party** all duties owed to the parties and the licensee’s relationship as an agent to each party in the transaction .

*(For more information)*

NRS reference was modified to include **645.193**.

## Impact Fees—Page 9

*(Who must provide the disclosure?)*

“A seller who has [been made aware] **knowledge** of the impact fee...”

## Manufactured Housing-Used Manufactured/Mobile Homes—Page 11

*(Additional information)*

“...consumer to submit certain documents to Nevada’s Manufactured Housing Division **and the county assessor** within 45 days...”

## Seller’s Real Property Disclosure—Page 14

*(Additional Information)*

“The buyer may waive this form in writing, **signed and notarized**, or rescind the sales agreement for non-disclosure.”

## Water & Sewer Rates—Page 15

*(Purpose of Disclosure)*

“...to inform the buyer of a previously unsold home **or improved lot** of public utility rates...”

## Local/Miscellaneous Disclosures—Page 19

(Gaming)

The section title has been changed as follows: GAMING (Initial Purchaser in New Construction Only). The following sentence was added at the end of the section: “The seller must retain a copy of the disclosure.”

## Acknowledgement Page—Page 21

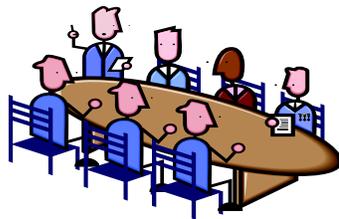
This page asks for the **client’s** printed name and signature. A line was also added instructing the licensee to “Retain original or copy in each transaction file.”

\* \* \*

Licensees may use current pre-printed copies of the booklet but should transition to the revised version as soon as possible. The revised 8½ x 11 guide is available online at [www.red.state.nv.us/forms/622.pdf](http://www.red.state.nv.us/forms/622.pdf). Limited copies of the 24-page printed booklet may be picked up at your nearest Real Estate Division while supplies last. ■

## New Subcommittee for Education Holds Its First Session

At a special meeting of the Real Estate Commission convened on December 14, 2006 to hear the remaining education agenda from the November 2006 meeting, the Commission appointed a subcommittee to review continuing education and postlicensing course applications. The Education Subcommittee of the Nevada Real Estate Commission is chaired by Commissioner Charlie Mack. Commissioner Janice Copple from Reno and ex-Commissioner Lee Gurr from Elko have joined Commissioner Mack to serve on the subcommittee.



The first meeting of the subcommittee was held on February 14, 2007 via telephone conference between Las Vegas and Carson City. The committee discussed the frequency and method of convening half-day meetings to hear the continuing education and postlicensing agenda. The Commissioners agreed to schedule meetings every 6-8 weeks, depending on the volume of CE and postlicensing course applications received by the Division. The meetings will be conducted by video conference.

Continuing education credits will continue to be offered for attending the Real Estate Commission hearings, but will not be available for attending meetings of the Education Subcommittee. ■

## Is Your Information Up to **SPEED** with the Division?

Email is an effective and fast way to reach people with up-to-date information.



You can be among the first to find out about changes in the Real Estate industry that may affect you by sending us your email information.

You may submit your information directly from our website at [www.red.state.nv.us](http://www.red.state.nv.us) by clicking on the link found on the home page.

\*This information is strictly for communication purposes only and will not be shared or sold to third parties.

# Advertising Could Cost You

The purpose of this article is to give the professional real estate community some of the advertising basics as regulated by the Nevada Revised Statute (NRS) and Administrative Code (NAC) 645, as well as a Division perspective. It is not meant to be all-inclusive, or to include information about other state or federal laws regarding advertising.

By Bruce Alitt, Chief Investigator, Compliance/Audit

**W**hy is real estate licensee advertising regulated? It is regulated to ensure that the advertising is honest and does not mislead the consumer. It is regulated to ensure that the public is aware that they are dealing with a licensed real estate agent and with what company that person is associated.

