

# Open House

A newsletter from the Nevada Real Estate Division

Volume 28, Issue 1

Department of Business & Industry

Summer 2006

## Regulations Adopted to Implement Business Broker Permit

### 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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During the 73rd Session of the Nevada Legislature, Senate Bill 315 was passed, requiring a permit endorsement on a real estate license to engage in business brokerage. Any person who has a real estate license on October 1, 2005, may continue to act as a business broker without a permit until January 1, 2007. The permit requires a background investigation, an application and a fee. The application will be available on the Division's website on July 1, 2006.

The business broker legislation has been encoded as NRS 645.863-867.

NRS 645.0075 defines a business broker as a person who, while acting as a real estate broker, broker-salesman or salesman for another and for compensation or with the intention or expectation of receiving compensation:

- (a) Sells, exchanges, options or purchases a business;
- (b) Negotiates or offers, attempts or agrees to negotiate the sale, exchange, option or purchase of a business; or
- (c) Lists or solicits prospective purchasers of a business.

The Real Estate Commission adopted regulations clarifying "engage in business as a business broker" to mean engaging in the business of:

1. Selling, exchanging, optioning or purchasing;
2. Negotiating or offering, attempting or agreeing to negotiate the sale, exchange, option or purchase of; or
3. Listing or soliciting prospective purchasers of;

the tangible assets and goodwill of an existing enterprise, if the sale or purchase of the tangible assets and goodwill of the enterprise requires the seller and purchaser to file with the Internal Revenue Service a Form 8594, Asset Acquisition Statement, or its equivalent or successor form.

### Obtaining a Business Broker Permit

A person who wishes to obtain a permit must:

(a) Submit to the Division:

- (1) A completed application on a form prescribed by the Division;
- (2) A fee of \$40;
- (3) A fee of \$75 for the examination required by paragraph (b); and
- (4) A certificate of completion, in a form satisfactory to the Division, indicating that the applicant has successfully completed the 24 hours of classroom instruction relating to business brokerage required by paragraph (a) of subsection 2 of NRS 645.863; and

(b) Pass an examination that is prepared and administered by an organization designated by the Division, with a score of at least 75 percent. The examination must:

- (1) Include the subject matter presented in the hours of classroom instruction required pursuant to subsection 2; and
- (2) Consist of at least 50 multiple-choice questions.

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# Open House

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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.

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## FROM THE ADMINISTRATOR'S DESK

The Division continues to work toward implementing new programs, improving accessibility and service, and increasing the capability of our new data system.

► The remodel of the licensing counter in the Las Vegas office is completed. The customer service areas were increased from two to four stations in the remodel.

► The Business Broker Permit, which was approved as Senate Bill 315 in the 2005 Legislative Session, is well into implementation. The Real Estate Commission adopted the regulations defining what activity requires a permit, the qualifications for the permit, the pre-licensing educational requirements, and the requirements for the issuance of a permit in Regulation File #123-06. **For more information, read the cover story on Page 1 of this issue.**

► The Real Estate Commission established a Task Force to research and bring recommendations to the Commission at their July meeting concerning **minimum-service or limited-service brokerages** and the implications and application of NRS 645.252 and .254.

► The Real Estate Commission will continue to consider and discuss whether background investigations should be required upon renewal of a real estate license. Regulation File #019-06 will be revisited by the Commission at their July meeting. The Commission will be seeking public input at to-be-announced Public Workshops.

► The Division is working with the Department of Information Technology to move the Bradley Building telephone system onto the State system. This affects other agencies housed in the Bradley Building and will involve changes in telephone extensions, although not main line phone numbers. The change will provide **more telephone**



**lines available for service**, both incoming and outgoing. We are projecting a late summer/early fall transition on this project.

► Three vendors at five locations in Reno and Las Vegas are authorized to take and submit electronic fingerprints for Real Estate Division programs. Form 619 on the Division's website lists all authorized fingerprinting service vendors.

► The next phases of implementation in our new data system will be public access to look up and verify a licensee's status and location, password-restricted access by a licensee to view information in their licensing file, and the **direct upload by education sponsors of continuing education coursework completed**. The public lookup will be limited to licensee name, location/ brokerage, business contact information, and whether the licensee is in active or inactive status. In the future, the public will be able to research a licensee's discipline record, which is public information. We plan to have this phase implemented by fall 2006.

The licensee will have deeper access than the public (via password) to view information in their licensing file. We anticipate that a **licensee will be able to change a home address, phone number, or e-mail address within their file**. Broker changes or status

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# Business Brokers

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## Education

The 24 hours of classroom instruction relating to business brokerage required by paragraph (a) of subsection 2 of NRS 645.863 must include, without limitation:

(a) Eight hours of instruction relating to financial statements, including, without limitation:

- (1) Income statements, balance sheets and cash flow statements;
- (2) Reformatting and recasting income statements and balance sheets; and
- (3) Terms and concepts used in financial statements.

(b) Six hours of instruction relating to the valuation of a business, including, without limitation:

- (1) Business value and alternative purchase offers;
- (2) Cash equivalent value;
- (3) Business purchase price and seller carry-back notes;
- (4) Investment value and fair market value;
- (5) Determining the value of goodwill;
- (6) The significance of a business's assets in creating market value;
- (7) The market value of a franchised business; and
- (8) The rules of thumb of business valuation.

(c) Six hours of instruction relating to purchase offer and sale considerations, including, without limitation:

- (1) Structuring the transaction;
- (2) Describing the business;
- (3) Asset sales and stock sales;
- (4) Describing the tangible assets being acquired;
- (5) Describing the goodwill being acquired;
- (6) Including real property in the transaction;
- (7) Describing the assets included in the purchase;
- (8) Describing the assets excluded from the purchase;
- (9) Cash on hand;
- (10) Method and terms of payment;
- (11) Assumption by the buyer of liabilities of the seller;
- (12) Notification of creditors of the seller;
- (13) Method for the calculation of the purchase price of a business when the buyer of the business assumes the liabilities of the seller;
- (14) Adjustments at the close of escrow to the liabilities of the seller assumed by the buyer; and
- (15) Summarizing the structure of the transaction.

(d) Four hours of instruction relating to business brokerage and professional practices, including, without limitation:

- (1) Business opportunity contracts, agreements and disclosure forms;
- (2) Marketing, preparing a business for sale and advertising a business for sale;
- (3) Understanding the significance of the "potential" of a business;
- (4) Offering prospectus and confidentiality agreement;
- (5) Issues of business brokerage compensation;
- (6) Purchase offer and acceptance forms used for business opportunities; and
- (7) Business broker and business appraiser associations.

The Division may accept a course in business brokerage from a nationally recognized or accredited organization to fulfill the educational requirements set forth in subsection 2 if the successful completion of that course would qualify the applicant to engage in business as a business broker pursuant to the requirements of that organization.

## Fingerprinting and Background Check

Each applicant must pay a fee determined by the Division for the costs of an investigation of the applicant's background.

Each applicant must, as part of his application and at his own expense:

(a) Arrange to have a complete set of his fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

- (1) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fin-

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## Real Estate Commission Meetings

July 18-20, 2006 (Carson City)  
Sept. 18-21, 2006 (South)  
Nov. 28-30, 2006 (North)

Exact locations are not known until approximately 30 days before the meeting.

