

Former Attorney for Injured Workers to Head Real Estate Division

Director Mendy Elliott has named Ann McDermott Administrator of the Nevada Real Estate Division. Ms. McDermott began her appointment on October 1, 2007.



Ann M. McDermott

“Ann McDermott has a broad background of legal and business experience and a thorough knowledge of the real estate industry,” said Director Elliott. “This is a broad-based division that is responsible for enforcing eight chapters of Nevada law and 11 licensing programs. Ann’s wide range of experience and her legal

training will serve her well to administer all programs and work with the three commissions which serve the Division’s programs.”

Ms. McDermott most recently served as a deputy Nevada attorney for injured workers in Las Vegas, where she represented injured workers in appeals of workers’ compensation claims. She previously served as managing attorney at the Kimball, Tirez & St. John law firm in Las Vegas, and as associate in several other law offices. She also has an extensive business background, including management experience within the

Continued on page 3

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:

| | |
|---|---|
| Chris Ault, Jr. Appointed Deputy Administrator | 2 |
| New Business Broker Permit Renewal Requirements | 2 |
| Real Estate Trivia | 2 |
| Disciplinary Actions and Stipulations | 5 |
| New Education Forms | 6 |
| A Call for Advisory Review Committee Members | 6 |
| Division Wins Arello Communications Award | 7 |
| Real Estate Statistics | 8 |

2007 Legislative Changes in Effect

The legislative session of 2007 has ushered in several new laws and amendments that licensees need to know about and comply with. Among the most significant changes are those relating to agency and agency duties, and those requiring disclosure of the criminal conviction of, or guilty plea to, certain felonies or crimes for license renewal.

“Agency” Defined

SB69, Section 1.3 adds a new section to NRS 645 that defines the term “Agency” to mean a relationship between a principal and an agent that

arises when there is a brokerage agreement to engage an agent to do certain acts on behalf of the principal in dealings with a third party.

New Waiver/Authorization Forms

NRS 645.254 is now amended to allow a client to limit the scope of additional duties of a licensee by choosing to waive the broker’s duty to present all offers by signing a waiver on a form prescribed by the Division. The form, titled “Waiver Form,” is available on the Division’s website as form # [636](#). Concurrent with the option of a client to waive the duty of his/her broker to

Continued on page 3

Open House

Volume 28, Issue 2
is an official publication of the

**STATE OF NEVADA
DEPARTMENT OF BUSINESS
AND INDUSTRY**

MENDY K. ELLIOTT
Director

REAL ESTATE DIVISION

ANN M. MCDERMOTT
Administrator

Safia Anwari
Education & Information Officer

Teresa Rice
Publications Writer

LAS VEGAS OFFICE

2501 E. Sahara Avenue, Suite 101
Las Vegas, NV 89104-4137
(702) 486-4033

CARSON CITY OFFICE

788 Fairview Drive, Suite 200
Carson City, NV 89701-5453
(775) 687-4280

Website: <http://www.red.state.nv.us>

E-mail: realest@red.state.nv.us

Production of Open House is financed
by the Real Estate Education
and Research Fund, as provided
in NRS 645.842.

Articles by outside experts express
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

BETH ROSSUM
President
Clark County

JANICE COPPLE
Vice President
Washoe County

BERT GURR
Secretary
Elko County

MARC SYKES
Washoe County

SOOZI JONES WALKER
Clark County

Ault Steps in as Deputy Administrator

In July, Christopher Ault, Jr. was appointed by the former Administrator to serve as the new Deputy Administrator for the Real Estate Division. He will be based in Carson City.

A Reno resident, Ault held a Nevada real estate license for 6 years. He is the former director for Commercial Business Development and has over 15 years of experience in corporate management, business development and commercial and residential lending.

Ault attended the University of Nevada-Reno and holds a B.A. in speech communication. His accomplishments include *Mortgage Broker News* magazine's 1999 National Rookie of the Year; Nevada Mortgage Bankers Association's 1999 Rookie of the Year; and First Horizon Home Loan Corporation's National Silver Award. He is a current member of Western Industrial Nevada and EDAWN.

