

## "Study of California's Real Estate Appraisal Industry: Past Performance, Future Outlook"

In anticipation of potential federal government imposed regulation of the real estate appraisal industry, the California Department of Real Estate commissioned a study to examine the need for regulation of real estate appraisers and to review alternative approaches for improving the quality and reliability of appraisal reports.

The report entitled, *Study of California's Real Estate Appraisal Industry: Past Performance and Future Outlook*, was prepared by Arthur Young & Company, a management consulting firm.

"Currently, no law in California requires that a real estate appraiser be either certified or licensed by the State," the report observed.

The study finds that, "for meaningful changes to occur, a broad array of corrective measures will have to be developed and instituted by federal and state regulatory agencies, the appraisal industry, and the realty and real estate finance industries."

The study also states, "This report, while clearly recognizing the limitations of government regulation, suggests that additional government regulation of real estate appraisers (i.e., either certification or licensing) is needed."

However, the report notes that, "A consensus does not currently exist among representatives of the principal constituent interest groups involved as to the appropriate level of regulation."

The report may be purchased from the California Department of Real Estate, P.O. Box 187006, Sacramento, CA 95818-7006. Please enclose a check for \$6.00 plus applicable sales tax. An order form for the report is published on page 7 of the *Bulletin*.

## Don't be a "rent-a-broker"

by Frank Lyons, Attorney-in-Charge, San Francisco

Persons licensed by the DRE as real estate brokers are expected to exercise the license privilege in a responsible manner. By accepting the status of licensed broker, a person represents that he or she will discharge the duties imposed on a broker under provisions of the real estate law, including the requirement of supervision of salespersons in his/her employ.

Unfortunately, some licensed brokers lend their licenses (and the use of their names) to real estate brokerage enterprises in which they take no active part and perform no supervision over the real estate salespersons purportedly acting under the aegis of their real estate broker license. This type of person is sometimes referred to as a "Rent-a-Broker." There have been a number of instances in the past where this practice has been discovered by DRE investigators acting on complaints from members of the public about dishonest or unethical conduct of a salesperson who is nominally under the supervision of the "Rent-a-Broker." In most instances the Department does not disclose that the broker is a mere figurehead until after the loss of money or other damages is incurred by a client of the broker.

The Department has taken the position in license disciplinary cases that a broker who knowingly acts as a "Rent-a-Broker" should be dealt with in a severe manner, and indeed, there have been several outright revocations of the licenses of such persons in the recent past.

In one recent case in northern California, a corporation was found to have violated several aspects of the real estate law, including the mishandling of trust funds and making substantial misrepresentations. The evidence disclosed that the corporation was actually being operated by a real estate salesperson and that the broker never had an active role in the running of the corporation. She actually lived in southern California and only came up to the northern California office occasionally to check on things. She relied, totally, on the real estate salesperson, who was actually running the company, for information about the

Rent-a-broker, continued on page 8

## License revoked; restitution ordered in escrow case

by Robert Baker, DRE Staff Counsel, L.A.

In August, 1983, a seller gave a real estate broker an exclusive listing to sell his home upon the representations of one of the broker's salespersons that the broker had buyers willing to purchase the home for \$137,000. An offer was presented which the seller accepted, and the broker opened a broker-controlled escrow.

The buyers deposited \$13,000 into the broker's escrow account. Before escrow could close, the buyer's proposed lender refused to fund the required loan. The lender contended the seller's home was not worth enough to justify the requested loan.

When the sale failed to close, the seller, who faced foreclosure, went to discuss the matter with the broker. After a somewhat heated argument, the broker told the seller the deal was "dead." He ordered the seller to leave his office. The seller left — without authorizing the broker to cancel escrow. Thereafter, the broker took no further action to sell the house. Instead, the broker prepared escrow instructions cancelling the seller's escrow and transferring the buyer's \$13,000 into another escrow opened by the broker for the buyers to purchase a different home from a different seller. The broker closed this second escrow and received a commission of \$5,700.

