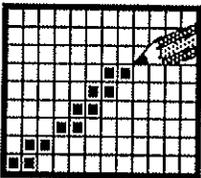


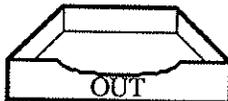
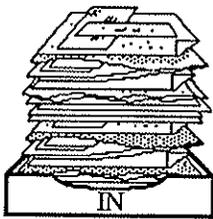
Workloads and Backlogs

On January 1, 1986, the provisions of SB 1042, which impose educational prerequisites for salesperson examination applicants and increase the existing educational prerequisites for broker examination applicants, became effective. As the effective date of the new requirements approached in late 1985, the number of applications for examinations increased dramatically. For example, during the last three months of calendar year 1985, the Department received approximately 12,000 broker applications (220% increase over the same three-month period in 1984) and 109,000 salesperson applications (400% increase).

During the month of December alone, the Department received approximately 5,000 broker and 50,000 salesperson applications. This equals the total number of salesperson applications received during the entire 1983/84 fiscal year.



The increase in workload caused by the significant influx of new applicants seeking to qualify under the 1985 requirements has resulted in backlogs being created in the Accounting, Examination, Licensing, and Data Processing Sections of the DRE.



Even though the staff of these sections have been working overtime since November, the Department does not anticipate that the affected sections will return to their normal processing times until April 1986.

The backlog that has developed affects not only the processing of examination and license applications, but also license renewals, license changes, and the other types of license transactions.

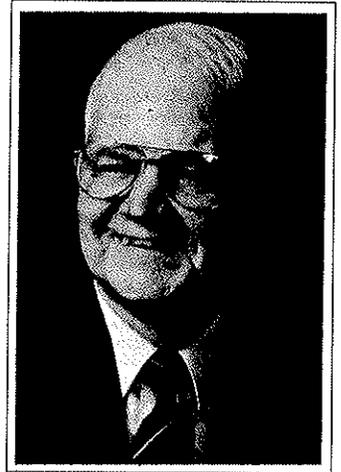
The Department regrets the delays that members of the industry and the public may have experienced because of the backlog situation; however, the staff of the Department of Real Estate is making every effort to process all applications and transactions in a timely manner. •

Forty Years of Service— A Professional Perspective

by Commissioner James A. Edmonds, Jr.

THIS SPRING MARKS MY FORTIETH anniversary as a real estate licensee as well as my third year as Commissioner of the State of California, Department of Real Estate. I would like to share some of the observations concerning the real estate industry in California which I have made during the past four decades.

In reviewing my files, I note a clipping from the Long Beach Press-Telegram, which article appeared a short time after Pearl Harbor. The headline on the clipping reads, "War Billions to Be Reflected in Realty Activity." The article quoted the then California Real Estate Commissioner, Clarence Urban, as saying, "Expenditure of literally billions of dollars on the Pacific Coast in the war program is bound to keep real estate active in this area. . . This vast sum of money going into the war endeavor will be spent here, and real estate will reap its full share."



the real estate and building professions have been pivotal in helping so many realize this dream making California a very desirable place to settle

Commissioner Urban properly projected the future real estate development of the State which now boasts the fifth largest economy in the world.

A few years later the Second World War ended and after concluding my military service, I came home from the Pacific to discover a world in which war production was no longer the principal concern of California's economy. Now, energies could be devoted to developing an economy based on peace and hope for the future; a future in which families could own their own homes and could take pride in the communities they would build.

continue to upgrade the professionalism and accountability of licensees

Since World War II the real estate and building professions have been pivotal in helping so many realize this dream making California a very desirable place to settle. Mortgage bankers and other national lending institutions through the secondary mortgage market provided the importation of long-term financing to help make the dreams come true.

It is interesting to note, however, how little some things have changed over the years. For example, as 1985 came to a close, the DRE processed more examinations for salesperson and broker licenses than in any similar period in history. Yet, this observation regarding increased application activity, coupled with changes in qualifications for applicants, is not a new one.

California Real Estate Commissioner Hubert B. Scudder noted in the March 1946 California Real Estate Magazine how active the department was with new licensees. "The surge of people into the real estate business in California continues and the number of licensees mounts rapidly despite the general strengthening of the qualifications required." I obtained my real estate brokers license on March 8, 1946 ——— a part of the surge!

Forty years later, we continue to upgrade the professionalism and accountability of licensees. Increased qualifications and Continuing Education requirements for salespersons and brokers have given us an opportunity to continue to offer competent and professional service to California consumers.

We have made significant progress in addition to continuing education and increased qualifications for consumer protection.

Professional ethics have always been integral to how we are viewed as members of the real

Commissioner, *continued on page 3*

REAL ESTATE BULLETIN

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Spring 1986

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The Real Estate Bulletin (USPS 456600) is a quarterly published by the State of California, Department of Real Estate, 2201 Broadway, Sacramento, CA 95818, as an educational service to all real estate licensees in the state under the provisions of Section 10083 of the Business and Professions Code.

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DISCIPLINARY ACTION — August to November 1985

REB—Real estate broker RES—Real estate salesperson PRLS—Prepaid rental listing service
RREB—Restricted real estate broker RRES—Restricted real estate salesperson RPRLS—Restricted prepaid rental listing service
REO—Real estate officer REC—Real estate corporation

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

FOR YOUR INFORMATION

The following are brief summaries of the numerical code sections listed after each licensee's name. The full context of the various sections is found in the Business and Professions Code and the Regulations of the Real Estate Commissioner, both of which are printed in the Real Estate Law book. The Real Estate Law book is available for purchase from the Department of Real Estate for \$10.00 plus tax.