"Christopher Ault is a highly-respected professional with years of leadership excellence. I am relying on him to bring some fresh ideas on ways the state does business which will benefit the agency and the industries we serve," says Gail Anderson, Deputy Director of the Department of Business and Industry. ■



CE Education Now Required to Renew Business Broker Permits

Since October 2006, the date of the Business Broker permit implementation, the Division accepted the renewal of a Business Broker permit without the submission of the required 3 hours of Business Broker continuing education course because the CE courses were not available.

As of August 1, 2007, the Business Broker 3-hour continuing education course is available through Kaplan School (south), Key Realty School (south), and Pioneer School (north).

A permit expires on the same date as the applicant's real estate license. To renew the permit, you must submit an application to renew, a renewal fee of \$40 and proof of continuing education.

The renewal of a permit is effective on the date on which the applicant submits an application to renew his license or the applicant pays the renewal fees for the license and the permit, whichever occurs later.

For a schedule of Business Broker permit continuing education courses, you must contact the school's directly. Be sure to check the Division's website regularly as more schools are approved and added to the list. ■

Real Estate Trivia:

In April 1930, the Las Vegas Real Estate Board consisted of only 8 active members. At the same time, the Reno-Sparks Real Estate Board had 21 active members.

Legislative Changes...

Continued from previous page

present all offers is form # [637](#), which fulfills NRS 645.635(2) and gives permission in writing to authorize a licensee to negotiate a sale or lease directly with a seller. This form (called "Authorization to Negotiate Directly with the Seller") also must be utilized and signed if the client waives the duty. Otherwise, a licensee for a buyer does not have the permission of the seller's broker to present offers or negotiate with the seller directly. This amendment serves to address the dilemma previously faced by licensees about how to deal with a seller who had listed a property with a limited service brokerage in a way that complied with Nevada law and protected the buyer's licensee from an unintended multiple representation.

Continued Communication Between a Licensee and Another Broker's Client

SB 69 has extended the ability of a licensee to communicate with another broker's client, with the written permission of that broker, after negotiation of a purchase agreement has been completed and before closing, without violating NRS 645. Under the pre-existing NRS 645.635 provision a licensee could negotiate a sale, exchange or lease of property with the client of another broker if the other broker had granted permission. The reason for allowing continued communication is to facilitate a successful closing without creating an unintended agency relationship between the licensee and the client of another broker. Failure to obtain the written permission of the client's broker may result in disciplinary action by the Commission.

Disclosure of Felonies and/or Convictions

Effective July 1, 2007, Assembly Bill 562 has added a new section to NRS 645 requiring a licensee, property manager or owner-developer to notify the Division if he is convicted of, or enters a plea of guilty or nolo contendere to, any felony relating to his licensed practice or any crime of fraud, deceit, misrepresentation or moral turpitude. This disclosure is required to be made within 10 days after the conviction or entering a plea and when submitting an application to renew the license, permit or registration.

Moral Turpitude Defined

The term "moral turpitude" as used in AB 562 and in relation to real estate licensees presented some

concerns since it is not defined in the law. Senator Carlton, during a discussion of this bill in the Senate Committee on Commerce and Labor, provided the following guidance regarding the meaning in general of moral turpitude:

"... a shameful wickedness so extreme a departure from the ordinary standards of honest, good, morals, justice or ethics ... [as] to be shocking to the moral sense of the community. It also has been defined as an act of baseness, vileness or depravity in the private and social duties which one person owes to another or socially in general contrary to the accepted and customary rule of right and duty between people."

Pre-April 2005 Education Requirements Removed

Effective October 1, 2007, NRS 645.575 has been updated by removing the pre-April 2005 education requirements for 1st and subsequent license renewals and for reinstatement of license from inactive status. Current education requirements of 30 hours post-licensing credits for 1st renewal, 24 hours of continuing education credits for 2nd and subsequent renewals as well as for reinstatement of license can be obtained from NAC 645.448.

Continued on page 7

Administrator...

Continued from page 1

hospitality and mortgage financing industries. She earned her Juris Doctor degree magna cum laude from Gonzaga University School of Law and is a member of the Nevada Bar.

The Real Estate Division carries out duties of administration and regulatory enforcement for real estate licensees, appraisers of real estate, the sale of subdivided land, timeshare sales, campground membership sales, home inspectors, common-interest community associations, certified community managers, and condominium hotels.