Dates are subject to change. You should refer anyone inquiring about attending a hearing to Linda Pierson @ 702-486-4033 ext. 280, in order to confirm the dates, times and location.

It is always best for those attempting to obtain CE credit to attend the meeting at the beginning of the first day. The Commission business is on a "stacked agenda" and, therefore, when they are finished with all items on the agenda, the meeting is over.

Agendas will be posted on our website approximately one week prior to meeting at [www.red.state.nv.us](http://www.red.state.nv.us).



## What Every Licensee Should Know About Earnest Money Deposits

By Bruce Alitt  
Chief Investigator, Compliance/Audit

The Compliance Section of the Real Estate Division has noticed an increase in the number of problems and complaints regarding the earnest money deposit. The Real Estate Commission has noted issues with the earnest money deposit in cases they have heard and has requested the Division address the topic of the earnest money deposit.

According to *The Real Estate Dictionary*, fifth edition, the earnest money deposit is “money given by the buyer with an offer to purchase” that “shows good faith.”

Although it may be standard business practice, no requirement to submit an earnest money deposit with an offer exists in either *Nevada Revised Statutes* (NRS) 645 or *Nevada Administrative Code* (NAC) 645. As it implies, the tendering of an earnest money deposit indicates the “earnestness,” degree of sincerity, and amount of backing with which the offer is presented. Presenting an earnest money deposit, therefore, becomes a factor in consideration of an offer. The law likewise does not specify the amount of any deposit, should the buyer decide to tender such a deposit with the offer. It should also be noted that there is also no requirement in NRS/ NAC 645 for the seller to consider or give credence to an offer that does not include an earnest money deposit.

Regardless of the amount of the earnest money deposit, or even lack of an earnest money deposit, the buyer’s agent is obligated to write the offer and the seller’s agent is obligated to present the offer to the seller(s).

The usual practice is for the earnest money deposit to be given by the client to their agent when the offer is written for presentation with the offer. It is typically in the form of a personal check, bank check or money order. It could, however, be transferred from another escrow, cash, or anything of value that all parties agree to accept in writing. The key to this initial part of the transaction is that the buyer’s agent must be completely open and accurate about disclosing the actual amount of and what constitutes the earnest money deposit. This must be detailed to the seller’s agent and to the seller in writing in the offer. The earnest money deposit becomes a material part of the offer.

The problem (and resulting violation of law) that the Division and Commission has seen is that an Offer and Agreement indicates an earnest money deposit was presented, when in fact, there was nothing presented or received. The O & A cannot indicate that earnest money in a certain amount was presented if it was not presented at the time of the offer.

As an example, if the buyer is hesitant about writing a check until after the offer is accepted, the buyer’s agent cannot state that he or she has the earnest money deposit with the offer. In this example, the agent must state that the earnest money deposit will be given or deposited within 24 (or 48 or \_\_) hours of acceptance. It is up to the seller to determine if this is an acceptable condition for the offer.

If the buyer wants to put \$1,000 for an earnest money deposit, but only has \$500, then the offer should state that the earnest money deposit is \$500, to be increased

to \$1,000 within some number of days. The Division realizes that the seller may not evaluate an offer with no or a low earnest money deposit as seriously as one with a higher earnest money deposit. However, the statute is very clear. The licensee cannot misrepresent facts to any party to a transaction in order to make a sale, or for any other reason.

The offer must also clearly state what constitutes or evidences the earnest money deposit. That could be personal check, bank check, money order, or promissory note. The offer must also state what is to be done with the earnest money deposit after the offer is accepted by all parties. Usually it is to be deposited into escrow within one (1) business day. However, it could be anything that all parties agree to, so long as it is clear and in writing. It could be put in a broker’s trust account or given directly to the seller. If it is ever given to the seller, what happens to it should the escrow not close must be clearly detailed in writing. ▶

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***“...the Commission has seen that an Offer and Agreement indicates an earnest money deposit was presented, when in fact, there was nothing presented or received.”***

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Another duty for the buyer's agent is to make sure that if the earnest money deposit is to be increased at a later date, all parties are made aware immediately of any problems or delays with the buyer's increasing of the earnest money deposit.

The seller's agent should always check with the escrow company within a day or two after escrow is scheduled to be opened to ensure that escrow has been opened properly and that the earnest money deposit has been properly completed in the correct contractual amount. If this does not happen, their client must be immediately notified of the facts. The Division recognizes that the agents want to try to "keep the deal together" by fixing the problem; however, the licensee has a fiduciary duty to his client. Once the client is made aware of the problem, they can agree to try to fix it or they can agree to attempt to cancel the escrow or the transaction. Whether or not the failure of the buyer to complete the contractual obligation regarding the earnest money deposit is grounds to cancel an escrow is a legal issue beyond the scope of the Division's authority; however, clearly the seller should be immediately made aware of the problem.

Both the buyer's agent and the seller's agent have a duty to review the escrow instructions. The instructions should include whether an earnest money deposit has been made, and, if so, the amount of the deposit. This practice is another tool for the agents to use to check on the earnest money deposit for their client.

Lastly, if you are made aware by escrow of an earnest money deposit check being returned for any reason (such as NSF, stop payment, etc.) you must immediately inform the other agent. Even if the buyer states that it was just a mistake that will be fixed, all parties to the transaction must be immediately made aware of the problem. It is best to make these notifications or to confirm the notification in writing, with proof of delivery.

The key to the correct handling of the earnest money deposit is to make sure that your clients have been informed of — and agree in writing to — whatever is happening regarding the earnest money deposit. The information must be transmitted as soon as you, their agent, become aware of it! ■

**“...the buyer's agent must be completely open and accurate about disclosing the actual amount of and what constitutes the earnest money deposit.”**

### Office Holidays—2006

- July 4—Independence Day
- September 4—Labor Day
- October 27—Nevada Day
- November 10—Veterans Day (obs.)
- November 23—Thanksgiving Day
- November 24—Family Day
- December 25—Christmas Day

## From the Administrator's Desk

*continued from page 2*

changes must be maintained by the Division. We anticipate having this phase implemented by the end of calendar year 2006.

► The submittal by education sponsors of class rosters by e-file will be implemented this summer. Sponsors will electronically submit to the Division the roster of students (name, license number) for each course offered and completed. This information will be uploaded by the Division into the licensee's file. As a result, the licensee will be able to access their file by password to see what educational requirements have been fulfilled for renewal. Eventually — although it will take two years to fully implement one complete renewal cycle — it will eliminate the need for the licensee to submit paper certificates with renewal applications.

► Coming Soon: A new and improved Real Estate Division website!



► One of our highest priorities has been the capability for on-line renewal. There are processing fees involved with on-line transactions. Two payment options exist for consideration: e-check and credit card. Of the two, credit cards have the higher fees. In order to implement on-line renewal, the Division either must absorb the costs associated with the transactions or receive authority (legislative) to collect a convenience fee. We hope to be fiscally able to absorb the costs to test e-check transactions for a period of time during FY07. This will be an issue in the next biennial budget cycle. My position on this is that a convenience fee is not appropriate, and that licensing fees currently paid should cover any

“convenience” costs. However, the Division would have to receive a General Fund appropriation to cover credit card fees, as we cannot do it within the existing appropriation.