After receiving a complaint from the damaged seller, and investigating it, the Department filed an accusation against the broker charging him with violations of Sections 2832.1 and 2950(b) of the Commissioner's Regulations, alleging that the broker's conduct constituted fraud or dishonest dealing. A hearing on the matter was concluded in June, 1986, at the Office of Administrative Hearings.

At the hearing, the broker testified that the seller had signed escrow cancellation instructions, but was unable to produce any written document. The seller testified that he had never signed any instructions. A salesperson working for the broker stated he had tried to find the seller to have him sign such instructions but had been unsuccessful. The administrative hearing officer presiding over the matter rejected the testimony of the broker and concluded that no such cancellation instructions ever existed.

In a proposed decision, adopted by the Real Estate Commissioner, it was determined that the conduct of the broker was in violation of Sections 2950(b) and 2832.1 of the Regulations and that the broker

Revoked, continued on page 3

**REAL ESTATE BULLETIN**

Official Publication of the  
California Department of Real Estate

Vol. 49, No. 1 Spring 1989

**STATE OF CALIFORNIA**

GEORGE DEUKMEJIAN, Governor

JAMES A. EDMONDS, JR.  
Real Estate Commissioner

**EXECUTIVE OFFICE**

107 South Broadway, Room 8107, Los Angeles 90012  
Consumer Information ..... (213) 620-5903

**PRINCIPAL OFFICE**

2201 Broadway, P.O. BOX 187000, Sacramento, 95818-7000  
Consumer Information ..... (916) 739-3684  
Mortgage Loan Broker ..... (916) 739-3587

**Licensing Numbers**

Information/Renewals ..... (916) 739-3758  
Broker Qualifications ..... (916) 739-3725  
Examination Scheduling ..... (916) 739-3726

John R. Liberator, Chief Deputy Commissioner  
Robin T. Wilson, Chief Legal Officer  
Betty R. Ludeman, Assistant Commissioner, Regulatory  
Robert C. Arnold, Assistant Commissioner Subdivisions  
Ella T. Preston, Asst. Commissioner Administrative Services  
Larry W. Smith, Managing Deputy Commissioner IV, Mortgage Lending Activities  
Thomas R. Henley, Managing Deputy Commissioner IV, Licensing, Examinations and Education  
Eileen E. Parker, Manager, Legislation and Public Information Services  
Hermie S. Briones, Chief Auditor  
Suzanne Pecci, Deputy Commissioner III, Publications Deputy  
George Hartwell, Bulletin Editor

**NORTHERN REGULATORY AREA**

Robert McCabe, Managing Deputy Commissioner IV

**Regulatory District Offices**

San Francisco, Room 5816, 185 Berry Street, 94107  
Consumer Information ..... (415) 557-2136  
Edward V. Chiolo, Managing Deputy Commissioner III  
Sacramento, 2201 Broadway, P.O. Box 187000, 95818-7000  
Consumer Information ..... (916) 739-3684  
Charles W. Koenig, Managing Deputy Commissioner III  
Fresno, Room 3070, 2550 Mariposa Street, 93721  
Consumer Information ..... (209) 445-5009  
Jery Ficus, Managing Deputy Commissioner II

**SOUTHERN REGULATORY AREA**

Randy Brenda, Managing Deputy Commissioner IV

**Regulatory District Offices**

Los Angeles, Room 8107, 107 S. Broadway, 90012  
Consumer Information ..... (213) 620-5903  
Steve Ellis, Managing Deputy Commissioner III  
San Diego, Room 3064, 1350 Front Street, 92101-3687  
Consumer Information ..... (619) 237-7345  
I. Chris Graves, Managing Deputy Commissioner II  
Santa Ana, Room 324, 28 Civic Center Plaza, 92701  
Consumer Information ..... (714) 558-4491  
Thomas McCrady, Managing Deputy Commissioner III