Ms. McDermott will be based in the Division's Las Vegas office. ■



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 2007

Dwight Day
License No. 53271—Salesperson

Allegation: Day failed to confirm close of escrow with the buyers. After close of escrow, he failed to deliver the property keys and remove his For Sale sign from the property.

Stipulation: Day agreed to pay a fine of \$1,500 within one year and attend 6 hours of Contracts and 6 hours of Ethics within six months.

* * *

Michael Christopher Williams
License No. 49470—Salesperson

Action: Williams was convicted of robbery by the Eighth Judicial District Court while acting as a licensed salesperson. He was sentenced to 60 months in jail with eligibility of parole in two years.

Decision: Williams's license was revoked.

* * *

Jolene Manack-Rosas
Unlicensed

Allegation: Manack-Rosas does not hold a real estate license or property manager permit. She told owners of a property that she was a property manager and obtained keys from the real estate office to have the property inspected and repaired. She also signed a rental/lease agreement that listed her as the authorized property manager and provided handwritten documents which listed management fees of \$115.00 per month.

Stipulation: Manack-Rosas agreed to pay an administrative fine of \$1,575.00 within one year.

* * *

John McEwen
License No. 37468—Broker

Action: McEwen failed to deliver a signed termination notice to the Division after one of his agents resigned. He also failed to address allegations of the complaint filed by the agent after receiving two separate letters from the Division.

Decision: McEwen's license was downgraded to Broker/Salesperson for a period of not less than 2 years. He must pay a fine of \$15,000, administrative fees of \$1,592 and complete the 45-hour Broker Management class within six months. He must appear before the Commission before being upgraded to a Broker again.

* * *

Jimmy Wilson
License No. 49622—Salesperson

Allegation: Wilson was cited for multiple violations on 3 separate cases presented to the Commission. Some of the violations included: inflating the sale price on a purchase agreement to include loan proceeds that were being given to his company; failing to disclose that he was the sole officer of the company receiving the proceeds; accepting compensation from both the real estate company and the title company and failing to disclose it.

Stipulation: Wilson agreed to pay a fine of \$105,000 within 2 years (on a quarterly basis) and attend the 30-hour post-licensing program and the 45-hour law class



Disciplinary Actions/Stipulations



within six months. Wilson was also required to provide a progress report at the September 2007 Commission meeting.

* * *

Lillian McGill
License No. 12873—Broker

Allegation: McGill was the broker for a time share sales apartment complex who failed to renew her license. During the time her license was expired, 15 time share salespersons were engaged in real estate activities without a broker.

Stipulation: McGill agreed to pay a fine of \$4,000 within one year.

JULY 2007

James Keller
License No. 0320—Broker

Allegation: Keller, a broker, failed to disclose his relationship to the buyer's agent in a real estate transaction. He was also disciplined for failing to properly supervise his agent and failing to establish policies and procedures that would have found violations contained in a flyer distributed by the agent.

Stipulation: Keller agreed to pay a fine of \$6,000 and attend the "What Every Licensee Should Know Course," 6 hours of Ethics, and 3 hours of Broker Management, all within six months.

* * *

Darrell Plummer
License No. 15108—Broker

Allegation: Plummer paid commission to an agent (see Snyder) who completed a real estate transaction after her license had expired.

Stipulation: Plummer agreed to pay a fine of \$500 within 6 months.

* * *

Norma B. Snyder
License No. 16235—Salesperson

Allegation: Snyder completed a real estate transaction after her license had expired.

Stipulation: Snyder agreed to pay a fine of \$1,000 within 6 months.

* * *

John Genzler
License No. 18561—Broker

In lieu of disciplinary action, Genzler has voluntarily surrendered his Broker's license and property manager permit.

* * *

Jamie Mackanos
License No. 62080—Broker

Allegation: Mackanos entered into an agreement to manage a property and collect monthly payments when she did not have a property management permit.

Stipulation: Mackanos' license was revoked. She agreed to pay a fine of \$10,000 and an administrative fee of \$1,185 within 6 months.