Business and Professions Code

490 relationship of conviction to licensed activity
10130 acting without a license
10137 unlawful payment of compensation
10145 trust fund handling
10147.5 notice regarding negotiability of commission
10148 retention and availability of real estate broker records
10162 office abandonment
10165 covers various violations
10167.3(b) failure of broker or salesperson to supervise PRLS activities
10167.9(a)(3) failure to include required terms in PRLS contract
10167.9(c) use of unapproved contract
10167.10(b) failure to refund deposit or portion thereof
10167.12 violation of crime by PRLS licensee
10176(a) making any substantial misrepresentation
10176(b) making false promise
10176(d) failure to disclose dual agency
10176(e) commingling trust funds
10176(g) secret profit or undisclosed compensation
10176(h) fraud or dishonest dealing in licensed capacity
10177(a) procuring a real estate license by misrepresentation or material false statement
10177(b) conviction of crime
10177(d) violation of real estate law or regulations
10177(f) conduct that would have warranted denial of a license
10177(g) negligence or incompetence as licensee
10177(h) failure to supervise salespersons
10177(j) fraud or dishonest dealing not in licensed capacity
10177.5 civil fraud judgement based on licensed acts
10240(a) failure to deliver mortgage loan disclosure form

11012 material change in subdivision without notice
11013.2(a) violation of subdivision blanket encumbrance impound requirements

Regulations

2715 broker's failure to maintain current address with DRE
2725 failure of broker to review agreements
2731 unauthorized use of fictitious business name
2742 failure of corporate broker to file articles of incorporation
2785(a)(10) unauthorized earnest money refund
2791 unlawful subdivision purchase money disbursements
2830 failure to maintain trust fund account
2831 inadequate trust fund records
2831.1 inadequate trust fund records
2832 failure to comply with specific provisions for handling trust funds
2832.1 broker's failure to obtain permission to disburse trust funds from an account involving multiple beneficiaries
2834 trust account withdrawals by unauthorized person
2834(b) unauthorized person making withdrawals for corporate trust account
2842.5 failure to obtain borrower's signature on mortgage loan disclosure form
2910 crime or act done in perpetration of crime substantially related to qualifications, functions or duties of the real estate profession
2950(d) failure of broker handling escrows to maintain records
2950(f) failure to deposit escrow trust funds
2950(h) failure to disclose broker's interest in agency holding the escrow

LICENSES REVOKED DURING HEARING

Name	Address	Effective Date	Violation Business and Professions Code/Commissioner's Regulations
Newport Equity Funds, Inc. (REC)	2 Corporate Plaza Dr. Newport Beach	2/21/84	10177(g)(h)
Sanders, Jodie James Jr. (RES)	23 Cornell, Rancho Mirage	5/10/84	10177(j)
Irish, Robert Philip (REB)(REO)	4911 Warner Ave., #105 Huntington Beach	3/22/85	2832.1, 10141.5, 10145, 10177(g)
Hardy, Lyman Lindsay (RES)	2911 Lacy Ln., Sacramento	9/9/85	490, 10177(b)
Schmitz, Eckhard (REO)	1545 St. Marks Square Plaza, Ste. 1, Stockton	9/9/85	490, 10177(b)
McFadden, Leslie Delvin (REB)	7556 Gallant Cir., Citrus Heights	9/9/85	2831, 10145, 10177(i), 10177(d)
Roberts, Linda Key (RES)	8866 Alcott St., #11, West Los Angeles	9/10/85	490, 10177(b)
Whidden, Clinton Francis (RES)	6970 W. Tara, Las Vegas, NV	9/10/85	490, 10177(b)
Hunnicut, Michael James (RES)	148 Castro St., Mountain View	9/10/85	490, 10177(g)(h)(i)
White, William Walter Jr. (RES)	1294 Grayson Ave., St. Helena	9/10/85	490, 10177(b)(f)
Farrell, Robert Asselin (RES)	102 Lincoln St., Salinas	9/10/85	10145, 10176(a)(k), 10177(d)(f)(g)
Alsbaugh, Dorothy Ann (RES)	34202 Del Obispo, #43, Dana Point	9/11/85	490, 10177(b)
Trans Bay Management Corp (REC)	11887 Dublin Blvd., Ste. A250, Dublin	9/11/85	10145, 10177(d)
Irvin, Melvin Eugene (REB)(REO)	1011 Joshua Pl., Fremont	9/11/85	10145, 10177(d)
Off—Trans Bay Management Corp			
Hoffman, Martin J. (RES)	Star Rte., Box 137, Carmel Valley	9/17/85	490, 10177(b)(f)
Bevans, Barbara Anne (REB)	44245 North 20th St West, Lancaster	9/18/85	10176(a)(i)
Dbx—The House Factory Real Estate			
Ramirez, Martha H. (PRLS)	1218 Santa Monica Mall, Santa Monica	9/26/85	490

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Disciplinary Action, continued on page 3