**SUBDIVISIONS**

Principal Office: Sacramento, P.O. Box 187005, 95818-7005  
Robert C. Arnold, Assistant Commissioner, Subdivisions  
South - Los Angeles, Room 7111, 107 S. Broadway, 90012  
Consumer Information ..... (213) 620-2700  
Mike Decker, Managing Deputy Commissioner III  
North - Sacramento, P.O. Box 187005, 95818-7005  
Consumer Information ..... (916) 739-3631  
Margret Stroh, Managing Deputy Commissioner III

**STATE REAL ESTATE ADVISORY COMMISSION MEMBERS**

Anthony "Tony" Asewahi, San Diego  
Addison "Bob" Bowers, Huntington Beach  
Edward Clare, Sr., San Diego  
Leda Fonseca-Hargrove, Long Beach  
Arthur L. Godt, Stockton  
Dr. Dorothy J. Neman, Fresno  
H. Jackson Poston, La Jolla  
Robert J. Walter, Huntington Beach  
Hosea White, Los Angeles  
J. Carter Witt, Alamo

The REAL ESTATE BULLETIN (ISSN 07347839) is published quarterly 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.  
From the license renewal fee, \$2 is allocated to cover subscription to the BULLETIN. Second Class Postage paid at Sacramento, California. Postmaster, send address changes to REAL ESTATE BULLETIN, P.O. Box 187000, Sacramento, CA 95818-7000.

**DISCIPLINARY ACTION — SEPTEMBER TO NOVEMBER 1988**

- REB - Real estate broker  
RES - Real estate salesperson  
PRLS - Prepaid rental listing service  
REO - Real estate officer  
RREB - Restricted real estate broker  
RRES - Restricted real estate salesperson  
RPRLS - Restricted prepaid rental listing service  
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. 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 \$12.50 plus tax.

<b>Business and Professions Codes</b>	10177.5	judgement of fraud in a civil action
	11010	failure to file notice of intention to sell or lease subdivision
490		relationship of conviction to licensed activity
10130		acting without license
10137	11013.2	unlawful payment of compensation
10145		trust fund handling
10148		retention and availability of real estate broker records
11018.1		11018.1
11018.2		11018.2
10159.2		supervision of licensed acts of corporate broker
10159.5		fictitious name
10161.8		notification of change of license status, employment of address
10163		branch office license requirement
10165		covers various violations
10167.10(a)		PRLS licensee's failure to make refund
10167.10(a)(1)		non-refund of PRLS fee
10167.10(b)		failure to refund deposit or portion thereof
10176(a)		making any substantial misrepresentation
10176(c)		commingling trust funds
10176(i)		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(k)		violation of restricted license condition
2715		broker's failure to maintain current address with DRE
2725		failure of broker to review and initial agreements
2726		broker-salesperson agreements
2731		unauthorized use of fictitious business name
2752		notice of change of broker
2785(a)(10)		unauthorized earnest money refund
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
2840		failure to give borrower disclosure