These and many other administrative issues and reports are presented and discussed at Real Estate Commission meetings. I urge all licensees to attend. ■



# Disciplinary Actions/Hearings



## **Actions**

**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.**

MAY 2005

### **Brian Ross Unlicensed**

**Action:** Ross was operating an apartment-locating service over the internet (www.rentlv.com) without a real estate license. The business has received compensation as a result of Ross' real estate activity.

**Decision:** The Commission ordered Ross to pay a fine of \$105,000 (\$5,000 for each of the 21 transactions evidenced at the hearing) and fees of \$1,810.75 within 90 days.

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JUNE 2005

### **John Grossman License No. 50824 Limited Liability Broker**

**Action:** Grossman entered into an "Exclusive Right to Represent Buyer" agreement and received \$3,000 from his client for a "marketing campaign" to find suitable investment properties. The client became dissatisfied with Grossman's representation and demanded a refund. Grossman insisted that the money had been

spent on marketing but failed to furnish his client with an accounting of his advance fee, thus violating NRS 645.322. Letters regarding possible fraudulent activity were sent to Grossman's business and home addresses from the Division. All were returned as "unclaimed" or "addressee unknown."

**Decision:** The Commission ordered Grossman to pay a fine of \$20,000 and fees of \$2,184.50 within 6 months. As his license has been expired for more than 1 year, Grossman must appear before the Commission before any license or certification may be issued to him by the Division.

\*\*\*

### **Patti Page License No. 34340 Salesperson**

**Action:** Page represented the buyer in a purchase agreement. The terms of the contract provided that the sellers would lease back the property for 6 months. Before escrow closed, the sellers' agent informed Page via fax that the sellers had decided to vacate the property shortly after close of escrow. Page did not inform the buyer until after escrow closed. The sellers agreed to allow the property to be shown while they were still in the residence if the buyer would release them from the \$2,000 security deposit. When the buyer refused to sign the authorization to release the deposit, Page signed the buyer's name to the document. Page also signed the buyer's name to the HOA documents without her permission and failed to deliver them to the buyer until after escrow closed.

**Decision:** The Commission ordered Page to pay a fine of \$9,000 and fees of \$5,200.20 within 1 year; and to attend 12 hours of CE, including 6 hours of "What Every Licensee Should Know," 3 hours of Contracts and 3 hours of Ethics within 6 months.

**The Nevada Residential Disclosure Guide has been inserted into the center of this newsletter. Simply tear out the next 6 pages, cut and fold!**

JULY 2005

### **Marilyn Bruder License No. 35104 Broker**

**Action:** An inspection of Bruder's business address indicated that she did not maintain her real estate license at the address on file with the Division. Bruder failed to hang her license and post a sign at the address on file. The business address did not have a separate space to conduct real estate business. In addition, Bruder failed to renew her license before the expiration date.

**Decision:** The commission downgraded Bruder's license to broker/salesman for 1 year. Bruder must pay a fine of \$3,000, fees of \$2,131.63 and complete an 18-hour pre-licensing course on Nevada Law within 6 months. Bruder must also complete a 45-hour broker management class before being allowed to upgrade her license.

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# Nevada Real Estate Division

The Division issues licenses to real estate brokers, salespersons, real estate appraisers, inspectors of structures, property managers and time share agents in Nevada.

The Division also ensures that the public is well served by educating consumers and keeping them well informed. Our mission is to safeguard and promote public interest in real estate transactions by developing an informed public and a professional real estate industry.

This booklet is state-issued and may not be modified or altered in any way. Copies may be reproduced as needed. This booklet has also been produced in Microsoft Word format and may be downloaded and printed from our website at [www.red.state.nv.us/forms/622.pdf](http://www.red.state.nv.us/forms/622.pdf)

July 2006

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**D**UTIES OWED BY A NEVADA LICENSEE

**I**MPACT FEES

**S**RPD'S

**C**ONSTRUCTION DEFECTS

**L**EAD PAINT

**O**PEN RANGE

**S**EPTIC SYSTEMS

**U**NDERGROUND TANKS

**R**ADON

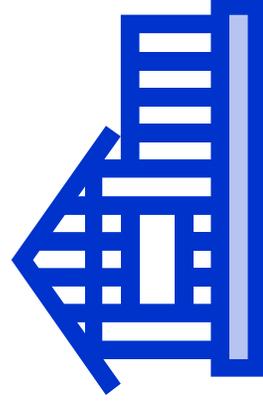
**E**NVIRONMENTAL ISSUES

**S**PECIAL IMPROVEMENTS

Nevada Real Estate Division

# RESIDENTIAL DISCLOSURE GUIDE

A few things you need to know before buying or selling a home in Nevada.



State of Nevada  
Department of Business & Industry  
Real Estate Division

# Introduction

The Department of Business and Industry—Nevada Real Estate Division has developed this booklet to increase consumer awareness and understanding of disclosures that may be required by a buyer or seller during the sale or purchase of a residential property in the State of Nevada.

In almost every real estate transaction, some form of written disclosure is required. For example, real estate licensees must disclose if they are related to a party in the transaction or affiliated with the lender involved in approving the loan for that particular transaction. Sellers, for instance, are responsible for disclosing material facts, data and other information relating to the property they are attempting to sell. And buyers, in some cases, must disclose if they are choosing to waive their 10-day opportunity to conduct a risk assessment of lead hazards.

These are only a few examples of what must be disclosed during a real estate transaction. While it is impossible to outline which disclosures are needed in every situation (as each real estate transaction is unique), this booklet contains discussions on the most commonly-required state, federal and local disclosures.

References to real estate licensees and the sale of residential properties in this booklet apply only to the state of Nevada. This guide, however, does not specifically address vacant land or commercial properties.

We hope that you will find this booklet helpful and that it becomes a valuable resource during your real estate transaction. For more information, please visit our website at [www.red.state.nv.us](http://www.red.state.nv.us) or contact us at:

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<p><b>National Lead Information Center</b> 8601 Georgia Avenue, Suite 503 Silver Spring, MD 20910 Phone: (800) 424-LEAD Fax: (301) 585-7976 Email: <a href="mailto:hotline.lead@epa.gov">hotline.lead@epa.gov</a> Website: <a href="http://www.epa.gov/lead">www.epa.gov/lead</a></p>	<p><b>Department of Health and Human Services – Centers for Disease Control &amp; Prevention</b> 1600 Clifton Road Atlanta, GA 30333 Phone: (404) 639-3311 Public Inquiries: (800) 311-3435 Website: <a href="http://www.cdc.gov">www.cdc.gov</a></p>
<p><b>McCarran Airport Noise Study</b> Email: <a href="mailto:info@mccarrannoisestudy.com">info@mccarrannoisestudy.com</a> Website: <a href="http://www.mccarrannoisestudy.com">www.mccarrannoisestudy.com</a></p>	<p><b>Reno Airport Noise</b> Email: <a href="mailto:noise.abatement@renoairport.com">noise.abatement@renoairport.com</a> Website: <a href="http://renoairport.com/about_the_airport/">http://renoairport.com/about_the_airport/</a> <a href="http://airport_noise_information.php">airport_noise_information.php</a></p>

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# Common-Interest Communities

## ⇒ Purpose of Disclosure

The purpose of this disclosure is to make the buyer aware of all rights, obligations and other aspects related to owning a unit within a common-interest community (also known as a homeowner's association).