Disciplinary Action, continued from page 2

Nanamira, James (REB)	2129 E. Tulare Ave, Ste. B, Tulare	10/2/85	2830, 2831, 2832, 10145, 10148, 10176(i), 10177(d)(g)
Schleinkofer, Frederick Edward (RES)	1900 Golf Club Dr., #6, Palm Springs	10/3/85	2832, 10137, 10176(b)(i), 10177(d) 10177.5
Miller, Jack Gannon (RES)	2540 Lynn Dr., Pinole	10/7/85	10145, 10176(i), 10177(d)(f)
Carson, William Jay (REB)	73-510 Cabazon Peak, Palm Desert	10/8/85	10176(i), 10177.5, 10177(d)(g)(h)
Way, James Benjamin (REB)	2936 Madison Ave., San Diego	10/8/85	10145, 10176(i), 10177(d), 10177.5
Dbas—Loan Arranger Dbas—Second Thoughts Estate Services			
Hughes, Donald Le Roy (RES)	11540 Los Molinos Ave., Riverside	10/10/85	10130, 10176(a)(i), 10177(d)(f)(j)
Charrette, Roy C. (RES)	15597 La Subida Dr., Hacienda Heights	10/10/85	10145, 10176(i), 10177(d)
Icken, James Winifred (RES)	5511 W. Olympic, #14, Los Angeles	10/10/85	10145, 10176(i), 10177(d)(j)
Lund, Donna Marie (RES)	5385 2nd St., Rocklin	10/15/85	10177.5
Moss & Moss (REC)	343 G St., Lincoln	10/15/85	10177.5
Binns, Laura Lee (RES)	3217 Alta Wood Ct., Sacramento	10/15/85	10176(a)(g)(h)(i), 10177(i)
O'Brien, Patrick Delbert (RES)	524 S. Clovis Ave., Ste. K, Fresno	10/16/85	490, 10177(b)
Huffaker, Craig Lyle (REB)	2305 Sandpiper Rd., Bakersfield	10/17/85	490, 2832.1, 10145, 10176(c)(i), 10177(b)(4)
Oden, Tom Nick (REB)	7131 Governor Cir., Sacramento	10/17/85	2731, 2832.1, 10145, 10159.5
Crego, James Donald (RES)	7300 Franklin Blvd., Ste. 103, Sacramento	10/17/85	10176(c)(i), 10177(d)
Cole, Roger Glenn (REB)	750 E. Dillard, Ste. 111, Fresno	10/21/85	2731, 2832.1, 10145, 10159.5
McNally, Paul Morris (REB)	P.O. Box 712, Fairfield	10/21/85	10176(c)(i), 10177(d)
Edelstein, Jay Michael (REB)	P.O. Box 9545, Sacramento	10/28/85	490, 10177(a)(b)
Butterfield Realty, Inc. (REC)	11294 Coloma Rd., Ste. P, Rancho Cordova	10/28/85	10177.5
Butterfield, James Claude (REB)(REO)	160 Sunrock Dr., Folsom	10/28/85	2832.1, 10145, 10176(i), 10177(d)
Off—Butterfield Realty, Inc.			10177(g)(j)
Godwin, John Boyett (REB)	789 Del Mar Ave., Chula Vista	10/29/85	10177(g)(k)
Dbas—Godwin Mortgage Co			
Farris, Russell Arnold (REB)	415 Herndon St., #258, Hermosa Beach	10/29/85	2715, 10162, 10165, 10177(d)(j)
Dbas—Farris Mortgage & Investment Co			
Cutler, Harold Louis (REB)(REO)	39825 Paseo Padre Pkwy, Ste 37, Fremont	11/4/85	2831, 2832.1, 10145, 10176(i), 10177(d)(g)
Off—Cutler Mortgage, Inc			
Cutler Mortgage, Inc. (REC)	39825 Paseo Padre Pkwy, Ste 37, Fremont	11/4/85	2831, 2832.1, 10145, 10176(i), 10177(d)(g)
Currie, Henry Orlando (REB)	301 A S. Capitol Ave., San Jose	11/4/85	490, 10177(b)(f)
Spicer, Layne (RES)	2955 Van Ness, #9, San Francisco	11/5/85	10130, 10145, 10177(d)
Parham, John Greenway (REB)	9000 Northgate Mall., San Rafael	11/5/85	2715, 10145, 10162, 10177(d)
Witbeck, Patricia Ehlis (RES)	265 Laverne, Clovis	11/8/85	10176(a)(i), 10177(f)(g)
Chiles, Lawrence Lee (RES)	P.O. Box 9171, Fresno	11/12/85	490, 10177(b)
Carazoler, Albert Tommie (REB)	745 Kingswood St., San Diego	11/12/85	10176(a)(i), 10177.5
Showalter, Harry Ray Jr. (RES)	8811 Pacific Coast Hwy #103, Laguna Beach	11/13/85	490, 10177(b)
Wainwright, Clifton (REB)	11110 Lochard St., Oakland	11/13/85	10177.5
McMillan, Ronald J. (REB)(REO)	8949 Reseda Blvd., Ste. 104, Northridge	11/14/85	10176(a)(i)(j), 10177(c)(d)(e)(g)
Stephens, Rudolph V. (REB)	5050 Faber Way, San Diego	11/19/85	490, 10177(b)
Shahbaz, Laurie Lynville (RES)	127 Cavan Ct., Vacaville	11/20/85	10177.5
Mitchell, M. Sue (RES)	101 Fair Oaks Dr., Vacaville	11/20/85	10177.5
Lemos, John Anthony (RRRES)	P.O. Box 19048, South Lake Tahoe	11/25/85	10130, 10177(d)
Ongania, Richard Francis (RES)	20044 Welis Dr., Woodland Hills	11/27/85	490, 10177(b)

Licenses Revoked with a Right to a Restricted License

Zetko, Dorothy May (RES)	2038 Valley Lake Dr., El Cajon	8/20/85	2832, 10145, 10177(d)(g)
(Right to RRRES license after 30 days on terms and conditions)			
Perez, Rosann Marie (RES)	2529 Rhine Way, Elverta	9/3/85	490, 10177(b)
(Right to RRRES license on terms and conditions)			
Stewart, Samuel Jerome (RES)	28 Contra Costa Pl., Oakland	9/3/85	490, 10177(b)(f)
(Right to RRRES license on terms and conditions)			
Conklin, Philip Jay (RES)	461 Pismo Ct., Livermore	9/10/85	490, 10177(b)(f)
(Right to RRRES license on terms and conditions)			
Hvolboll-Johnson Construction & Development of California, Inc. (REC)	545 Aisal Rd., Solvang	9/10/85	10177(d), 11012, 11018.5(a), (2), (B)
(Right to RRRES license on terms and conditions)			
Hvolboll, Alan Gudmund (REO)	545 Aisal Rd., Solvang	9/10/85	10177(d), 11012, 11018.5(a), (2), (B)
Off-Hvolboll-Johnson Construction & Development of California, Inc.			
(Right to RRRES license on terms and conditions)			
Morton, John L. (RES)	P.O. Box 547, Fulton	9/11/85	490, 10177(b)(f)
(Right to RRRES license on terms and conditions)			
Nickerson, James H. (REB)	16430 Ventura Blvd., Encino	9/11/85	10145, 10176(e)(i), 10177(d)(g)
(Right to RRRES license on terms and conditions)			
Michel, Roy Keith (RES)	1626 Seabright Ave., Santa Cruz	9/16/85	490, 10177(b)
(Right to RRRES license on terms and conditions)			
Robertson, Scott Leland (RES)	333 Presidio, #5, San Francisco	9/17/85	10177(d)(f)
(Right to RRRES license on terms and conditions)			
Gronberg, Kenneth Norman (REB)(REO)	807 Cottonwood Dr., Roseville	9/17/85	10177(h)
(Right to RRRES license on terms and conditions)			
Grange, Samuel Lloyd Jr., (RES)	2730 Latham Dr., Sacramento	9/25/85	490
(Right to RRRES license on terms and conditions)			
Aguirre, Armando (RES)	1012 Arlington Ave., Torrance	9/26/85	490, 10177(b)
(Right to RRRES license on terms and conditions)			
Renner, Walter Frank III (REB)(REO)	4951 Mission St., San Francisco	9/26/85	10176(a)(i), 10177(d)(g)(h)
(Right to RRRES license on terms and conditions)			
Rienecker, Jacqueline Minnich (REB)	1500 W. Cape Dr., San Mateo	9/26/85	10176(a)(i)
(Right to RRRES license on terms and conditions)			
Shelton, Umi Olette (RES)	2612 2nd Ave., #5, Sacramento	10/1/85	10176(a), 10177(g)
(Right to RRRES license after 30 days on terms and conditions)			
Layton, Alfred Winn (REB)	1445A Treat Blvd., Walnut Creek	10/7/85	490, 10177(b)(f)
(Right to RRRES license on terms and conditions)			

Disciplinary Action, continued on page 4

Commissioner, continued from page 1

estate industry. How we serve and respond to the information needs of our clients will determine, to a large extent, how we are respected, trusted, and valued. That respect, trust and value are important to business success. That is one reason I have been so involved in the issue of dual agency, *Easton v. Strassburger*, and the required disclosures to avoid litigation and liability of the licensee.