**Licenses Revoked**

NAME	ADDRESS	EFFECTIVE DATE	R. E. LAW & REGULATION VIOLATIONS
Afraini, Morad (RES)	1072 Queenbrook Dr. San Jose	9/13/88	490, 10177(b)
Armstead, Joe Kelly (RES)	c/o 4972 W. Fico Blvd, Los Angeles	11/22/88	10176(i)
Ashley, Alys May (RES)	3522 Putter Dr, Soquel	9/21/88	490, 10177(b)
Barron, Peter Anthony (REB)	33591 Via De Agua, San Juan Capistrano	11/30/88	490, 10177(b)
	dba Bell Realty		
Blackley, Richard Harvey (REB)	35705 San Antonio Rd, San Jose	10/12/88	10177.5
Bobel, James Elwyn Jr. (REB)	2925 Observatory Dr, Placerville	10/14/88	490, 10177(b)
Brown, Douglas Edward (RES)	5043 North Ave, Carmichael	10/21/88	490, 10177(b)
Rushman, Karyn K. (PRLS)	5904 Van Nuys Blvd, Van Nuys	9/6/88	10167.10(a)(1), 10167.10(b), 10167.11(a), 10167.12
Calderone, Leonard Anthony (RES)	16351 McFadden, #44, Tustin	11/8/88	490, 10177(b)
Capitolcorp Mortgage & Investments Inc (REC)	1224 N Mt Vernon Ave, Colton	10/5/88	10177(f)
De Francesco, Joseph Michael (RES)	976 W. Foothill Blvd, #414, Claremont	11/22/88	10177(j)
Durekel, Paul H. (RES)	931 Fairway Dr, Gardnerville	10/14/88	10130, 10137, 10177(d)
Fairbanks, Fredrick Aiden (RES)	27852 Camphor Tree Ln, Mission Viejo	10/21/88	490, 10177(a)(b)
Gonzalez, Elvira Penaloza (RES)	2201 W. 154th St, Gardena	11/14/88	490, 10177(b)
Graf, Bob W. (REB, REO)	41222 Big Bear Blvd, Big Bear Lake	9/6/88	2725(c), 2850, 2831, 2831.1, 2832.1, 10137, 10148, 10161.8, 10176(f)(1), 10177(d)(g)(h)
Off: Sawmill Realty Co.			
Hammer, Brian (RES)	P.O. Box 69, Diablo	11/7/88	490, 10177(b)

continued on page 3

### Licenses Revoked (continued from page 2)

NAME	ADDRESS	EFFECTIVE DATE	R. E. LAW & REGULATION VIOLATIONS
Hotaling, Norma Jean (RES)	255 Steiner, #304, San Francisco	11/30/88	490, 10177(b)
Hudson, Michael Brooks (RES)	15 Cerrito, Irvine	11/8/88	490, 10177(a)
Interamerica Financial Corporation (REC)	337 Vineyard Ave, Ste 400, Ontario	10/5/88	2830, 2831, 2840, 10137, 10145, 10148, 10176(e), 10177(d)(f)
Johnson, Dianna Jean (RES)	4728 Solola Ave, #102, San Diego	11/30/88	490, 10177(b)
Jordan, John Enoch (REB)	5470 Bancroft Ave, Oakland	10/17/88	10177(g)
Kishineff, Mitchell David (RES)	3051 Solano Ave, Napa	10/5/88	10176(a)(i), 10177(f)(g)
Kjelson, Janet Louise (REB)	1978 The Alameda, San Jose	9/7/88	490, 10177(b)
Kotoska, Brian Patrick (REB)(REO)	223 Casitas Bulevar, Los Gatos	11/28/88	490, 10177(b)
Leffler, Daniel Edward (RES)	P.O. Box 11643, Costa Mesa	11/22/88	490, 10177(b)
Luu, An Hoi (RES)	4109 West 5th St, #V2, Santa Ana	11/8/88	490, 10177(a)
Marquez-Blanton Corp (REC)	4800 Easton Dr, Ste 109, Bakersfield	9/13/88	2725, 2731, 2831, 2832, 10145, 10177(d)
Maschek, Albert James (RES)	P.O. Box 1000, Clearlake	11/14/88	2725(b), 2832, 10145, 10176(a)(i), 10177(d)(f)
Noble, Garrison Joseph (REB)	2733 Tiffany West Way, Sacramento	10/14/88	490, 10177(b)
Oskoue, Hosein M. (RES)	2261 Market St, #170, San Francisco	11/8/88	490, 10177(b)
Pantale, Gus (RES)	73600 San Geronimo, Palm Desert	10/31/88	490, 10177(b)
Perry, Marcus Hamilton (RREB)	1792 Marcy Lynn Ct, San Jose	9/12/88	10177(k)
Potter, Linda Talbot (RES)	116 Beachview Ave, Santa Cruz	11/9/88	10177(g)
Rincoon, Priscilla Lynn (RES)	46 14446 Ventura Blvd, Sherman Oaks	11/22/88	490, 10177(b)
Robbins, Leonard Allen (REB)	638 3rd Ave, Chula Vista	7/28/88	10137, 10176(g), 10177(a)
Rounds, Gordon Ellis (RES)	1422 Martingale Ct, San Dimas	11/17/88	490, 10177(b)
Saffian, Stephen Andrew (RES)	2065 Galveston St, San Diego	11/30/88	490, 10177(b)
Sawmill Realty Company (REC)	41222 Big Bear Blvd, Big Bear Lake	9/6/88	2725(c), 2830, 2831, 2831.1, 2832.1, 10137, 10148, 10161.8, 10176(f)(i), 10177(d)
Schar, Gloria Jeanne (RES)	P. O. Box 970, Los Altos	10/5/88	490, 10177(b)
Shepard, Lori B. (REB)	137 S. 8th St, El Centro aka Shepard, Lourdes Barrera	10/7/88	10177(d), 11010, 11013.2, 11018.2
Spitzel, Robert David (RES)	2130 Sunset Dr, #68, Vista	11/30/88	490, 10177(b)
Stayton, Dennis Keith (REB)	1074 East Ave, Ste E, Chico	10/31/88	490, 10177(b)
Stoebe, Beverly Donald (RES)	120 West H St, Ontario	11/17/88	490, 10177(b)
Stonesifer, Tracey (RES)	8533 Columbus Ave, #4, Sepulveda	11/8/88	490, 10177(b)
Techak, David Michael (RES)	P. O. Box 11284, Santa Ana	10/11/88	490, 10177(b)
Thomas, Louise Mary (RES)	1133 Chateaugay Dr, Modesto	9/20/88	490, 10177(b)
Thompson, David Clifford (REB)	1304 Nina Ct, Modesto	10/14/88	490, 10177(b)
Truong, Dai Tien (REB)	1915B Alum Rock Ave, San Jose	9/19/88	2785(a)(10), 10145, 10176(a)(i), 10177(d)(f)
Young, Orrin E. (REB)	145 Dillon Ave, Ste D, Campbell	10/24/88	490, 10177(b)