* * *

Walter Floyd
License No. 1327—Broker

In lieu of disciplinary action, Floyd has voluntarily surrendered his Broker's license. ■



Education Corner

DID YOU KNOW?P

- ! The Real Estate Commission meets 5 times a year to hear disciplinary cases and to discuss and take action, where applicable, on a wide range of issues that affect real estate practitioners and the industry. The dates and locations of the meetings can be found at the Division's website at www.red.state.nv.us. Meeting agendas are posted a minimum of 5 days before the meeting.
- ! Licensees can get a minimum of 3 and as many as 6 CE credits in Ethics or Broker Management designation for attending Commission meetings. To obtain the CE credit licensee must be physically present at the meeting for at least 3 hours.

Division Staff Changes

NEW HIRES

LINDA CHAVEZ re-joined the Division as a Compliance Investigator for Real Estate.

VANESSA FINONA is the new Administrative Assistant in the Education Section.

NICHOLAS HALEY has been appointed the Education & Information Officer for the Ombudsman's Office.

JOHN SARFF has joined the Division as an Accounting Clerk for the Ombudsman's office.

CHERYL FLEMING has joined the Division as a Compliance Investigator for Common-Interest Communities.

TRACY TOWNSEND is the new Assistant to the Administrator.

Education Section Publishes New Forms

The Education Section has published a new set of forms for education providers. These forms should be used to submit applications for pre-licensing, post-licensing, and continuing education courses for classroom offerings and distance education. The newly created and/or revised forms are shown below and can be found on the Division's website at www.red.state.nv.us.

526A—RE Continuing Education Application for Classroom Offerings

526B—RE Continuing Education Application for Distance Education

527—Time Share 14-Hour Pre-Licensing Course Application

528—Time Share Continuing Education Application

560A—RE Sales Pre-Licensing Education Application for Classroom Offerings

560B—RE Sales Pre-Licensing Education Application for Distance Education

560C—RE Broker Management Pre-Licensing Education Application for Classroom Offerings

560D—RE Broker Management Pre-Licensing Education Application for Distance Education

560E—RE Business Broker Permit Pre-Licensing Education Application for Classroom Offerings

560F—RE Business Broker Permit Pre-Licensing Education Application for Distance Education

560G—RE Property Manager Permit Pre-Licensing Education Application for Classroom Offerings

612A—Classroom/Instructor Evaluation Report

612B—CE Distance Education Classroom/Instructor Evaluation Report

613—RE Post Licensing Education Application for Classroom Offerings

635—Instructor Application

640—Real Estate Post Licensing Education Renewal Application

641—Real Estate Continuing Education Renewal Application

* * * Members Needed for Advisory Review Committee * * *

The NAC is looking for members to serve on the Real Estate Advisory Review Committee (ARC). If you are interested and meet the qualifications as specified in NRS 645.090, please download and complete the ARC application which can be found on our website at www.red.state.nv.us. Click on "Advisory Committee" under the Real Estate Section. Contact Joanne Gierer, Legal Administrative Officer, at (702) 486-4033 ext. 64036 if you have any questions.

Legislative Changes...

Continued from page 3

Increased Fines

Also taking effect from October 1, 2007, the maximum amount of fine the Commission may impose has gone up from \$5,000 to \$10,000 per violation committed by a licensee, property manager or owner-developer, amending NRS 645.630. This amendment does not affect any additional penalties per violation the Commission may see fit to impose.

New Chapter for Condo Hotels

Assembly Bill 431 has established a new NRS chapter 441, to be called the "Condominium Hotel Act" (CHA). The provisions of this Act will govern all aspects regarding the creation, alteration, termination, management and the protection of purchasers of condominium hotels, as well as the administration and enforcement of this chapter. Chapter 441 is modeled closely after NRS 116 governing common interest communities, including the provisions relating to furnishing the information statement in the resale of a condominium hotel unit, and the disclosure documents and certificate of resale package to a prospective purchaser.

Chapter 441 has officially changed the name of the Commission for Common Interest Communities to

the "Commission for Common Interest Communities and Condominium Hotels" (CCICCH), extending enforcement authority of the CHA to the CCICCH. The administration and regulation of the CHA and condominium hotels will be carried out by the Ombudsman's Office of the Real Estate Division.