We are competing to provide consumer protection in an age in which questionable real estate transactions and investments, such as the speculative buying of properties with no money down, or cash-back to the buyer, are becoming more common. Who would have envisioned some years back the use of "boiler rooms" to promote such transactions.

Many seem to have forgotten how important the counsel and service of a real estate professional can be to protect the interest of both buyer and seller.

Many seem to have forgotten how important the counsel and service of a real estate professional can be to protect the interest of both buyer and seller. As most of us know, the buying or selling of a home is one of the most challenging transactions most people will ever experience. We are working to provide the information and means to minimize that challenge.

With the passage of Proposition 2 (Amendment of California's Usury Law) and the continuing skyrocketing inflation of the real estate marketplace, we saw what many—many citizens viewed as a "no-lose" situation for buyers, sellers, investors, and lenders. Millions were made in real estate.

However, the prosperity eventually ended leaving behind many broken dreams and some very serious problems in the mortgage lending industry.

We are still trying to solve the many problems brought about by greed and fraud.

With this period came the unsophisticated, naive entrepreneur holding him/herself out as a knowledgeable mortgage lender or appraiser. We are still trying to solve the many problems brought about by greed and fraud.

California is a beautiful and diverse state with natural, cultural, and economic resources that make this particular piece of geography one of the most valuable on earth. The political systems that we have created to manage our resources and provide laws and regulations ensuring equitable and fair treatment of our citizens have served us well.

I have been proud for the past forty years to be an active part of one sector of California's economy that has had a profound effect on both the desirability and accessibility of "The American Dream of Home Ownership" in California. I have been equally proud to have represented and served that sector for the past three years as the Commissioner of the Department of Real Estate responsible for administering the laws and regulations necessary to strengthen the industry and protect the public.

I look forward to more years of productive and cooperative work with the Governor, the Legislature, and the real estate, mortgage lending, and building industries to realize the highest goals of professionalism, accountability, and success in making the dream of home ownership for Californians a reality — as well as a safe and sound state for investment of funds by commercial and industrial investors and the secondary mortgage market.

Accurate Recordkeeping Prevents Auditing Problems

by *Hermie S. Briones, Chief Auditor,
Department of Real Estate*

MORE THAN FORTY PERCENT OF the audit examinations performed by the Department of Real Estate disclosed deficiencies in the brokers' trust fund records. The deficiencies included minor infractions, such as failure to record reference numbers for posted transactions, as well as serious ones, such as not maintaining separate records for the beneficiaries.

This article presents some common record-keeping deficiencies. Also presented are the steps necessary to correct or prevent these problems to ensure full compliance with the real estate law and the Commissioner's Regulations. The recordkeeping deficiencies discussed here do not include brokers' gross negligence in maintaining trust fund records.

Trust Fund Records Did Not Reconcile

The most common noted deficiency is that the "record of all trust fund transactions" ("control account") could not be reconciled with the individual ledger for each beneficiary or transaction (also called "beneficiary ledgers").

The "control account" shows the total balance of the trust fund bank account, while the individual beneficiary ledgers reflect how much of that balance belongs to each beneficiary. Any transactions affecting a trust fund bank account must be recorded on both sets of records. The total of the beneficiary ledgers balances should therefore equal the control account balance.

However, while some of the audited brokers posted transactions on the control account and the beneficiary ledgers, they did not reconcile the two sets of records on a regular basis.

The auditor found for one broker examined that the total of the individual ledgers was over \$8,000 more than the control account. The broker could not explain the difference; he had not reconciled the two records for more than a year before the audit.

Reconciliation of the two records is not specifically required. However, if the accounts do not reconcile, there is a violation of the Commissioner's Regulations. If all trust fund transactions are properly recorded as provided by Regulations 2831 and 2831.1, the two records will agree.

The following are common causes for any differences:

- Failure to post a transaction on one of the two records;
- Posting the wrong entry on a record;
- Miscalculation of the ending balances;
- Incomplete postings.

To ensure that entries are posted and the balances computed properly on your control account and the beneficiary ledgers, reconcile the two at least monthly. This is done by adding up the current balance of the beneficiary ledgers and comparing the total with the current

balance of the trust fund bank account as shown on the control account. Verify any difference between the two figures and make necessary corrections on the records. Keep a schedule on file supporting the reconciliation.

The reconciliation schedule does not have to be elaborate, as long as it shows the identification and current balance of each beneficiary account. The detailed schedule will be needed when the records are reconciled again the following month.

If an accountant or bookkeeper maintains your books, he/she should be required to submit to you a monthly detailed reconciliation schedule. Review the schedule to see if the total of the individual ledgers agrees with the control account balance.

If an automated data processing system is used, maintain—at a minimum—a monthly printout showing the identification and balance of the beneficiaries' accounts. Or, if your system allows, keep a tape or disk backup to permanently store this detailed information in lieu of printouts. The system must be capable of producing a printout at anytime reflecting the balance of the beneficiaries' accounts as of any reconciliation date.