### Licenses Revoked With Stays

NAME	ADDRESS	EFFECTIVE DATE	R. E. LAW & REGULATION VIOLATIONS
Dan Cook, Inc., (REC) (Stayed for 5 years on condition)	1313 California Ave, Bakersfield	12/10/88	10177(g)(h)
Cook, Daniel Bragg Jr. (REB,REO) (Stayed for 5 years on conditions)	1313 California Ave, Bakersfield	12/10/88	10177(g)(h)

### Public Reprimands

NAME	ADDRESS	EFFECTIVE DATE	R. E. LAW & REGULATION VIOLATIONS
Toucano, Edna Lorena (RES)	1820 S. 9th St, Alhambra	11/10/88	10177(a)



### Revoked, continued from page 1

was guilty of fraud and dishonest dealing. The decision, signed in September, 1986, revoked the broker's license and license rights, but granted the broker the right to receive a restricted real estate broker license after a 30-day suspension, on condition the broker reimburse the seller the sum of \$5,500 as compensation for his damages. The broker filed a petition for a writ of mandamus to have the Commissioner's decision overturned by the Los Angeles County Superior Court. After the trial court upheld the decision, the broker appealed.

In a case decided in August, 1988, the California Court of Appeals, Second District, affirmed the trial court's judgement and rejected the broker's claim that the judgement was too harsh. In its opinion the court noted that "the broker dealt dishonestly and betrayed a trust when he disbursed the deposit of money of escrow without the seller's authorization" and that "the broker should not complain that the Commissioner instead chose to exercise leniency and place him on probation on the condition that he disgorge the commission he earned on the subsequent sale." In addition, the court agreed that the trial court had complied with the spirit of Government Code 11519(d) when it provided that the broker had to pay restitution to the seller for at least part of the damages incurred by the seller as a result of the broker's misconduct.

### Real estate educator's spring conferences

Two popular California Community Colleges real estate educator's conferences will be held in May in Irvine and Oakland. The conferences are staged for the benefit of full- or part-time real estate instructors throughout the state.