What Every Licensee Should Know

A more detailed and comprehensive look at the range of legislation changes affecting real estate licensees and the practice of real estate will soon be available in the Division's Law and Legislation designated course, entitled "What Every Licensee Should Know 2008." The CE course calendar at www@red.state.nv.us will give the names and contact information of the providers and dates when the course will be offered.

The Division's residential disclosure guide is being updated to incorporate the relevant new and amended disclosure laws and the revised booklet will become available as soon as it is printed and posted on the website. ■

Division's Website Delivers Award-Winning Performance

The Nevada Real Estate Division was recently presented with the 2007 Communications Award from the Association of Real Estate License Law Officials (ARELLO).

A call for entries in the categories of education and communication was made by ARELLO's Education Issues Monitoring Committee to Real Estate Divisions across the country. The communications award is for specific communication-delivery systems such as newsletters and websites. The purpose of the award is to recognize outstanding communication vehicles that contribute to the real estate industry and promote protection of the public.

An entry for the Division's website (www.red.state.nv.us) was submitted by Teresa Rice, Publications Writer for the Real Estate Division.

In evaluating sites to select the winning entry, the Committee considered several factors, including timeliness, user-friendliness and benefits to the target audience. The award was presented on September 16th at the ARELLO conference in New York. Former Real Estate Division Administrator and current District Vice President of ARELLO Gail Anderson accepted the award on behalf of the Real Estate Division. ■



Real Estate Statistics as of October 17, 2007

| COUNTY | BROKERS | | BROKER-SALESPERSON | | SALESPERSON | | ACTIVE TOTAL | INACTIVE TOTAL |
|--------------|-------------|-------------|--------------------|-------------|------------------|-------------|--------------|----------------|
| | ACTIVE | INACTIVE | ACTIVE | INACTIVE | ACTIVE | INACTIVE | | |
| Unknown | 218 | 203 | 252 | 175 | 2589 | 451 | 3059 | 829 |
| Carson City | 56 | 51 | 49 | 33 | 191 | 78 | 296 | 162 |
| Churchill | 18 | 19 | 6 | 8 | 57 | 18 | 81 | 45 |
| Clark | 1803 | 775 | 2194 | 845 | 15487 | 2515 | 19484 | 4135 |
| Douglas | 91 | 31 | 77 | 35 | 385 | 100 | 553 | 166 |
| Elko | 2 | 10 | 15 | 15 | 73 | 21 | 90 | 46 |
| Esmeralda | 33 | 0 | 0 | 0 | 3 | 0 | 36 | 0 |
| Humboldt | 4 | 5 | 7 | 2 | 16 | 4 | 27 | 11 |
| Lander | 2 | 1 | 0 | 0 | 6 | 0 | 8 | 1 |
| Lincoln | 1 | 0 | 1 | 0 | 3 | 1 | 5 | 1 |
| Lyon | 32 | 15 | 29 | 15 | 188 | 44 | 249 | 74 |
| Mineral | 1 | 0 | 1 | 0 | 5 | 2 | 7 | 2 |
| Nye | 49 | 23 | 30 | 26 | 212 | 53 | 291 | 102 |
| Out-of-State | 173 | 35 | 156 | 59 | 389 | 153 | 718 | 247 |
| Pershing | 2 | 0 | 1 | 0 | 4 | 0 | 7 | 0 |
| Storey | 2 | 1 | 3 | 1 | 9 | 5 | 14 | 7 |
| Washoe | 446 | 321 | 406 | 240 | 2324 | 573 | 3176 | 1134 |
| White Pine | 3 | 1 | 1 | 3 | 10 | 4 | 14 | 8 |
| TOTAL | 2936 | 1491 | 3228 | 1457 | 21951 | 4022 | | |
| | | | | | Active Total = | | 28115 | |
| | | | | | Inactive Total = | | | 6970 |

3826
 State of Nevada
 Department of Business & Industry
 Real Estate Division
 2501 E. Sahara Avenue, Suite 101
 Las Vegas, NV 89104-4137

| |
|---|
| PRSRT STD U.S. POSTAGE PAID Carson City, NV 89701 PERMIT #15 |
|---|