Auditing, continued on page 5

Disciplinary Action, continued from page 3

Pettigrew, Helen Suzanne (REB) (Right to RREB license on terms and conditions)	6920 Santa Teresa Blvd., Ste.101, San Jose	10/7/85	490, 10177(b)(X)
Steele, Virgil Raydell (RES) (Right to RRES license on terms and conditions)	9801 S. Broadway, Los Angeles	10/8/85	10130, 10137, 10145, 10177(d)
Kozub, James Michael (RES) (Right to RRES license after 30 days on terms and conditions)	8255 N. San Pablo, Fresno	10/8/85	10176(a)
Truscott, Donald J. (RES) (Right to RRES license on terms and conditions)	509 West 10th St., Antioch	10/15/85	10142, 10176(a), 10177(d)(f)
Jarrell, Jesse Roy (REB) (Right to RREB license after 30 days on terms and conditions)	2785 Mitchell Dr., Ste. 117, Walnut Creek	10/15/85	10142, 10176(a)(f), 10177(d)(f)
Larson, Harry Francis II (RES) (Right to RRES license on terms and conditions)	P.O. Box 15000, Mammoth Lakes	10/16/85	490, 10177(b)
Clement, Shila Lee (RES) (Right to RRES license on terms and conditions)	1911 Sacramento St., San Francisco	11/4/85	490, 10177(b)(f)
Larson, Steve Gerald (RES) (Right to RRES license after 15 days on terms and conditions)	1140 S. Saratoga-Sunnyvale Rd., San Jose	11/5/85	10176(a)(f), 10177(f)
Mortarotti, Gene L. (RES) (Right to RRES license on terms and conditions)	239 Mill St., #7, Grass Valley	11/7/85	490, 10177(b)
Kent, Gary M. (RES) (Right to RRES license on terms and conditions)	P.O. Box 1913, Novato	11/12/85	10177(f)(f)
Kent, Margaret Joyce (RES) (Right to RRES license on terms and conditions)	169 Escallonia Dr., Novato	11/12/85	10177(f)(f)
Sacks, Robert Thomas (REB)(REO) Off-Robert T. Sacks & Associates, Inc. (Right to RREB license on terms and conditions)	3013 Harbor Blvd., Costa Mesa	11/13/85	10177(h)
Robert T. Sacks & Associates, Inc. (REC) (Right to RREC license on terms and conditions)	4833 Dorchester Rd., Corona Del Mar	11/13/85	10137, 10177(d)
Coleman, Sinclair B. (RES) (Right to RRES license on terms and conditions)	117 31st St., Manhattan Beach	11/19/85	490, 10177(b)
Vanderhous, Ronald Richard (PRLS) (Right to RPRLS license on terms and conditions)	800 South H St., #D, Bakersfield	11/25/85	490, 10167.12
Dewick, Sheila Ann (RES) (Right to RRES license on terms and conditions, to be suspended first 6 months)	5027 E. Thomas, Fresno	11/25/85	2832.1, 10145, 10176(i), 10177(d)(g)

Licenses Suspended With Stays

Arikat, Samih M. (REB) (All but 30 days stayed for 2 years on conditions)	2392 31st Ave., San Francisco	9/9/85 (60 days)	2831, 2832, 10145, 10177(d)
Amor, Roy Lewis (REB) (May be stayed after 30 days on condition)	5150 Candlewood St., #7, Lakewood	9/19/85 (until 6/10/86)	10148, 10177(d)
Davis, Ronald Wayne (RES) (Stayed for 1 year on condition)	8595 Marsh Creek Rd., Clayton	9/26/85 (5 days)	10176(a)
Gillette, La Juana Fairvine (REB) (All but 30 days stayed for 6 months on conditions)	626 Spring St., Paso Robles	10/8/85 (60 days)	2725, 2830, 2832, 10177(g)(h)
Carrier, Fred Alvin (RES) (All but 15 days stayed for 6 months on conditions)	1973 Willow Brook, Paso Robles	10/8/85 (30 days)	2725, 2830, 2832, 10177(g)(h)
Sierra Pacific Home Loans, Inc. (REC) (Stayed for 1 year on terms and conditions)	5070 North 6th, #170, Fresno	10/8/85 (15 days)	10176(a)
Rolph, Bruce Richard (REB)(REO) (Stayed for 1 year on terms and conditions)	5070 North 6th, #170, Fresno	10/8/85 (15 days)	10177(h)
Greer, William Lewis (REB)(REO) (All but 30 days stayed for 1 year on terms and conditions)	3400 Bradshaw Rd., #A4B, Sacramento	10/15/85 (90 days)	10176(a)(b)(f), 10177(g)(h), 10177.2(b)
Wm. Greer & Company (REC) (All but 60 days stayed for 1 year on terms and conditions)	1337 Howe Ave., Ste.210, Sacramento	10/15/85 (180 days)	10176(a)(b)(f), 10177(g)(h), 10177.2(b)
McKenzie, Mary Jean (REB) (All but 15 days stayed for 1 year on condition)	725 W. Shaw, Fresno	10/29/85 (45 days)	10176(a)
Saylor, Jerry Milton (REB)(REO) Off-Saylor Realty (Stayed for 1 year on condition)	1440B W. Shaw, Fresno	10/29/85 (5 days)	10177(g)
Saylor Realty (REC) Db-a-Saylor New Horizons Real Estate (Stayed for 1 year on condition)	1440B W. Shaw, Fresno	10/29/85 (5 days)	10177(g)
Wright, Donna Leigh (REB) Db-a-California Real Properties (All but 5 days stayed for 1 year on condition)	501 Wilson Ave., Bakersfield	10/29/85 (30 days)	10137, 10138, 10177(d)(g), 11010, 11018.2
Fritz, Delight Jane (REB) (All but 5 days stayed for 1 year on condition)	1920 20th St., Bakersfield	10/29/85 (30 days)	10137, 10138, 10177(d)(g), 11010, 11018.2
Samuels, Brian Edward (REB) (Stayed for 180 days on condition)	444 Main St., El Segundo	11/12/85 (45 days)	2919(a)(8), 490, 10177(b)
Ackley, Georgia D. (RES) (Stayed for 1 year on condition)	200 8th Ave., Santa Cruz	11/12/85 (30 days)	490, 10177(b)(f)

Disciplinary Action, continued on page 5

Auditing, continued from page 4

Improper Recording of Disbursements

Another common recordkeeping deficiency is recording trust fund disbursements on the control account on the same line as the corresponding receipts are recorded, regardless of the date of disbursements.

To illustrate this deficiency, consider the following example:

A trust fund check was issued to a principal on October 5, 1985 to remit funds received by the broker on September 15, 1985. The check would be recorded on the columnar record on the same line as the September 15, 1985 receipt entry, even though many other receipts were recorded between September 15 and October 5, 1985.

The recording was done this way so the brokers could determine which of the recorded trust fund liabilities were extinguished and which were still outstanding. "Open" receipts entries, i.e., those without corresponding disbursement entries beside them, would be the outstanding obligations.

Obviously, the problem with this procedure is that the daily trust fund balance could not readily be computed or verified based on the control account entries, especially if disbursements are not made in the same order that funds are received.

The proper procedure is to record on the control account all trust fund transactions—receipts and disbursements—in chronological sequence. The beneficiary ledgers will reflect the individual outstanding trust fund obligations.

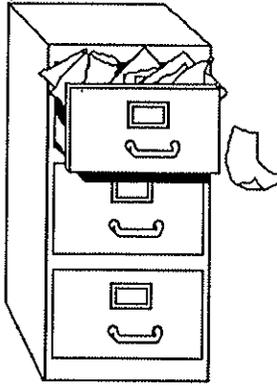
If you are currently recording disbursements on the control account in this manner, you must change your procedures to the proper method. It is necessary to use a new control account columnar form rather than continuing to record on the old one. You do not have to transfer the recording of past transactions to the new form, as long as the total of the beneficiary ledgers' balances reconcile with the control account balance which is the total of all the "open" receipts entries at the time of the change. The reconciliation should be documented.