NRS/NAC 645 cover all advertising; including, but not be limited to, newspapers, magazines, signs, television, radio, flyers, business cards and the Internet.

NAC 645.610 requires that, in any advertising, an agent must advertise in the name under which he is licensed to engage in business by the Division. The ONLY exception to this is defined in NAC 645.611. It allows for the use of the terms “team” or “group” under certain conditions. The team or group name MUST contain at least the last name of one of the members. The brokerage firm name must be displayed with prominence. Style, size, color, location, etc. of the brokerage firm name will determine prominence. The purpose is to make sure that the public is aware that the licensee is associated with a brokerage firm and that firm’s name. If the broker agrees, an agent may use his/her own private phone number. Additionally, common nicknames may be used, such as “Mike” for Michael, “Susie” for Susan or “Bill” for William.



*Advertising is regulated to ensure that it is honest and does not mislead the consumer.*

## Terms Used in Advertising

A licensee may use descriptive terms such as “specialist,” “expert,” or “top producer” as long as there is empirical data or facts to substantiate such a claim. Earned designations such as GRI may be used in any advertising. The specific licensing status designation of broker, broker-salesman or salesman may also be used, although not required. The words “woman” or “person” may, of course, be substituted for “man” in any of the licensing status designations.

If a licensee is advertising his own property, he must disclose his licensee status in all advertising. This disclosure may be accomplished with a reference to you as an LREA, agent, or broker, broker-salesman or salesman, as appropriate.

If the brokerage firm is a franchise, the broker must include in a conspicuous way in all advertisements the real, fictitious or corporate name under which he is licensed, as well as an acknowledgement that each office is independently owned and operated.

***“If a licensee is advertising his own property, he must disclose his licensee status in ALL advertising.”***

In order to advertise any property for sale or lease, a licensee must have the knowledge and written consent of the owner or his agent. A licensee cannot advertise a “for sale by owner,” “for lease by owner,” or similar words. Once a property is sold and escrow is closed, or a listing has expired, the sign must be removed and all advertising must cease. If the new owner gives permission to leave the sign even though the property is no longer available, the agent must have a clear rider or sticker with the word “sold,” or something similar placed on the sign. If not, it would be considered misleading advertising, such as “bait and switch.”

If a brand name such as “Corian” countertop or “Jacuzzi” tub is used in an advertisement, the agent should make sure that the countertop or tub is, in fact, the brand advertised. In any event, unless an agent is certain, it is preferable to use descriptions like “corian-type” countertop and “whirlpool” tub.

*continued on next page...*

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## Commissions/Rebates/Gifts

The Division is continually asked about advertising that includes offers of reduced commissions and rebates to the buyer or seller. Commissions are negotiable; therefore, an offer of a reduced commission is perfectly acceptable as long as the reduction and any and all restrictions or conditions are disclosed in writing. The same holds true for rebates to the buyer or seller, as principals to the transaction. However, agents cannot advertise or in fact give any type of referral fee or gift to an unlicensed third party under any condition. If a gift to a principal is advertised, it should be clear and specific...for example, a "large screen TV" may mean a 27-inch from Joe's Discount to you, while it may mean a 52-inch HDTV to your principal.

While the above discusses paid advertising, there is no substitute for knowledge and good, hard work. There is no paid advertising of any type that would surpass a recommendation such as, "When you are ready to move to Las Vegas, I recommend Suzie Smith. When we moved here she listened to us, showed us only properties that we might be interested in and even helped us through the escrow and closing."

Lastly, the Division feels it necessary to remind all licensees of their obligation to completely disclose all fees they will receive. Of specific concern is the use of terms such as "regulatory compliance fee," "compliance fee," and other language that may lead consumers to believe that a fee is required by law and/or being paid to the State or the Division.

While the Division does not govern what fees may be charged or the amount of any fee, licensees have a duty of disclosure and the protection of the public from misrepresentation and unethical practices. Furthermore, the principal must agree to and acknowledge any fee in advance with informed consent. Placing a fee on an "Estimated Closing Costs" sheet and getting the principal to sign or initial that sheet is not informed consent.