## ⇒ Who must provide the disclosure?

The seller must provide an information statement with the sale of any unit belonging to a common-interest community. The statement is entitled "BEFORE YOU PURCHASE PROPERTY IN A COMMON-INTEREST COMMUNITY DID YOU KNOW..."

## ⇒ When is it due?

The statement must be delivered to the buyer not later than the date the offer becomes binding on the purchaser.

## ⇒ Additional Information

In addition to the information statement, the seller must provide the prospective buyer with a **resale package** which includes the following: declarations, bylaws, rules and regulations, monthly assessments, unpaid assessments of any kind, current operating budget, financial statement, reserve summary, unsatisfied judgments, and status of any pending legal actions.

Continued on next page

### For More Information:

Form: [Before You Purchase Property in a Common-Interest Community Did You Know...](#)

Website: <http://red.state.nv.us/forms/584.pdf>

NRS: [116.4101—116.41095](#)

### 4 State Disclosures

Nevada Real Estate Division

# Residential Disclosure Guide



State of Nevada  
Department of  
Business & Industry  
Real Estate Division

I/We acknowledge that I/we have received a copy of the Residential Disclosure Guide.

\_\_\_\_\_  
BUYER/SELLER

\_\_\_\_\_  
BUYER/SELLER

DATE \_\_\_\_\_

## Local/Miscellaneous Disclosures

Continued from previous page

### ⇒ **ROAD MAINTENANCE DISTRICT**

The sale of residential property within a road maintenance district is prohibited unless the seller provides notice to the purchaser, including the amount of assessments for the last two years.

**For more information, see [NRS 320.130](#).**

### ⇒ **SOIL REPORT (New Construction Only)**

If the property has not been occupied by the buyer more than 120 days before completion, the seller must give notice of any soil report prepared for the property or for the subdivision in which the property is located.

The seller must provide such notice upon signing the sales agreement.

Upon receiving the notice, the buyer must submit a written request within 5 days for a copy of the actual report. The seller must provide a free report to the buyer within 5 days of receiving such request.

Upon receiving the soil report, the buyer has 20 days to rescind the sales agreement. This rescission right may be waived, in writing, by the buyer.

**For more information, see [NRS 113.135](#).**

## Common-Interest Communities

Continued from previous page

### ⇒ **Additional Information (continued)**

The resale package must be delivered as soon as practicable or before conveyance of the unit.

If the property is a new unit in a common-interest community or if the community is subject to any developmental rights, or contains converted buildings or contains units which may be in a time share, or is registered with the Securities and Exchange Commission, the buyer must also be provided with a **Public Offering Statement** disclosing applicable information, including:

- development rights of contractors
- construction schedule
- description of proposed improvements
- mechanical & electrical installations
- initial or special fees
- number & identity of units in timeshare

Unless the buyer has personally inspected the unit, the buyer may cancel the contract to purchase, by written notice, until midnight of the fifth calendar day following the date of execution of the contract. This provision must be stated in the contract.

### *For More Information:*

Form: [Before You Purchase Property in a Common-Interest Community Did You Know...](#)

Website: <http://red.state.nv.us/forms/584.pdf>

NRS: [116.4101—116.41095](#)

## Consent to Act

### ⇒ Purpose of Disclosure

The purpose of the “Consent to Act” form is for the licensee to obtain the written consent to act for more than one party in a transaction.

### ⇒ Who must provide the disclosure?

The licensee must provide this form to all parties in the transaction if he seeks to act for more than one party.

### ⇒ When is it due?

If a licensee makes such a disclosure, the consent must be obtained from all parties before the licensee may continue to act in his capacity as an agent.

### ⇒ Additional Information

The written consent must include:

- (1) A description of the real estate transaction;
- (2) A statement that the licensee is acting for two or more parties to the transaction and that, in acting for these parties, the licensee has a conflict of interest;
- (3) A statement that the licensee will not disclose any confidential information for 1 year after the revocation or termination of the brokerage agreement unless he is required to do so per court order or he is given written permission by that party;
- (4) A statement that a party is not required to consent to the licensee acting on his behalf;
- (5) A statement that the party is giving his consent without coercion and understands the terms of the consent given.

#### *For More Information:*

Form: [Consent to Act](#)

Website: <http://red.state.nv.us/forms/524.pdf>

NRS: [645.254](#)

## Local/Miscellaneous Disclosures

*Continued from previous page*

### ⇒ GAMING (New Construction Only)

If there is a gaming district near the property, the seller must disclose information which includes a copy of the most recent gaming enterprise district map, the location of the nearest gaming enterprise district, and notice that the map is subject to change. This disclosure is required for Nevada counties with population over 400,000.

The information must be provided at least 24 hours before the seller signs the sales agreement. The buyer may waive the 24-hour period.

**For more information on gaming, see [NRS 113.080](#)**

### ⇒ LICENSEE DISCLOSURES

In addition to the “Consent to Act” and the “Duties Owed by a Nevada Real Estate Licensee” forms (See pages 6 & 8), a real estate licensee is required to disclose other information such as his relationship to one or more parties in the transaction and/or having a personal interest in the property.

**For more information regarding duties and disclosures owed by a licensee, see NRS [645.252-645.254](#), [NAC 645.637](#) and [NAC 645.640](#).**

*continued on next page*

## Local/Miscellaneous Disclosures

Continued from previous page

### ⇒ ENVIRONMENTAL HAZARDS , cont'd.

- **Floods** (<http://www.epa.gov/ebtpages/emernaturaldisastefloods.html>)
- **Methamphetamine Labs** (NRS 40.770 & [489.776](http://www.nrs.gov/489.776))
- **Wood-Burning Devices** (<http://www.epa.gov/iaq/pubs/combust.html>)
- **Underground Storage Tanks** (<http://www.epa.gov/ebtpages/industoragetankstundergroundstorage.html>)
- **Well & Septic Systems** (<http://www.epa.gov/ebtpages/watergroundwaterwells.html>)
- **Contaminated Soils** (<http://www.epa.gov/ebtpages/pollsoilcontaminants.html>)
- **Groundwater** ([www.epa.gov/safewater/protect/citguide.html](http://www.epa.gov/safewater/protect/citguide.html))

**For more information on environmental hazards, visit [www.epa.gov](http://www.epa.gov).**

### ⇒ HOME INSPECTIONS

When obtaining an FHA-insured loan, this disclosure informs the buyer about the limits of the Federal Housing Administration appraisal inspection and suggest the buyer obtain a home inspection to evaluate the physical condition of the property prior to purchase. The form is entitled, "For Your Protection: Get a Home Inspection."

**For more information on FHA home inspections, visit [www.epa.gov](http://www.epa.gov).**

continued on next page

## Construction Defects

### ⇒ Purpose of Disclosure

The purpose of this disclosure is to make the buyer aware of any construction defects in the property.

### ⇒ Who must provide the disclosure?

If there is a construction defect, the contractor must disclose the information in understandable language that is underlined and in bold-faced type with capital letters. If the property is or has been the subject of a construction defect claim or lawsuit, the seller must provide the following information to the buyer:

- copies of all notices given to contractor
- expert opinions obtained by claimant
- terms of settlement or order of judgment
- detailed report of all repairs

### ⇒ When is it due?

Construction defects must be disclosed to the buyer before purchase of the residence. If the property is or has been the subject of a defect claim or lawsuit, the information must be disclosed 30 days before close of escrow, or if escrow is less than 30 days, then immediately upon signing. If a claim is made while in escrow, the disclosure must be made within 24 hours of complaint.