After the change to the correct method is made, no entries should be posted on the superceded control account.

Two Sets of Beneficiaries Records

This deficiency was found in examinations of brokers servicing loans for their lenders—clients. The brokers maintained a set of ledgers to record the borrowers' transactions, and another set for the payments/remittances to the clients.

The borrowers' ledgers showed the date of payment, amount paid, the amount applied to principal and to interest, and the principal loan balance. They were the basis for year-end and other accounting documentation given to the borrowers.



The lenders cards, on the other hand, showed the brokers' remittances to the lenders, but not the funds received by the broker for the lenders' benefit.

Since there is no single set of beneficiary ledgers to record both the receipts and disbursements of funds, this system does not meet the requirements of the Commissioner's Regulation 2831.1. The regulation states in part, "... Each such record . . . shall set forth the . . . amount deposited (and) . . . the amount of each related disbursement . . ."

Generally accepted accounting principles also require that a subsidiary ledger be maintained for each beneficiary to account for all increases, decreases, and balance of the account.

This problem can be corrected by recording on the lenders' cards the collections from the borrowers. The minimum requirement is that a single columnar card reflect both the receipts and disbursements of funds pertaining to each beneficiary.

Lack of Referencing Information

Many records examined did not have complete reference for the posted entries. Information necessary to identify the transaction such as disbursement check number, date of receipt, or beneficiary identification were not shown on the control account or the beneficiary ledgers. Because of this problem, the broker could not tell if some entries shown on the control account were also made on the corresponding beneficiary ledger(s).

Commissioner's Regulations 2831 and 2831.1 require that trust fund records set forth information sufficient to identify the transactions and parties thereto. Review your records and ensure that referencing information is recorded on both the control account and the beneficiary's ledgers.

Conclusion

Maintenance of an adequate recordkeeping system is stressed in the audit examinations because it is difficult—if not impossible—for the broker to properly account for the trust funds entrusted to him/her without good records.

A Corrective Action Letter will be issued to a licensee whose recordkeeping system does not comply with the Regulations. This letter requires the licensee to rectify the problems noted in the audit. A followup examination will be performed within six to twelve months after the issuance of the letter. If deficiencies have not been corrected by that time, further disciplinary actions may be taken by the department.

To determine if your records are substantially adequate, check to see if your "control account" reconciles with your beneficiary ledgers, if the recording is current and if the information required by the Commissioner's Regulations 2831 and 2831.1 are reflected in the records. •

Disciplinary Action, continued from page 4

Stuart, Alfred Victor (REB)(REC) Off-Creative Realty Exchange, Inc. (May be stayed after 30 days on terms and conditions)	15303 Ventura Blvd, Ste.726, Sherman Oaks	11/13/85 (until 8/8/87)	10148, 10177(d)
Creative Realty Exchange, Inc. (REC) (May be stayed after 30 days on terms and conditions)	15303 Ventura Blvd, Ste.726, Sherman Oaks	11/13/85 (until 8/8/87)	10148, 10177(d)

Licenses Suspended With A Right to a Restricted License

Hudler, Martin Lawrence (RES) (Right to RRES license after 180 days on terms and conditions)	1440 E. Chapman Ave., Orange	11/13/85 (180 days) (May be revoked after 180 days)	10130, 10177(d)
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Indefinite Suspensions Under Recovery Fund Provisions

Paolini, George R. (RES)	1540 Greenwich St., San Francisco	9/16/85
Smith, Dennis Harold (RES)	125 E. Sunnyoaks Ave., #107, Campbell	9/30/85
Hoggard, Gurney (REB)	P.O. Box 894, Ridgecrest	9/30/85
Hoggard, Shirley (REB)	P.O. Box 894, Ridgecrest	9/30/85
Reza,曹 (RES)	3333 Wellington Dr., Sacramento	9/30/85
Glen, George E. (REB)	P.O. Box 893, Morgan Hill	10/15/85
Kanights, Daniel (REB)	765 Bryant St., San Francisco	10/15/85
Satellente, Ronald V. (REB)	6678 Rycroft St., Riverside	10/15/85
Rousselle, Wayne Maurice (REB)	341 Felicita Ave., Escondido	10/15/85
Laufenberg, Keith Gary (RES)	8225 Auburn-Folsom Rd., Roseville	10/15/85
Furuyama, Robert T. (REB)	731 E. Lewelling Blvd., Hayward	10/15/85
Bondoc, Reynaldo Camacho (RES)	3300 Judah St., San Francisco	10/15/85
Hart, Tifeni (RES)	117 W. Main St., Woodland	10/15/85
Reilly, Michael S. (REB)	2730 Adams Ave., San Diego	10/15/85
Trans National Funding, Inc. (REC)	4000 MacArthur Blvd, Ste.4500, Newport Beach	10/15/85
Southall, Charles M. (REB)	1148 Alpine Rd., Ste.A, Walnut Creek	11/18/85
Cable Capital Corporation (REC)	3093 Citrus Cir., #100, Walnut Creek	11/18/85
Metcalf, Ray E. (REB)	1105 S.Hill St., Ste.255, Oceanside	11/18/85

Rent-A-Broker . . . at what cost?

by Raymond L. Royce, Assistant Commissioner
Regulatory and Recovery

Information on file with the Department of Real



Estate (DRE) shows you to be the broker of record,
the responsible party!

Think about it!

Are you in charge, the boss who calls the shots?

Did you hire the salespersons and other employees in the office; or did they—or one of them—hire you?

DRE is uncovering more and more serious law violations in which the evidence shows the broker of record to be a hired broker who is not doing his/her job. At DRE these cases are referred to as "rent-a-broker" cases.

If any of our real estate broker licensees have the faintest notion that their responsibility can be discharged by going into the office once or twice a week for coffee and chit-chat, the following sampling of actual cases should be considered:

- A corporation licensed as a broker was owned by a salesperson whose license had expired. Respondent broker was hired as designated officer. The main business was property management. DRE found failure to keep records, trust fund withdrawals by the unlicensed, unbonded owner, trust fund shortage, licensed activity by the unlicensed owner, and failure to review and initial instruments as required by Commissioner's Regulation 2725. Licenses of the corporation and the hired broker were revoked.