The Division does not approve licensee advertising; however, Division staff are always available to answer questions to help you make sure that you stay in compliance. ■

## Recent Advertising Issues the Division Has Been Involved In...

⇒ agents not disclosing that they are licensees in advertising

⇒ company name not being displayed with prominence in internet advertising

⇒ advertising in which an agent advertised that his listings could be cancelled at any time but did not disclose that there would be a cancellation fee

⇒ groups of agents using terms such as "Smith and Associates."

In all cases, the agents were contacted and the issues were resolved.

## NEW REAL ESTATE DIVISION PHONE NUMBERS

Department	Phone Number	Fax Number
Real Estate Division - Las Vegas	(702) 486-4033	(702) 486-4275
Real Estate Division - Carson City	(775) 687-4280	(775) 687-4868
Administration	(702) 486-4037	(702) 486-4067
Appraisal	(775) 687-4280 ext. 308	(775) 687-4868
Commission Coordinator - CIC	(702) 486-4033 ext 64606	(702) 486-4067
Commission Coordinator - Real Estate	(702) 486-4033 ext 64074	(702) 486-4067
Compliance (Investigations)	(702) 486-4324	(702) 486-4067
Education	(702) 486-0951	(702) 486-4096
Inspector of Structures	(702) 486-4033 ext. 60951	(702) 486-4067
Licensing	(702) 486-4033 (Option #1)	(702) 486-4275
Ombudsman (Common-Interest Communities)	(702) 486-4480 (877) 829-9907	(702) 486-4520
Project Registration	(702) 486-4490	(702) 486-4600



# Disciplinary Actions/Stipulations



## ACTIONS/DECISIONS

*Real Estate Commission actions are not published in this newsletter until the 30-day period allowed for filing for Judicial Review has passed. If a stay on discipline is issued by the Court, the matter is not published until final outcome of the Review.*

*A Respondent's license is automatically suspended for failure to comply with a Commission Order, and the Division may institute debt collection proceedings to recover fines and costs.*

*We do not publish names of persons whose license applications are denied.*

## ALLEGATIONS/STIPULATIONS

*Stipulations occur when both the Respondent and Division have agreed to conditions reviewed and accepted by both sides. A stipulation may or may not be an admission of guilt. Stipulations are presented to the Commission for review and acceptance.*

APRIL 2006

**Sergio Alarcon**  
**License No. 27497**  
**Salesperson**

**Allegation:** Alarcon had 2 escrows open on the same property and failed to ensure that all parties involved received notice of the cancellation. He also acted negligently by providing the buyers with a Seller's Real Property Disclosure form that had an invalid signature.

**Stipulation:** Alarcon agreed to pay a fine of \$3,000 and attend "What Every Licensee Should Know" and 6 hours of Ethics within 6 months.

\*\*\*

**Harry Britton**  
**License No. 13655**  
**Broker**

**Allegation:** Britton is the broker for Sergio Alarcon (see above). He failed to properly supervise Alarcon and failed to establish policies and procedures that would have detected a double escrow.

**Stipulation:** Britton agreed to pay a fine of \$2,500 and attend "What Every Broker Should Know" within 6 months.

\*\*\*

**William Fitzpatrick**  
**License No. 36459**  
**Broker**

**Allegation:** Fitzpatrick is the Broker of Red Rock Canyon Realty. He allowed agents of another real estate company to list properties in the MLS system and negotiate purchase agreements while the agents were still associated with the other company. He also allegedly submitted altered documents to the Division during the course of the investigation. Fitzpatrick failed to establish policies and procedures that would detect an unlicensed agent and paid commissions to an individual whose license had expired.

**Stipulation:** Fitzpatrick's license was downgraded to Broker/Salesman for 2 years. He cannot supervise or manage licensees during this time. He agreed to pay a fine of \$25,000 and complete the 45-hour broker management class with a passing exam within 2 years.