### ⇒ Additional Information

If the property is located within a common-interest community and is the subject of a defect claim or lawsuit, this information must be disclosed in the buyer's **resale package** (see Common-Interest Communities).

*For More Information:*

NRS: [40.640](http://www.nrs.gov/40.640), [40.688](http://www.nrs.gov/40.688)

## Duties Owed By a Nevada Real Estate Licensee

### ⇒ Purpose of Disclosure

The purpose of this disclosure form is to make the buyer or seller aware of obligations owed by a real estate licensee to all parties involved in the transaction.

### ⇒ 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 all duties owed to the parties and the licensee's relationship as an agent to each party in the transaction.

### ⇒ When is it due?

The disclosure form must be presented to the client before any documents are signed by the client.

### ⇒ Additional Information

A licensee who has entered into a brokerage agreement to represent a client in a real estate transaction:

1. Shall exercise reasonable skill and care to carry out the terms of the brokerage agreement;
2. Shall not disclose confidential information relating to a client unless he is required to do so pursuant to a court order or given written permission to do so by the client; and
3. Shall promote the interests of his client by:
  - (a) Seeking a sale, lease or property at terms acceptable to the client.
  - (b) Presenting all offers as soon as is practicable.
  - (c) Disclosing to the client material facts of which the licensee has knowledge concerning the transaction.
  - (d) Advising the client to obtain advice from an expert relating to matters which are beyond the licensee's expertise.
  - (e) Accounting for all money and property he receives in which the client may have an interest as soon as is practicable.

#### *For More Information:*

Form: [Duties Owed By a Nevada Real Estate Licensee](#)

Website: <http://red.state.nv.us/forms/525.pdf>

NRS: [645.252—645.254](#)

## Local/Miscellaneous Disclosures

Depending upon the transaction, the following disclosures may also be required from a buyer, seller or licensee:

### ⇒AIRPORT NOISE

Buyers should investigate the impact of airport flight paths and the noise levels at different times of the day over that property.

**For more information on airport noise, visit:**

[McCarran Airport Noise Study](http://www.mccarrannoisestudy.com)

<http://www.mccarrannoisestudy.com>

[Reno Airport Noise](#)

[http://www.renoairport.com/about\\_the\\_airport/airport\\_noise.php](http://www.renoairport.com/about_the_airport/airport_noise.php)

### ⇒BUILDING & ZONING CODES

The purpose of this disclosure is to inform the buyer of transportation beltways and/or planned or anticipated land use within proximity of the subject property of which the seller has knowledge.

**For more information on building and zoning codes, contact your local jurisdiction.**

### ⇒ENVIRONMENTAL HAZARDS

Although the seller is required to disclose the presence of environmental hazards, a statement that the seller is not aware of a defect or hazard does not mean that it does not exist. **It is the buyer's responsibility to be informed and take additional steps to further investigate.** Some potential hazards that may be found in Nevada include:

- **Radon** ([www.epa.gov/radon](http://www.epa.gov/radon))

*continued on next page*

## Lead-Based Paint

### ⇒ Purpose of Disclosure

The purpose of the lead-based paint disclosure is to make the buyer aware that the residential property (if built prior to 1978) may present exposure to lead.

### ⇒ Who must provide the disclosure?

Federal law requires that the seller disclose any known presence of lead-based paint hazards and provide the buyer with the EPA disclosure booklet, "Protect Your Family From Lead in Your Home," along with any other available records and/or reports.

### ⇒ When is it due?

The disclosure is on a federally prescribed form and must be made as a condition of the sale before conveyance of the property.

### ⇒ Additional Information

On the disclosure form, the buyer must acknowledge receipt of the EPA disclosure booklet and copies of lead reports, if available. Additionally, the buyer will receive a 10-day opportunity to conduct a risk assessment or may choose to waive this opportunity.

#### *For More Information:*

Form: [Disclosure of Information on Lead-Based Paint](#)

Website: [Environmental Protection Agency \(Lead\)](http://www.epa.gov/lead)  
<http://www.epa.gov/lead>

Phone: National Lead Information Center 1-800-424-LEAD

## Impact Fees

### ⇒ Purpose of Disclosure

The seller of any property must give notice of any impact fees that may be imposed upon the buyer.

An impact fee is a charge imposed by a local government on new development (i.e., the construction, reconstruction, redevelopment, conversion, alteration, relocation or enlargement of any structure which increases the number of service units) to finance some of the costs attributable to the new development.

### ⇒ Who must provide the disclosure?

A seller who has been made aware of the impact fee must give written notice to the buyer, including the amount of the impact fee and the name of the local government imposing the fee.

### ⇒ When is it due?

The notice must be provided to the buyer before the property is conveyed.

### ⇒ Additional Information

If the seller fails to give this notice, the seller is liable to the buyer for the amount of the impact fee.

#### *For More Information:*

NRS: [278B.320](#)

## Lien for Deferred Taxes

### ⇒ Purpose of Disclosure

If there are deferred taxes that have not been paid at the time the property is sold or transferred, the buyer must be notified in writing that there is a lien for deferred taxes on the property.

### ⇒ Who must provide the disclosure?

The seller must notify the buyer of the lien.

### ⇒ When is it due?

The lien must be disclosed at the time the property is sold or transferred.

### ⇒ Additional Information

The owner of the property on the date the deferred taxes become due is liable for the deferred taxes.

*For More Information:*

NRS: [361A.290](#)

## Water & Sewer Rates

### ⇒ Purpose of Disclosure

The purpose of this disclosure is to inform the buyer of a previously unsold home of public utility rates when service is for more than 25 but fewer than 2,000 customers.

### ⇒ Who must provide the disclosure?

The seller must post a notice that shows the current or projected rates in a conspicuous place on the property.

### ⇒ When is it due?

The notice must be posted and a copy provided to the buyer before the home is sold.

### ⇒ Additional Information

The notice must contain the name, address and telephone number of the public utility and the Division of Consumer Complaint Resolution of the Public Utilities Commission of Nevada.

*For More Information:*

NRS: [113.060](#)

## Seller's Real Property Disclosure

### ⇒ Purpose of Disclosure

The purpose of this disclosure form is to make the buyer aware of the overall condition of the property before it is transferred. This disclosure is not a guarantee nor does it take the place of an inspection. This form is not required for new home sales.

### ⇒ Who must provide the disclosure?

The seller must complete the "Seller's Real Property Disclosure" form, detailing the condition of the property, known defects, and any other aspects of the property that may affect its use or value.

### ⇒ When is it due?

The disclosure must be delivered to the buyer at least 10 days prior to conveyance of the property.

### ⇒ Additional Information

The content of the disclosure is based on what the seller is aware of at the time. If, after completion of the disclosure form, the seller discovers a new defect or notices that a previously disclosed condition has worsened, the seller must inform the purchaser, in writing, as soon as practicable after discovery of the condition, or before conveyance of the property.

The buyer may waive this form, in writing, or rescind the sales agreement for non-disclosure.