- A salesperson had an office with furniture and equipment needed for operation of a real estate brokerage business. The salesperson entered into an agreement with a broker to use the broker's license and name. The salesperson listed a business opportunity and found a buyer at the listed price. He later found a second buyer who would pay \$20,000 more. The salesperson failed to disclose the second offer to his principal, but instead set up a double escrow for the purpose of taking a secret profit. The salesperson was caught in the act and the principal refused to sell. Other violations were found by DRE. The licenses of the salesperson and the broker were revoked. The Administrative Law Judge found that the broker failed to supervise.

- A business was operating as a prepaid listing service, accepting advance fees from prospective tenants. The "day-to-day" operations of this business were managed and controlled by a person who was not licensed; it was using the license of a broker. In addition to using an advance fee contract other than the contract approved by DRE, there was a finding of refusal and failure to make refunds required by law and failure to keep records. The broker's license was revoked, with the right to apply for a restricted broker license conditioned on making restitution to those persons having a claim for refund. Notice that it was the broker who had to pay.

- A mortgage company was owned by a person who was not licensed, but who acted as chief executive officer of the company. A licensed broker qualified the company as a corporate real estate broker. DRE audited the company and found a shortage of \$157,000 in the trust account. The unlicensed owner informed DRE that substantial restitution had been made. Upon reaudit to verify restitution, it was found that the shortage had grown to about \$500,000. The licenses of the broker and the corporation were revoked.

- In a case similar to the preceding, except the company was owned by a licensed salesperson, the shortage in the trust account was almost \$500,000. The findings of fact and proposed decision of the Administrative Law Judge who heard the case are of great interest. We have quoted certain extracts from the proposed decision:

"Respondent (Broker), also an attorney at law admitted to practice in California, was instrumental

in 1978 in the formation of the corporate-respondent. As the broker of record of the corporate-respondent, he exercised little of his legally-imposed supervisory duties toward the corporate activities. On infrequent occasions he would drop into the corporate headquarters to converse with (Salesperson) and, at other times, would be reachable in his separate, distant law office to render whatever assistance and advice he could.

"(Broker) maintained that because of a lack of financial expertise, he was unaware of the mounting deficiencies in the trust fund and had no actual knowledge thereof. Nevertheless, by reason of his capacity as its broker, this respondent failed to meet the standard attendant of his licensed function.

"Testimony indicated the standard of practice for a designated broker officer was to personally check, if only to spot check, the actual documents involved in the mortgage transactions, as well as to check their accuracy with outside sources. Such "hands-on" supervision should be accomplished on a frequent basis — at least biweekly or more often — something that respondent (Broker) did not do. So also, according to Regulation 2725, certain documents which may have a material effect upon the rights or obligations of the parties are required to be reviewed, initialed and dated by the broker within five working days after preparation or signing. And while the standard, as well as said regulation, permit the delegating of certain of these duties, the ultimate responsibility is nondelegable. It remains with the designated broker officer. Respondent (Broker's) conduct, in this regard, was negligent — but not fraudulent.

"In return for the use of his broker's license, (Broker) initially received the sum of \$250 a month. Later, because about \$250 was added thereto by way of health insurance benefits, the total value received by (Broker) was approximately \$500 per month. Essentially, then (Broker) was renting out his license and, for an appreciable period of time, was taking the benefits of such an arrangement without taking the responsibility or burdens of properly overseeing the corporate business. Only when it became apparent that the Department was making serious inquiry into the corporation's mortgage-brokerage financial situation did (Broker) then attempt to undertake his legally-imposed responsibilities.

"When the corporate respondent was in dire financial difficulties, respondent (Salesperson) abandoned the corporation.

"Respondent (Salesperson) owned all of the stock of this corporation whose sole business was mortgage loans.

"Initially during the period of the absence of adequate supervision by (Broker), it was respondent (Salesperson) who directed the operations of the business.

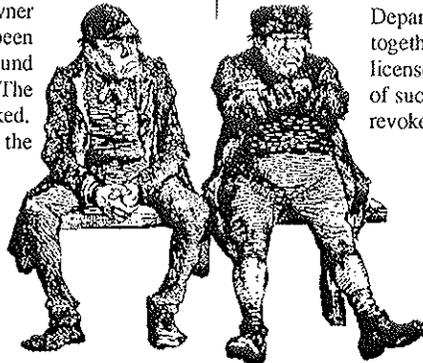
"When it was functional, the business hired as many as 16 employees. It is now defunct and (Salesperson) has since moved to Hawaii.

"All existing real estate licenses issued by the Department of Real Estate of the State of California, together with any and all rights and interests in said licenses, including but not limited to any right of renewal of such licenses, as issued to respondents . . . are herewith revoked."

What more needs to be said about the unwise practice of renting out a broker's license?

We should mention the civil liability to be incurred, and the endless lawsuits to recover losses by those persons who have been damaged.

Renting a broker's license is a risky way to do business; risky for everyone. •



Maintain Proper Books and Records or Face License Revocation

by Robert Arnold, Regional Manager,
Los Angeles Regulatory

New IRS Rules for Cash Transactions

Department of the Treasury
Internal Revenue Service
Taxpayer Service Division

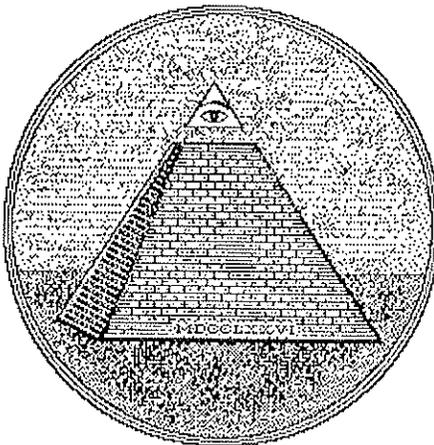
The California Court of Appeal recently ruled that revocation of a broker license is an appropriate penalty for failure to maintain proper books and records.

On May 10, 1983 the Department of Real Estate filed an Accusation against a real estate corporation and its designated officer for failure to maintain a trust account and trust records and failure to have reviewed, initialed and dated documents prepared or signed by salespersons in the employ of the respondents, as required by Regulations 2831 and 2725. The DRE had taken disciplinary action against the respondents in a prior Accusation for essentially the same violations in 1982. That case resulted in the revocation of the respondents' broker license with the right to a restricted broker license.