\*\*\*

**Gary V. Gumm**  
**License No. 39250**  
**Broker**

**Allegation:** Gumm failed to renew his license and, after one year of being expired, his file was closed. During this time, Gumm continued to

engage in real estate activity.

**Stipulation:** Gumm agreed to pay a fine of \$5,000 within 6 months.

\*\*\*

**Richard Lippon**  
**License No. 17671**  
**Corporate Broker**

**Allegation:** Lippon's license was issued to his Ely office but he lived and processed all transactions for the Ely office out of his Las Vegas office. This is a violation of NRS 645.633(1)(b).

**Stipulation:** Lippon agreed to pay a fine of \$2,500 within 6 months and to keep a broker located in Ely licensed for that office at all times.

\*\*\*

**Stephanie Lucero**  
**License No. 59898**  
**Salesperson**

**Action:** Lucero was terminated by her broker but failed to hand-carry her license to the Division. She continued to engage in property management, but did not hold a permit. She failed to remit rent she'd collected to the property owners, claiming the funds had been lost in the mail. She provided an altered lease, a false letter from the credit union and false USPS information to the Division. During the investigation, a "bogus" phone call was made to the credit union from someone identifying herself as an



# Disciplinary Actions/Stipulations



assistant at the Division stating that the problem had been resolved.

**Decision:** The Commission revoked Lucero's license and ordered her to pay a fine of \$21,000 and fees of \$986.50 within 6 months.

\*\*\*

## **Michiline Maheu Unlicensed**

**Action:** Maheu admitted in a letter to the Division that she provided property management services and received compensation for managing 11 units. She claimed that she was a recorded owner of the properties in question and did not need a license. A records search of the Clark County Assessor's Real Property records did not show Maheu as an owner of the properties in question. A cease and desist order was issued to Maheu by the Division.

**Decision:** The Commission ordered Maheu to pay a fine of \$55,000 within 18 months.

## **Albert E. Smith License No. 607 Broker**

**Allegation:** Smith was a Broker at Royal Vacation Suites. He paid more than \$7,400 in commissions to an unlicensed time share agent. He was also in violation by failing to properly supervise agents and failing to establish policies or systems that would have detected unlicensed status of any of his agents.

**Stipulation:** Smith agreed to pay a fine of \$6,000 and attend the 6-hour "What Every Broker Should Know" class. He is also required to develop policies and procedures to verify that each person in his office has an active license.

\*\*\*

## **Janice Unruh License No. 41214 Salesperson**

**Allegation:** Unruh negotiated a sale for Red Rock Canyon Realty without her broker's consent while her license was still associated with another company. She also failed to renew her license in a timely manner and continued to engage in real estate activity with an expired license.

**Stipulation:** Unruh agreed to pay a fine of \$5,500 and attend "What Every Licensee Should Know" as well as 6 hours of Agency and 6 hours of Ethics within 6 months.

\*\*\*

### **JULY 2006**

## **William Burden License No. 31442 Salesperson**

**Action:** Burden signed the buyer's name on a HUD report to expedite receiving the report. The buyer filed a police report and Burden was charged with Conspiracy to Commit Forgery.

**Decision:** Burden must pay a fine of \$35,000 and fees of \$2,767.50 within one year. His license is currently expired. He must appear before the Commission before any new license may be issued to him by the Division.

\*\*\*

## **Carter Miner License No. 04802 Corporate Broker**

**Allegation:** Miner failed to maintain policies and procedures to review, oversee and manage real estate transactions by his agent; failed to maintain procedures to review and correct documents prepared by his agent; and failed to respond to an email from the seller requesting assistance.

**Stipulation:** Miner agreed to pay a fine of \$7,500, attend at least 6

hours of broker management courses and attend at least 6 hours on Ethics within 1 year.

\*\*\*

## **Raleigh Pitluck License No. 50936 Salesperson**

**Allegation:** Pitluck provided property management services without a permit.

**Stipulation:** Pitluck agreed to pay a fine of \$2,500, and attend 6 hours of Ethics and "What Every Licensee Should Know" within 6 months.