Each semester the California Community Colleges Chancellor's Office and the Real Estate Education Center in Modesto sponsor instructor workshops. The workshops are funded by earnings from the Community Colleges Real Estate Education Advancement Endowment Fund.

The one-day conferences emphasize teaching techniques. They are open to both public and private real estate instructors statewide.

A presentation regarding new Commissioner's Regulations and current education-related issues by a member of the State Department of Real Estate's education section will be included in the conference agenda, according to Real Estate Commissioner James A. Edmonds, Jr. There will also be a question and answer session.

The conferences are scheduled Friday, May 5 at the Registry Hotel, 18800 MacArthur Blvd., Irvine and Friday, May 12 at the Airport Hilton Hotel, 1 Hegenberger Rd., Oakland.

Advance registration is \$15 for community college-affiliated instructors and \$45 for others. Lunch is included. Day-of-conference admission will be accepted on a space-available basis. Contact the California Community Colleges Real Estate Education Center, P.O. Box 4065, Modesto, CA 95352, telephone (209) 575-6465. ♦

## Mobilehome sales — a specialty practice

by **J. Chris Graves, Deputy Commissioner II, San Diego District Office Manager, Robin Wilson, Chief Legal Officer, DRE and Kymberly Pipkin, Staff Counsel, Department of Housing and Community Development**

(Adapted from the *Real Estate Reference Book, 1987 edition*)

Legislation which became effective on July 1, 1980, expanded to some extent the ability of licensees to act as agents in the sale of mobilehomes.

A mobilehome is defined as a "structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or without a foundation system" (Business and Professions Code Section 10131.6(c)). Licensees should be careful not to confuse the term "factory built housing," which is basically modular or prefabricated housing, and the term "manufactured home," which also means mobilehome (Health and Safety Code Section 18700). With the exception of those mobilehomes which have been transformed into real property under Health and Safety Code Section 18551, licensees can only sell mobilehomes which are at least one year old and which have been registered either with the Department of Motor Vehicles (DMV) or the Department of Housing and Community Development (HCD) for at least one year. Since registration is not required until a mobilehome is sold, licensees must be careful not to rely solely on the age of the mobilehome, but on the length of time it has been registered.

There are four principal prerequisites for transforming a mobilehome into a real property: (1) obtaining a building permit, (2) placing the mobilehome on a permanent foundation, (3) obtaining a certificate of occupancy, and (4) recording a document reflecting that the mobilehome has been affixed to a foundation. Once the mobilehome has been transformed into real property, it is treated, for most purposes, in the same manner as other residential real property offered for sale or lease or finance.

Once a mobilehome has been transformed into real property it is no longer considered a mobilehome for purposes of registration or any other purposes. Attachment to a permanent foundation system in accordance with the provisions of Health and Safety Code Section 18551 also results in other consequences for the mobilehome, its owner and the licensee.

First, the mobilehome is taxable real property. Secondly, the Department of Motor Vehicles or Housing and Community Development must cancel its registration, and title to the mobilehome is thereafter recorded with the county recorder and ownership is transferred accordingly (until its removal from the foundation). Finally, once a mobilehome has been transformed into real property it appears that Section 10131.6(b) of the