Following a hearing on the 1983 Accusation before an Administrative Law Judge, a Decision was rendered on December 21, 1983. Effective July 20, 1984 the Real Estate Commissioner revoked respondents' licenses. On July 19, 1984 respondents filed a petition for a Writ of Mandate in the Los Angeles Superior court. The petition was denied by the Superior Court.

Respondents appealed to the Court of Appeal where they contended that the trial court applied the wrong standard for review; the appropriate standard being independent judgement, and that in any case, under the substantial evidence, that the judgement must be reversed and the penalty be found grossly inappropriate to the alleged misconduct.

The Court ruled that when a licensee makes repeated and constant flagrant violations of the statutes and rules designed to protect the public in real estate transactions, the privilege to act as a real estate broker be revoked. •



As a result of the Tax Reform Act of 1984, persons who receive more than \$10,000 in cash (including foreign currency) in connection with their trade or business must file Form 8300, "Report of Cash Payments Over \$10,000 Received in a Trade or Business," with the Internal Revenue Service and provide the payer with a statement.

According to the IRS, reporting is required by any person in a trade or business who, in the course of such trade or business, receives more than \$10,000 cash in one transaction or in two or more related transactions. The return is filed with the IRS by the recipient of the cash and must contain name, address, and identification number of the person from whom the cash was received. It must also include the amount of cash received, the date, and the nature of the transaction. Taxpayers must file Form 8300 by

the 15th day after the date of the transaction with the Internal Revenue Service Data Center, P.O. Box 32621, Detroit, MI, 48232, ATTN: RCP. The form may also be hand-carried to a local IRS office. Financial institutions that file Form 8349, "Currency Transaction Report," and casinos that file Form 8362, "Currency Transaction Report by Casinos," do not have to file Form 8300.

In addition to furnishing reports on each cash transaction to the IRS, the recipient of the cash must furnish to each payer a statement totaling the amounts of cash received from the payer. This statement must contain the name and address of the business receiving the cash and the total amount received from the payer. Also, it must state that the information is being furnished to the IRS. The statement must be furnished on or before January 31 of the year following the transaction.

Civil and criminal penalties are provided for failure to file a report or to supply information and for filing a false or fraudulent report.

These provisions are effective for cash received after December 31, 1984. •

Real estate licensees must have both a broad-based understanding of the many facets of real estate and a knowledge of the current Real Estate Law.

The Real Estate Law book is a working tool every licensee should own. The 1986 Supplement to the 1985 Real Estate Law book contains the additions, amendments and deletions made in the California Real Estate Law, and contains other pertinent excerpts from the California Codes which became effective January 1, 1986.

The 1985 Real Estate Law book, including the

1986 Supplement costs \$10 plus tax. The price includes postage and handling. If the 1986 Supplement is purchased separately, the price is \$1 including tax, postage and handling.

The 1984-85 Reference Book includes 30 chapters covering topics such as agency, escrows, subdivisions, real estate finance and real estate transactions. Additionally, the Reference Book contains sample real estate forms and various useful charts and tables. A current edition of the Reference Book is a useful guide for both the novice and experienced professional.

The price for the 1984-85 Reference Book is \$10 plus tax.

A special 20% discount may be applied to the purchase of 25 or more copies of any one title. When purchased separately, the 1986 Supplement is not subject to this special discount.

When ordering any of the described publications, please use the order form on this page. Personal check or money order payable to the Department of Real Estate is acceptable.

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TOTAL ENCLOSED			



Notes from Licensing

by Lawrence J. Cannon,
Managing Deputy Commissioner I,
Licensing Operations

Continuing Education Exemptions

This office regularly receives questions concerning the possibility of being exempted from the continuing education requirement.

Currently, there is only one provision in the Real Estate Law which allows for an exemption from the continuing education requirement. Section 10170.8 of the Business and Professions Code states that a licensee who has reached the age of seventy and has held a license in California in good standing for thirty continuous years can qualify for the exemption.

The age and experience provisions of Section

10170.8 must be met on or before the renewal date of the license in question. The exemption cannot be granted if only one or the other of these requirements is met. A licensee in good standing is one who holds a license which has not been suspended, revoked or restricted as a result of disciplinary action at any time within the thirty-year period.

Licensees who desire to qualify for the continuing education exemption must submit RE 215 (Continuing Educating Exemption Request) or a written request with their renewal application and fee. If a written request is submitted, a copy of the

licensee's birth certificate or drivers license should be included along with the statement of the date the licensee was first licensed. The RE 215 form is available at any DRE office.

Licensees may wish to confirm whether they would be eligible for an exemption prior to actually submitting their renewal application. This may be accomplished by sending a written request which includes a copy of the drivers license or birth certificate and a statement of the date the licensee was first licensed. Confirmation may not be made by telephone because the information must be researched by our staff on microfilmed records. •

DRE Wins National Education Award

by Thomas L. Mabry
Managing Deputy Commissioner II
Education Section

DRE was awarded the National Association of Real Estate License Law Officials' (NARELLO) 1985 Education Recognition Award for the "Consumer Education" category. DRE received the award for its 30-minute consumer education video tape program, "Making the Big Move."

"Making the Big Move" was produced as a result of concerns raised by Commissioner James A. Edmonds, Jr. and his Research Advisory Committee regarding the need to educate first-time home buyers. The half-hour video program was designed to assist first-time home buyers in understanding the basic legal documents, terms and concepts used in real estate transactions. The production answers such common consumer questions as:

• Do I need a lawyer or real estate broker when buying a home?

- What forms do I need to fill out?
- What papers do I need to sign and at what point do I have a legally-binding contract?
- What are title insurance, escrow and A.P.R.?
- How does a change in the interest rate affect my monthly house payments; or does it?

In early 1984 DRE contracted with the Trustees of the California State University to develop the program in English and Spanish to be available on VHS, Beta, and 3/4 inch video formats. Both language versions are also closed-captioned for the hearing impaired.

The Real Estate and Land Use Institute of the 19-campus California State University system produced the video in conjunction with University Media Services of the Sacramento campus of California

"Making the Big Move" presents its message clearly and directly. People with no previous experience or understanding of real estate will be able to understand and learn from this valuable educational aid.

Copies of both English and Spanish versions have been provided to 13 major public television stations throughout California. Negotiations are currently underway between DRE and the communications division of a major publishing house for possible nationwide distribution of the videotaped program.

This project was financed with Education and Research funds of the Department of Real Estate under authority of Section 10451.1 of the Business and Professions Code (California Real Estate Law). •



Official Publication



CALIFORNIA DEPARTMENT OF REAL ESTATE
P.O. BOX 160009
Sacramento, California 95816