#### *For More Information:*

Form: [Seller's Real Property Disclosure](#)

Website: <http://red.state.nv.us/forms/547.PDF>

NRS: [113.130](#); [113.140](#); [113.150](#)

## Manufactured Housing— Used Manufactured/Mobile Homes

### ⇒ Purpose of Disclosure

The purpose of this disclosure is to make the buyer aware that a used manufactured or mobile home that has not been converted to real property is personal property and subject to personal property taxes.

### ⇒ Who must provide the disclosure?

The real estate licensee shall provide the form to the purchaser as soon as practicable, but before title is transferred.

### ⇒ Additional Information

This disclosure also informs the purchaser that title will not pass unless the county assessor's endorsement is placed on the face of the title, verifying that taxes have been paid in full.

The disclosure also instructs the consumer to submit certain documents to Nevada's Manufactured Housing Division within 45 days after the sale is complete and before a certificate of ownership will be issued.

#### *For More Information:*

Form: [Used Manufactured/Mobile Home Disclosure](#)

Website: [Manufactured Housing Division \(http://mhd.state.nv.us\)](http://mhd.state.nv.us)

NRS: [645.258](#), [489.521](#), [489.531](#), [489.541](#)

## Manufactured Housing— Manufactured Home Parks

### ⇒ Purpose of Disclosure

The purpose of this disclosure is to make the buyer aware that he may be subject to approval by the landlord of the manufactured home park if the manufactured or mobile home will remain in the park.

### ⇒ Who must provide the disclosure?

If the landlord requires approval of a prospective buyer and tenant, the landlord must post a sign that is clearly readable at the entrance to the park which advises consumers that before a manufactured home in the park is sold, the buyer and tenant must be approved by the landlord.

### ⇒ Additional Information

If the property will remain in the manufactured home park, make sure you have a lease agreement with the park manager and that you know the park's rules and regulations.

Remember: the seller or a manufactured home dealer cannot promise that you'll be accepted as a tenant in a particular manufactured home park. You must apply for the lease yourself and should do so before finalizing the purchase of your home. The landlord must approve or deny a completed application from a prospective buyer and tenant within 10 days after the date the application is submitted.

#### *For More Information:*

Website: [Manufactured Housing Division—Placing or Buying Your Home in a Rental Community](#) (<http://mhd.state.nv.us/landlord.htm#1>)

NRS: [118B.170](#)

## Range Land Disclosure

### ⇒ Purpose of Disclosure

The purpose of the "Range Land Disclosure" form is to make the buyer aware of the possibility of roaming livestock on a property near open range.

### ⇒ Who must provide the disclosure?

If the property is adjacent to open range, the seller must disclose, in writing, information regarding grazing on the open range. (Open range is all unenclosed land outside cities or towns.)

### ⇒ When is it due?

The disclosure must be provided to the buyer before the sales agreement is signed.

### ⇒ Additional Information

The disclosure also identifies fencing requirements and warning about harming livestock.

The law requires that the seller retain a copy of the disclosure document that has been signed by the purchaser acknowledging receipt of the original document.

#### *For More Information:*

Form: [Range Land Disclosure](#)

Website: <http://red.state.nv.us/forms/551.pdf>

NRS: [113.065](#)



# Disciplinary Actions/Hearings



OCTOBER 2005

## Kuulei M. Belding Unlicensed

**Action:** Belding engaged in real estate activity which requires a license without completing the necessary requirements for a license. She was involved in approximately 70 real estate transactions and listed a license number that was registered to someone else on her transactions.

**Decision:** The Commission order Belding to pay a fine of \$142,000 and fees of \$1,461.91 within 6 months. Belding must appear before the Commission before any license or certification may be issued.

\*\*\*

## Theresa Mosley License No. 21506 Salesperson

**Action:** Mosley prepared a lease option agreement and was paid \$16,700 for "services rendered." She accepted the payment directly from her clients and did not disclose the transaction or payment to her broker. She did not provide her clients with the appropriate transaction forms and did not keep a file of the transaction at her broker's office. The transaction and payment remained undiscovered until Mosley's clients filed a complaint with the Division approximately 2 1/2 years later.

**Decision:** The Commission revoked Mosley's license and ordered her to pay a fine of \$40,000 and fees of \$2,607 within 6 months.

\*\*\*

## Tommy "Sal" Saleres License No. 53824 Salesperson

**Action:** Saleres failed to renew his license and continued to engage in

the business of real estate. He was paid commissions in excess of \$35,000 during the period of unlicensed activity.

**Decision:** The Commission ordered Saleres to pay a fine of \$1,000, fees of \$1,811.00 and to complete the 6-hour course "What Every Licensee should Know" within 6 months.

FEBRUARY 2006

## Maureen Anne Murphy License No. 33039 Broker Salesperson

**Action:** Murphy, who held a Property Management permit issued by the Division, was terminated from Riberio Companies due to the defalcation of cash rent payments. An indictment was filed with Clark County's District Court against Murphy containing 31 counts of theft charges. Murphy pled guilty to felony theft and was ordered by the Court to pay restitution in the amount of \$123,080, serve 60 days in the Clark County Detention Center and be placed on 5 years probation.

**Decision:** The Commission revoked Murphy's license and ordered her to pay an administrative fine of \$10,000 within 6 months.

\*\*\*

## Jeannine Trudeau License No. 34607 Corporate Broker

**Action:** Trudeau represented the buyer and the seller in a transaction. The buyer alleged that Trudeau was representing her daughter as the property owner. Clark County Assessor records showed that the property was owned by two parties. Trudeau failed to get the signature of the second owner on the Purchase Agreement and other related documents. The buyer's name on related documents was not the same as the buyer's name on the Purchase Agreement. Trudeau also

failed to respond to a letter from the Division and failed to provide a complete copy of the transaction file to the Division upon request.

**Decision:** The Commission suspended Trudeau's license for 5 years and ordered her to pay a fine of \$25,000 and fees of \$1,255.50 within one year.

\*\*\*

## Luigi F. Valeriano License No. 51189 Salesperson

**Action:** While licensed by the Division, Valeriano was charged by the District Court with battery and assault with a deadly weapon. Valeriano pled guilty to one count of attempted battery with substantial bodily harm. He received a suspended sentence of one year imprisonment, a maximum of 3 years probation and was ordered to attend anger management counseling. Valeriano also has a prior criminal history. He failed to disclose this information to the Division. On both his original application and his application for reinstatement, Valeriano answered "No" in response to the question inquiring about any past convictions of a felony or misdemeanor.

**Decision:** The Commission revoked Valeriano's real estate license and ordered him to pay an administrative fine of \$5,000 and fees of \$2,403.56 within 6 months.

### 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 contact Joanne Gierer, Legal Administrative Officer, at (702) 486-4033, ext. 222.



# Disciplinary Actions/Stipulations



## 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.*

MAY 2005

**Jimmy Pham**  
License No. 44507  
Salesman

**Allegation:** Pham presented an offer on behalf of his client indicating that a \$15,000 earnest money deposit was being presented with the offer. He later changed the first page of the agreement, increasing both the offer price and the earnest money deposit. He failed to have the buyer initial the changes. Pham asked the seller's agent to open escrow, agreeing to deposit the earnest money check immediately thereafter. Pham failed to inform the seller's agent until several days later that he had not received the earnest money from the buyer.

**Stipulation:** Pham agreed to pay a fine of \$1,500 and attend 9 hours of CE, including 6 hours in Law and Ethics and 3 hours in Contracts within 6 months.