\*\*\*

## **Robert Wheeler License No. 56211 Individual Broker**

**Allegation:** Wheeler allowed one of his agents to perform property management services without a permit.

**Stipulation:** Wheeler agreed to pay a fine of \$5,000 and attend the 24-hour course on property management within 6 months.

\*\*\*

### **SEPTEMBER 2006**

## **Richard Knobloch Broker Salesperson**

**Allegation:** Knobloch facilitated the activity of an unlicensed person in several transactions by signing the Duties Owed and Confirmation Regarding Real Estate Agent Relationship forms when he was not the licensee in the transactions.

**Stipulation:** Knobloch agreed to downgrade his license to Salesperson for 5 years and pay a fine of \$30,000 within 1 year. He must attend the 18-hour Nevada Law course and 6 hours of Ethics within 6 months. If he elects to pursue a Broker or Broker Salesperson license after the 5-year period, he must take the 45-hour Broker pre-license course and pass the Broker licensing exam.

\*\*\*



# Disciplinary Actions/Stipulations



## **Bruce Mack Unlicensed**

**Allegation:** Mack prepared a Consulting Agreement, which was signed by himself and the sellers, detailing activities he would perform to sell their home. The agreement included placing a "For Sale by Owner" sign in front of the property and receiving a payment of 3% of the sales price. He was in violation by engaging in real estate activity which requires a license.

**Stipulation:** Mack agreed to pay a fine of \$10,000 within 6 months.

\*\*\*

## **Jerri Picket Unlicensed**

**Allegation:** Picket assisted Mack (see above) by receiving a key from the sellers and showing the property to prospective buyers. She was in violation by engaging in real estate activity which requires a license.

**Stipulation:** Picket agreed to pay a fine of \$3,500 within 6 months.

\*\*\*

FEBRUARY 2007

## **Barry Floyd License No. 22854 Broker**

**Allegation:** Floyd allowed his agent to perform property manager services without a permit.

**Stipulation:** Floyd agreed to pay a fine of \$7,500 and attend 6 hours of Ethics and 6 hours of Broker Management within 6 months.

\*\*\*

## **Harry Britton License No. 13655 Broker**

**Allegation:** Britton failed to properly supervise his agent (see Saavedra) and failed to establish policies, rules and procedures that would have detected the acts of his agent.

**Stipulation:** Britton agreed to pay a fine of \$4,500 and complete a 45-hour Broker Management class with a passing exam within 6 months.

\*\*\*

## **Miguel Davila License No. 43146 Salesperson**

**Action:** Although notification had been sent from the City of North Las Vegas that the property could no longer be used as a residential property, Davila listed the property as a Single Family Residential. The buyer purchased the property "as is" with the intent to fix it up and use it as a residential property. After the purchase, the buyer was notified by the City of North Las Vegas that the home would not be permitted for residential use and that Davila and the seller were aware of this fact prior to the sale.

**Decision:** Davila must pay a fine of \$5,000 within 1 year and attend 6 hours of Ethics and 6 hours of Contract courses within 6 months. He is prohibited from applying for a broker license or opening or managing an office for 2 years.

\*\*\*

## **Vilma Tungol License No. 62772 Broker Salesperson**

**Action:** Tungol was convicted for submitting a forged fingerprint card for an application for a Home Care Business. She was arrested and sentenced to one year probation.

**Decision:** Tungol must pay a fine of \$1,500 and attend 6 hours of Ethics courses within 6 months. She is prohibited from applying for a broker license or opening or managing an office for 2 years.

\*\*\*

## **Josue Torres License No. 61058 Salesperson**

**Allegation:** Torres inflated the sales price on several purchase agreements to include loan proceeds being given to the mortgage company. He failed to disclose to the sellers that the purchaser (his brother) was the sole officer of the mortgage company. Torres also accepted \$7,000 in compensation directly from his brother's company on one of the transactions.

