



# Open House

A newsletter from the Nevada Real Estate Division

Department of Business & Industry

Spring 2008

## New Commissioners Appointed to Real Estate Division

**M**arc Sykes of Century 21 Mountain Properties and Soozi Jones Walker, owner and corporate broker of Commercial Executive, were both recently appointed to the Real Estate Commission for the State of Nevada by Governor Gibbons.

Commissioner Sykes is a past President of the Northern Nevada Regional MLS and past President of the Reno Sparks Association of Realtors. He is a graduate of the Realtor Institute and a Certified Residential Specialist (CRS). Commissioner Sykes has managed Century 21 Mountain Properties in Reno since it opened in 2002.

Commissioner Walker is also a graduate of the Realtor Institute and a GRI Instructor at the Nevada Association of Realtors (NAR). She specializes in the sale of

Commercial Investment Property and holds designations of SIOR (Society of Industrial and Office Realtors) and CCIM (Certified Commercial Investment Member).

As Commissioners for the Real Estate Division, both have been appointed to serve a 3-year term and will work with other Commissioners to act in an advisory capacity to the Nevada Real Estate Division, along with adopting regulations and conducting disciplinary hearings. Commissioner Walker is replacing Charlie Mack from Clark County and Commissioner Sykes is replacing Curry Jameson. Other current Commissioners include President Beth Rossum, Vice President Janice Cople and Secretary Bert Gurr. ■



Walker poses with current Commission President Beth Rossum shortly after being sworn in as new Real Estate Commissioner.



Marc Sykes is sworn in at the November 2007 Commission meeting.

**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.

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### Corrections to the Fall 2007 issue:

- \*\* ! Commission meeting agendas are posted at least **3** days before scheduled meetings.
- \*\* ! The new chapter established for the Condominium Hotel Act is Chapter **116B**.
- \*\* ! AB562 became effective **October 1, 2007**.
- \*\* ! The Real Estate Commission meets at least **once quarterly**.

### Members Needed for Advisory Review Committee

The Division 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](http://www.red.state.nv.us).

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## Open House

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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



# Disciplinary Actions/ Stipulations



## SEPTEMBER 2007

Patricia Bleich  
License No. 30020—Salesperson  
License No. 1062635—Prop. Mgr

**Allegation:** Bleich was the selling agent for a property that she also managed. When the property was sold, Bleich continued to act as the property manager without a signed agreement with the new owner. After a tenant was evicted, the deposit money was not turned over to the owner until nearly 7 months later.

**Stipulation:** Bleich agreed to pay a fine of \$4,000 and attend a total of 9 hours of CE in Contracts and/or Agency within 6 months.

\*\*\*

## NOVEMBER 2007

Kevin J. Elliott  
License No. 02502—Broker

**Allegation:** Elliott represented both the buyer and the seller in a real estate transaction. He held the deposit money in his business account instead of the required trust account. Additionally, when the buyer failed to qualify for a loan and the transaction did not close, Elliott released the deposit money to the buyer without the seller's signature.

**Stipulation:** Elliott agreed to pay a fine of \$2,000 and attend 12 hours of continuing education in Contracts and/or Agency within 6 months.

\*\*\*

Edward Frisius  
License No. 38300—Broker

**Allegation:** A commercial purchase agreement listing Frisius as the buyer's agent and the purchaser was signed and accepted by the sellers. Frisius later produced an information sheet listing the property for sale. He did not identify himself

as a licensee nor did he identify the brokerage firm he was associated with. Frisius assigned his purchase rights to his brother-in-law and then listed the property for sale as the seller's agent. The property was double-escrowed without the seller's knowledge or consent.

**Stipulation:** Frisius' license was downgraded to a broker/salesperson for a period of 1 year. He agreed to pay a fine of \$20,000 and attend the "What Every Licensee Should Know" course, as well as 6 hours of Nevada Law and 6 hours of Ethics.

\*\*\*

Jean Merkelbach  
License No. 12934—Broker

**Allegation:** Merkelbach was the seller's agent for a property which required driveway access from Lands End Road. She provided the buyers with a survey map, but failed to disclose that she owned access to the home from Lands End Road and that litigation involving her property would impact access to the buyers' property. When the buyers began building their home, they received notice from Merkelbach informing them that they were trespassing and were denied access to their home from the road.

**Stipulation:** Merkelbach agreed to pay a fine of \$7,500 and attend 15 hours of Law and Ethics and Contracts within 6 months.

\*\*\*

Nancy Swallow  
License No. 04017—Broker

**Allegation:** Swallow was found to be in violation by being absent from her office for more than 30 days (approx. 102).

**Stipulation:** Swallow agreed to pay a fine of \$1,000 and attend 6 hours of Law And Ethics within 6 months. ■

## 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.*

# Maintaining Transaction Records

By Bruce Alitt, Chief Investigator

There appears to be some confusion regarding what documents are included in official broker records, possible agent copy files, records maintenance (storage) and what to do with records that are duplicates or when the statutory maintenance period is completed.