\*\*\*

JUNE 2005

**Rafic Haddad**  
License No. 23575  
Salesperson

**Allegation:** Haddad negotiated the sale of a property directly with a client when he knew that the client was represented by another broker, without written permission from that broker. Haddad did not provide a Duties Owed form to the sellers and failed to provide

a Consent to Act form to the buyer and the sellers.

**Stipulation:** Haddad agreed to pay an administrative fine of \$1,800 and attend 18 hours of CE, including 9 hours in Agency Law and 9 hours in Contracts within 6 months.

\*\*\*

**Charles Jeff Moore**  
License No. 22985  
Broker

**Allegation:** Moore was the broker for Jonathan Relyea (see below). Moore was in violation for paying commissions to Relyea while he was unlicensed, failing to properly supervise Relyea and failing to establish policies, rules and procedures that would have detected Relyea's expired license.

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

\*\*\*

**Jonathan Relyea**  
License No. 22948  
Salesperson—Las Vegas

**Allegation:** Relyea failed to pay the required renewal fee and continued to engage in real estate activity after his license expired.

**Stipulation:** Relyea agreed to pay a fine of \$5,000 and attend 18 hours of CE in Nevada Real Estate Law within 6 months.

\*\*\*

**Cheryl F. Smith**  
License No. 47961  
Broker

**Allegation:** Smith was the broker for Jonathan Relyea (see above). Smith was in violation for paying commissions to Relyea while he was unlicensed, failing to properly supervise Relyea and failing to establish policies, rules and procedures that would have

detected Relyea's expired license.

**Stipulation:** Smith agreed to pay a fine of \$2,500 and attend the 6-hour CE course, "What Every Broker Should Know" within 6 months.

\*\*\*

**Harry Shull**  
License No. 55401  
Broker

**Allegation:** Shull failed to disclose that he was both the broker and the principal in a transaction. When the buyer decided to cancel the transaction, Shull instructed the buyer to sign a cancellation request form. Although the top portion of the form was completed, the section with instructions on how to disburse the earnest money was left blank. After getting the buyer's signature, Shull later wrote "to seller" in the disbursement section and failed to have the buyer initial the change.

**Stipulation:** Shull agreed to pay a fine of \$2,500, attend the 6-hour course "What Every Broker Should Know" and 6 additional hours in a broker management course within 6 months.

\*\*\*

JULY 2005

**Steve C. Hamilton**  
License No. 01473  
Individual Broker

**Allegation:** Hamilton, a builder/developer, failed to renew his license in a timely manner and continued to engage in real estate business. He also failed to register Phases 2, 3, and 4 of the development and allowed Phase 1 to expire without renewing.

**Stipulation:** Hamilton agreed to pay a fine of \$2,000 within 6 months.

\*\*\*



# Disciplinary Actions/Stipulations



## **Charles James** **License No. 30122** **Broker**

**Allegation:** James was the broker for Nick Vardakis (see below). James failed to be aware of his agent's misuse of money in a management account and his agent's failure to complete agency forms and a written agreement to manage property. James was also in violation for allowing the trust account to fall into a deficit for more than 45 days and failing to establish a system for monitoring compliance with policies, rules, procedures and systems by his agent.

**Stipulation:** James agreed to pay a fine of \$6,000 and attend the 45-hour broker management course within 6 months.

\* \* \*

## **Nick Vardakis** **License No. 22683** **Broker Salesman**

**Allegation:** Vardakis entered into a verbal agreement to manage property, failed to provide agency forms for the management of the properties and used money from the trust account for his personal use.

**Stipulation:** Vardakis voluntarily surrendered his license in lieu of other disciplinary action by the Real Estate Division.

OCTOBER 2005

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## **Kolleen Kelley** **License No. 27858** **Corporate Broker**

**Allegation:** Kelley was the corporate broker for Tommy Saleres (see Disciplinary Actions this issue). Kelley paid commissions to Saleres when he was unlicensed, failed to properly supervise Saleres, and failed to establish policies, rules, procedures or systems that would have detected Saleres' unlicensed status.

**Stipulation:** Kelley agreed to pay a fine of \$2,500 and attend the 6-hour CE course "What Every Broker should Know" within 6 months; provide proof of a written policy and procedures manual in each office and provide proof that such policy was disseminated to each branch manager within 30 days.

\* \* \*

## **Victor E. Ruybalid** **License No. 31441** **Corporate Broker**

**Allegation:** Ruybalid was the corporate broker for Tommy Saleres (see Hearings this issue). Ruybalid paid commissions to Saleres when he was unlicensed, failed to properly supervise Saleres, and failed to establish policies, rules, procedures or systems that would have detected Saleres' unlicensed status.

**Stipulation:** Ruybalid agreed to pay a fine of \$2,500 and attend the 6-hour CE course "What Every Broker should Know" within 6 months; and provide proof of a written policy and procedures manual in each office and provide proof that such policy was disseminated to each branch manager within 30 days.

\* \* \*

## **Larry Sweet** **License No. 11809** **Broker/Salesman**

**Allegation:** Sweet was found to be in violations relative to two different cases. Sweet, who held a property management permit, failed to obtain the owners' written consents to the use of security deposits as rent, paid himself a management commission from the security deposit funds, charged the owner for eviction proceedings where the costs were either not charged to the tenant or not rebated to the owner, and failed to timely evict tenants.

**Stipulation:** Sweet agreed to surrender his property management

permit and pay a fine of \$3,000 and attend 6 hours of CE on Ethics within 120 days. Sweet must appear before the Commission and receive approval before the issuance of any new property management permit.

\* \* \*

FEBRUARY 2006

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## **James Frasure** **Broker**

**Action:** Frasure is listed as owner/developer of D.R. Horton where Kuulei Belding was involved in unlicensed activity (see Hearings this issue). Frasure paid commissions to an unlicensed individual and failed to establish policies and procedures that would have detected unlicensed status.

**Decision:** Frasure agreed to pay a fine of \$10,000 and attend 6 hours of "What Every Broker Should Know" and 6 hours of "What Every Licensee Should Know" within 6 months.

\* \* \*

MARCH 2006

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## **Jamie Rose Coffey** **Certificate No. C-0137** **Community Assoc. Manager**

**Allegation:** Coffey is president of a company that manages a common-interest community. She was in violation when she failed to accept a unit owner's association and special assessment dues after the owner was fined for not providing a copy of the lease for his tenants. Coffey attempted to apply the payment to the amount owned by the lien. In addition, she breached her duty when she failed to ensure that the property manager of her company was licensed with the Division.

**Stipulation:** Coffey has agreed to pay a fine of \$300 to the Division and a sum of \$10.00 to the unit's owner within 6 months. ■

# Division Staff Changes

**Pamela Riebe**, Chief Investigator Compliance/Audit, retired March 31 after serving 18 years with the Real Estate Division. Pam started with the Division in 1988 as a licensing technician and was soon promoted to a supervisory position. When the property management program was implemented in 1995, Pam was appointed as Auditor II in the Compliance Section to oversee and audit trust accounts.

In 2002, Pam was appointed Chief Investigator for the Real Estate Division, supervising real estate investigators and, ultimately, investigators for the common-interest communities program. She served in this capacity until her retirement. Upon her retirement, Pam received a proclamation from the Governor recognizing her service to the public and the State of Nevada.