**Stipulation:** The Commission revoked Torres' license and ordered him to pay a fine of \$45,000 within 6 months. Torres must appear before and receive approval from the Commission before the issuance of any new license, certificate or permit.

\*\*\*

## **Florante Saavedra License No. 48664 Salesperson**

**Action:** Saavedra failed to list and/or obtain the signatures of both owners on several forms involved in the sale of a property (including an Agreement to Occupy Prior to Close of Escrow). In addition to a \$5,000 buyer's deposit, Saavedra collected funds from the buyers on a monthly basis to make mortgage payments on behalf of the current owners. He did not have a property permit or a written agreement from the owners to manage the property. The funds collected were all deposited into his personal account.

**Decision:** The Commission revoked Saavedra's license and ordered him to pay a fine in the amount of \$35,000 and fees of \$3,308. He must appear before and receive approval from the Commission before the issuance of any new license, permit or certificate. ■

# Emergency and Proposed Regulations

The Real Estate Commission has adopted an emergency regulation that defines “existing enterprise” and re-interprets the term “engage in business as a business broker.” This regulation, along with proposed

## E645-01

### BUSINESS BROKERAGE

In an attempt to provide further clarity regarding what activity requires a business broker permit, the Real Estate Commission adopted an Emergency Regulation which supersedes Regulation #123-06 in defining what activity requires a business broker permit. The Governor signed Emergency Regulation #E645-01, which was adopted on February 14, 2007 and is effective for a period of 120 days. The regulation expires on June 14, 2007.

Following is a summary of the regulation. Words in ***bold-italics*** have been added.

#### Section 2 - Defines “existing enterprise”

Existing enterprise does not include the sale of real property concurrently with a related business where more than 50% of the income stream from the related business is directly derived from the use of that particular real property. This includes tenant occupancy transfers of lease and/or management agreements, storage facilities, hotels, motels, ranches and/or other businesses that would have no value without a concurrent transfer of the real property.

#### Section 3 - Defines “engage in business as a business broker”

Engaging in the business of:

1. Selling, exchanging, optioning or purchasing (***including the sale, exchange, optioning or purchasing of individual assets of the business or the sale of stock, partnership interest or membership in an LLC***);
2. Negotiating or offering, attempting or agreeing to negotiate the sale, exchange, option or purchase of; or
3. Listing or soliciting prospective purchases of ***any business which reported in the previous tax (calendar or fiscal) year the revenues and expenses on one or more of the following forms: Schedule C (Profit or Loss from Business or Profession) or Form 1120, 1120S or 1065 (unless 50% or more of reported income (excluding capital gain net income) came from rental of real estate (8825).***

## T645-01—RESIDENTIAL DISCLOSURE GUIDE

The proposed regulation states that the Division must distribute the booklet in the following manner:

1. ***Provide a printable copy on the Division’s website;***
2. ***Electronically provide the booklet to all approved real estate education sponsors;***
3. ***Authorize without permission the reproduction of the most recent version of the booklet;***
4. ***Provide printed copies of the booklet for use in approved education courses for pre-licensing, post licensing, and law update approved courses;***
5. ***Make available at the Division offices up to 10 printed copies of the booklet at no cost when supplies are available;***
6. ***Mail one copy to any licensee who requests a copy; and***
7. ***Provide one copy to any member of the public upon request at the Division.***

## T645-02—EXCLUSIVE AGENCY REPRESENTATION

The proposed regulation defines the following:

1. **Agency**—fiduciary relationship between a principal and an agent arising out of a brokerage agreement whereby the agent is engaged to do certain acts on behalf of the principal in dealings with a third party.
2. **Exclusive Agency Representation**—an agency relationship that consists of one broker and one client, as exemplified through brokerage agreements.
3. **Exclusive right to sell or lease listing agreement**—an agency agreement that grants the broker the exclusive right to represent the seller or lessor in the sale or lease of the seller's property and provides the broker with the expectation of receiving compensation if the broker, seller or any other person produces a purchaser or tenant.
4. **Exclusive agency listing agreement**—an agency agreement that grants the broker the exclusive right to represent the seller or lessor in the sale or lease of the seller's property and provides the broker with the expectation of receiving compensation unless the property is sold or leased by the seller.
5. **Exclusive buyer's brokerage agreement**—an agency agreement between a purchaser or tenant and broker that grants the broker the exclusive right to represent the purchaser or tenant in the purchase or lease of a property and provides the broker with the expectation of receiving compensation if a property is purchased or leased by the purchaser or tenant during the term of the agreement.
6. **Presenting All Offers**—accepting delivery of and conveying offers and counteroffers; answering a client's questions regarding offers and assisting a client in preparing, communicating and negotiating offers and counteroffers.
7. **Negotiate**—Delivering, communicating, discussing or reviewing the terms of an offer, counteroffer or proposal; facilitating communication regarding such and preparing any response as directed.

### Other Added Provisions

Pursuant to this section, a cooperating broker who negotiates an agreement may communicate with the authorizing broker's client to facilitate the agreement to closing. Such communication alone shall not create or imply an agency relationship between that licensee and the other client.

A licensee who is representing a seller or lessor under an exclusive right to sell or lease listing agreement or an exclusive agency listing agreement shall not advertise the property to the public as "for sale by owner" or otherwise mislead the public to believe that the seller or lessor is not represented by a licensee. ■

For the complete text of these proposed regulations, please visit our website at [www.red.state.nv.us](http://www.red.state.nv.us), click on the Legislative/Legal button, click on "Regulation Changes" and click on the regulation number.

## Division Staff Changes

### NEW HIRES

**Safia Anwari** has been appointed as Education & Information Officer for Real Estate.

**Jan Holle** joined the Division as a Compliance/Audit Investigator II.

**David Garrick** joined the Division as a Compliance Investigator II for the Ombudsman's Office.

**Shidonna Steen** joined the Licensing Section as a new Licensing technician.

**Mariel Elzalaki** joined the Division as Administrative Assistant to the Administrator

### TRANSFERS

**Teralyn Thompson** transferred from Licensing to serve as the Commission Coordinator for Common-Interest Communities.

**Linda Hunt** transferred from Administration to serve as the Education Program Officer for the Education Section.

## Real Estate Statistics as of June 8, 2007

COUNTY	<i>BROKERS</i>		<i>BROKER-SALESPERSON</i>		<i>SALESPERSON</i>		ACTIVE TOTAL	INACTIVE TOTAL	
	ACTIVE	INACTIVE	ACTIVE	INACTIVE	ACTIVE	INACTIVE			
Unknown	255	229	305	212	3159	545	3719	986	
Carson City	53	58	52	36	194	82	299	176	
Churchill	16	19	7	7	55	21	78	47	
Clark	1787	880	2179	916	15577	2517	19543	4313	
Douglas	96	38	81	40	386	99	563	177	
Elko	38	15	16	15	67	22	121	52	
Esmeralda	0	0	0	0	2	0	2	0	
Humboldt	5	4	6	3	18	4	29	11	
Lander	2	1	0	1	6	1	8	3	
Lincoln	1	0	1	0	3	1	5	1	
Lyon	32	14	28	18	189	56	249	88	
Mineral	1	0	1	0	6	2	8	2	
Nye	50	27	30	26	202	54	282	107	
Out-of-State	148	31	126	52	327	121	601	204	
Pershing	2	0	0	0	5	0	7	0	
Storey	2	1	3	1	9	4	14	6	
Washoe	456	350	407	268	2358	619	3221	1237	
White Pine	3	1	1	3	10	4	14	8	
<b>TOTAL</b>	<b>2947</b>	1668	<b>3243</b>	1598	<b>22573</b>	4152			
	<b>Active Total =</b>						<b>28763</b>		
	<b>Inactive Total =</b>							<b>7418</b>	