The places to find guidance are Nevada Administrative Codes (NAC) 645.650 and 655:

**NAC 645.650** *Periods for maintenance of certain records by broker and for provision of certain paperwork to broker. (NRS 645.050, 645.190)*

1. A broker shall keep complete real estate transaction and property management records for at least 5 years after the date of the closing or the last activity involving the property, including, without limitation, offers that were not accepted and transactions that were not completed, unless otherwise directed by the Division.

2. A salesman or broker-salesman must provide any paperwork to the broker with whom he is associated within 5 calendar days after that paperwork is executed by all the parties.

**NAC 645.655** *Records of transactions; trust accounts. (NRS 645.050, 645.190, 645.195, 645.310, 645.633)*

1. Each real estate transaction of a brokerage must be numbered consecutively or indexed to permit audit by a representative of the Division.

2. A complete record of each real estate transaction, together with records required to be maintained pursuant to NRS 645.310, must be:

(a) Kept in this State; and

(b) Open to inspection and audit by the Division upon its request during its usual business hours, as well as other hours during which the licensee regularly conducts his business.

3. If any records the Division requests to inspect or audit pursuant to subsection 2 are stored electronically, access to a computer or other equipment used to store the information must be made available to the Division for use in its inspection or audit.

4. The real estate broker shall give written notice to the Division of the exact location of his records and shall not remove them until he has delivered a notice which informs the Division of the new location.

Please note that the **responsibility for the maintenance of records falls to the broker**. The salesman or broker-salesman is required to submit ALL executed records (paperwork) to the broker within five (5) calendar days of

its execution. Execution in this case could mean that it was signed by only one (1) party to the transaction, even if not signed or accepted by the other party. This is relevant in the case of transactions that were not completed. Records include any **offers, counter offers, addendums**, etc. to any potential or actual transaction, whether excepted, completed or not. There are no exceptions.

**Many agents have a copy file** that they use during the transaction. This is acceptable and is not required to be kept for the five (5) year period applicable to the official records of the broker. However, the agent must take extreme care to insure that this copy file does not contain any personal data such as birthdays, driver's license numbers, social security numbers or any thing else that could be used for identity theft when using, storing or destroying the file. It is suggested, although not

mandatory, that the entire copy file be shredded when it is no longer needed by the agent just to be sure that personal data is not overlooked.

***“A salesman or broker-salesman must provide any paperwork to the broker with whom he is associated within 5 calendar days...”***

The broker is required to maintain the files within the State of Nevada for five (5) years from the date of closing or last activity, whichever is later. The broker **must notify the Division of the location of the files** and the files cannot be moved until the Division has been notified of the new location. The fact that an office is closing for whatever reason does not relieve the broker of this responsibility. The Division does accept the fact that records may be maintained by some type of electronic and/or digital method. The Division requires that should a broker maintain records other than by hard paper copy, the broker have available whatever device is required to produce hard paper copy from the maintained files for the entire maintenance period.

At the end of the required maintenance period the same precautions described above for agent copy files are applicable to official broker files.

The **protection of other people's personal data** is the responsibility of the owner of the files, whether it is the agent with copy files or the broker with official files. The complete responsibility for the maintenance and eventual destruction of the official files is with the broker.

The Division is always available to answer questions on this subject or any other subject relating to NRS/NAC 645. ■

# Real Estate Statistics as of JANUARY 2008

COUNTY	BROKERS		BROKER-SALESPERSON		SALESPERSON		ALL RE LICENSEES		
	ACTIVE	INACTIVE	ACTIVE	INACTIVE	ACTIVE	INACTIVE	ACTIVE TOTAL	INACTIVE TOTAL	
Unknown	192	192	235	162	2330	564	2557	918	
Carson City	55	38	48	31	178	83	281	152	
Churchill	17	19	7	7	54	21	78	47	
Clark	1778	716	2169	807	14787	2959	18734	4482	
Douglas	92	28	77	34	367	107	536	169	
Elko	37	10	14	12	76	18	127	40	
Esmeralda	0	0	0	0	2	0	2	0	
Humboldt	4	5	7	2	15	4	26	11	
Lander	3	2	0	1	6	1	9	4	
Lincoln	1	0	1	0	3	1	5	1	
Lyon	28	14	27	18	185	54	240	86	
Mineral	1	0	1	0	5	1	7	1	
Nye	49	16	29	22	200	59	278	97	
Out-of-State	198	38	177	64	403	201	778	303	
Pershing	2	0	1	0	4	0	7	0	
Storey	3	1	3	2	9	5	15	8	
Washoe	446	293	408	232	2250	617	3104	1142	
White Pine	3	1	1	3	9	5	13	9	
<b>TOTAL</b>	<b>2909</b>	<b>1373</b>	<b>3205</b>	<b>1397</b>	<b>20883</b>	<b>4700</b>			
							Active Total =	<b><u>26997</u></b>	
							Inactive Total =		<b><u>7470</u></b>

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