**Bruce Alitt** has been named Chief Investigator Compliance/Audit. Bruce has served as a Compliance/Audit Investigator with the Real Estate Division for seven years.

**Teresa Rice** has been appointed as Publications Writer within the Education and Research Section.

Teresa is the first to fill this new position authorized in 2005.

**Matt DiOrio** transferred from the Real Estate Division to another State agency in April. Matt most recently served as Education and Information Officer for the Division.

**Pat Mongeon** retired June 1. Pat served as a licensing processor in the Las Vegas office.



Bruce Alitt  
new Chief Investigator,  
Compliance/Audit

**Joanne Gierer** was promoted to serve as the Legal Administrative Officer of the Real Estate Division. Joanne had served as the Commission Coordinator for the Real Estate and Appraisal

Commissions.

**Jan Weintraub**, Compliance/Audit Investigator, transferred from the common-interest communities program to real estate compliance.

**Kip Steele** serves as Compliance/Audit Investigator in the Carson City office. Kip replaces Charles Henry, who transferred to another State agency.

**Linda Pierson** transferred from common-interest communities program to serve as the Commission Coordinator for real estate and appraisal commissions.

**The Division is currently recruiting for two Education and Information Officer positions: one in real estate and one in the common-interest communities program. Recruitment information is available on the Division's web site at [www.red.state.nv.us](http://www.red.state.nv.us).**

## Business Brokers

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gerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by other means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary.

The Division may submit those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary. The Division may also request from each such agency any information regarding the applicant's background as the Division deems necessary.

### Issuance and Renewals

A permit initially issued by the Division is effective on the date on which the applicant submits the application for the permit to the Division or on the date on which the applicant pays the fee for the permit, whichever occurs later.

A permit expires on the same date as the license of the holder of the permit expires. The Division may renew a permit if the holder of the permit submits to the Division:

(a) A request for the renewal of the permit with the application to renew his license;

(b) A renewal fee of \$40; and

(c) Documentation indicating that the holder of the permit has successfully completed the continuing education required by paragraph (a) of subsection 4 of NRS 645.863.

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

For an applicant to receive credit for a course of instruction in business brokerage that is designed to fulfill the educational requirements for the issuance or renewal of a permit, the Commission must approve the course.

An educational institution that wishes to obtain the approval of the Commission to offer courses that meet the educational requirements for the issuance or renewal of a permit must apply to the Division pursuant to the procedures set forth in NAC 645.400 to 645.467, inclusive. ■

# More Regulation Changes Adopted by Commission

*In addition to business-broker regulations, following is a summary of other significant changes to NAC 645:*

## **645.350—Death of a Broker**

Upon the death of a person who was licensed and acting as the broker of a brokerage, a person who is licensed as a real estate broker in the State of Nevada may submit to the Division an affidavit stating that he will act as the broker of that brokerage for not more than 60 days after the death of the person who was acting as the broker of the brokerage. Notice of such an appointment must be submitted to the Division, in writing, within 7 business days after the death of the broker.

## **645.403—Application Requirement for Education Providers**

An additional requirement has been added to the application for schools that wish to offer courses to meet the educational requirements for licensure under chapter 645 of NRS. The application must also include a statement that to pass a course, a student must earn at least 75% of the points possible for the entire course.

## **645.426—Denial of Instructor's Application**

If the Division denies an application for approval as an instructor, the applicant may appeal the decision of the Division by filing an appeal with the Commission not later than 30 days after the date on which the applicant received notification of denial of his application for approval as an instructor.

If the applicant files a timely appeal, the Commission will, as soon as practicable, hold a hearing concerning the denial of the application for approval as an instructor at a regularly scheduled meeting of the Commission and will:

- (a) Affirm the decision of the Division to deny the application for approval as an instructor;
- (b) Approve the instructor for a limited period and under such conditions as the Commission deems appropriate; or
- (c) Reverse the decision of the Division to deny the application for approval as an instructor.

## **645.4442—Post-licensing Education**

The requirement for post-licensing education does not apply to a first-year licensee who:

- (a) Holds a real estate license issued by another state or territory of the United States, or the District of Columbia, on the date on which the first-year licensee obtains a real estate license issued by the State of Nevada;
- (b) Held a license as a real estate broker, real estate broker-salesman or real estate salesman issued by the State of Nevada within the 5 years immediately

preceding the date on which the first-year licensee obtained a license as a real estate salesman; or

- (c) Is licensed as a real estate broker-salesman and obtained the qualifications for licensure as a real estate broker-salesman pursuant to the provisions of subsection 4 of NRS 645.343.

## **645.448—Inactive Licensees**

If a license has been placed on inactive status for 1 year or less, all of which was during the period of the initial licensure, the licensee must complete the 30-hour post-licensing course described in NAC 645.4442 to have the license reinstated.

If the license was inactive for more than 1 year but less than 2 years, any part of which was during the period of the initial license, the licensee must complete the 30-hour post-licensing course and at least 18 hours of CE.

## **645.448—Definition of Initial License**

As used in this section, "initial license" means the license of a person who is a first-year licensee and who:

- (a) Did not hold a real estate license issued by another state or territory of the United States, or the District of Columbia, on the date on which the first-year licensee obtained a real estate license issued by the State of Nevada;
- (b) Had not held a license as a real estate broker, real estate broker-salesman or real estate salesman issued by the State of Nevada within the 5 years immediately preceding the date on which the first-year licensee obtained a license as a real estate salesman; or
- (c) Is licensed as a real estate broker-salesman and obtained the qualifications for licensure as a real estate broker-salesman pursuant to the provisions of subsection 2 or NRS 645.343.

## **645.657—Deposits**

A licensee who receives a deposit on any transaction on behalf of a broker or owner-developer shall pay over the deposit to the broker or owner-developer or escrow business or company designated in the contract within one (1) business day after receiving a **fully executed contract**.

## **645.855—Brokers to Attend Hearings**

If a person licensed as a real estate salesman or broker-salesman is accused of violating any provisions of NRS or NAC 645, the broker with whom the licensee was associated with at the time of violation and the broker with whom the licensee is currently associated shall attend any disciplinary hearing before the Commission concerning that licensee. ■



## Inside: New Nevada Residential Disclosure Guide to be Distributed by all Licensees

As mandated by Senate Bill 332, the Division has prepared a booklet that provides relevant information concerning disclosures that are required by federal, state and local laws and regulations by a buyer and a seller in a transaction involving the sale of residential property.

This 24-page booklet summarizes the purpose of the disclosures, who must provide them and when they are due. The booklet also includes a page on which the principal(s) of the transaction must sign acknowledging receipt of the disclosure guide. This page must be retained by the licensee and included as part of the transaction file.

Effective July 1, 2006, all real estate licensees must provide a copy of the Residential Disclosure Guide to the prospective buyers and sellers in a real estate transaction in accordance with the regulations adopted by the Commission.

A copy of the booklet has been inserted into this newsletter. The booklet has also been produced in Microsoft Word format. An electronic format of this version is available online and may be downloaded and printed from our website at [www.red.state.nv.us/forms/622.pdf](http://www.red.state.nv.us/forms/622.pdf).

The disclosure guide has been issued by the Nevada Real Estate Division and may not be modified or altered in any way. Copies may be reproduced as needed.

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