Mobile, continued on Page 5

## Licenses Revoked With A Right To A Restricted License

NAME	ADDRESS	EFFECTIVE DATE	R. E. LAW & REGULATION VIOLATIONS
Adams, George Hershell Jr. (REB, REO) (Right to RREB license on terms and conditions)	2490 Prospect, Riverside	10/5/88	2725, 10159.2, 10177(d)(h)
Afnan, Mitch (REB) (Right to RREB license on terms and conditions)	666 Monterey Blvd, San Francisco	9/6/88	490, 10177(b)
Anastasi, Lloyd (REB, REO) (Right to RREB license on terms and conditions)	1200 Aviation Blvd, #203, Redondo Beach	9/30/88	2830, 2832, 10145, 10176(g), 10177(d)(g)
Arnold, Johnie Dell (RES) (Right to RRES license on terms and conditions)	P.O. Box 1128, San Luis Obispo	8/25/88	10130, 10137, 10145, 10177(d)(g)
Bebee, David Arthur (RES) (Right to RRES license on terms and conditions)	144 Kit Carson Way, Vallejo	10/5/88	490, 10177(b)
Brown, Donald Franklin (REB) (Right to RREB license on terms and conditions)	2230 Bank St, Bakersfield	10/12/88	2725, 2730, 2731, 2832.1, 2834, 10145, 10159.5, 10177(d)(h)
Budovsky, Galina V. (RES) (Right to RRES license on terms and conditions)	7001 California St, San Francisco	9/12/88	490, 10177(b)
Campion, Deborah Anne (RES) (Right to RRES license on terms and conditions)	1871 Kimberly Ln, Los Angeles	9/1/88	490, 10177(b)
Chico, Yolanda Ruth (RES) (Right to RRES license on terms and conditions)	1319 Cloverglen Dr, Valinda	10/27/88	10130, 10145(e), 10177(d)
Cogen, Zachary (RES) (Right to RRES license on terms and conditions)	4717 Van Nuys Blvd, Sherman Oaks	11/22/88	490, 10177(e)(b)
Crawford, Beverly Kay (REB) (Right to RREB license on terms and conditions)	4608 Auburn Blvd, Ste 3, Sacramento	9/7/88	10177(g)
Culliton, Betty Ann (RES) (Right to RRES license on terms and conditions)	1317 Garfield Ave, Bakersfield	10/12/88	10130, 10177(d)
Feingold, Ruitann M. (RES) (Right to RRES license after 30 days on terms and conditions)	3360 Loma Vista Rd, Ventura	10/4/88	2830, 10130, 10145, 10176(e), 10177(d)
Greene, Merle O. (RES) (Right to RRES license on terms and conditions)	P. O. Box 56077, Los Angeles	9/27/88	490, 10177(b)
Greene, Sandra (RES) (Right to RRES license on terms and conditions)	P.O. Box 56077, Los Angeles	9/27/88	490, 10177(b)
Hardt Real Estate Inc (REC) (Right to RREC license after 6 months on terms and conditions)	5100 California Ave, Ste 100, Bakersfield	9/6/88	2725, 10177(d)(g)(h)
Hardt, Herbert William (REB, REO) (Right to RREB license after 6 months on terms and conditions)	5100 California Ave, Ste 100, Bakersfield	9/6/88	2725, 10177(d)(g)(h)
Herrera, Viola G. (REB) (Right to RREB license on terms and conditions)	15815 Hawthorne Blvd, Lawndale	9/7/88	2831, 2832, 2832.1, 10177(d)
Hooper, Klaus (RES) (Right to RRES license on terms and conditions)	9501 Green Acres Dr, Bakersfield	10/12/88	10130, 10137, 10177(d)
Hughes, Chuck (RES) (Right to RRES license on terms and conditions)	1925 Clydesdale Way, Petaluma	11/1/88	2785(a)(13), 10176(a)(e)(i), 10177(d)(f)
Kelly, Edythe Diane (REB) (Right to RRES license on terms and conditions)	17130 Ventura Blvd, Encino	8/31/88	490, 10177(b)
Lambert, Paul Edward (RES) (Right to RRES license on terms and conditions)	570 W. Victoria St, Rialto	10/18/88	490, 10177(b)
Levinson, Masha (RES) (Right to RRES license on terms and conditions)	1300 Lawton St, #302, San Francisco	9/13/88	10176(i)
Marquez, Florencio (REB, REO) (Right to RRES license on terms and conditions)	5531 Business Park South, Ste 101, Bakersfield	9/13/88	10145, 10177(d)
Mollanen, Judith June (REB) (Right to RREB license on terms and conditions)	200 N. Harbor Dr, Fort Bragg	9/8/88	10177(d)(f), 11010, 11018.1, 11018.2
Montali, Assunta (REB) (Right to RREB license on terms and conditions)	8921 S. Sepulveda Blvd, Ste 208, Los Angeles	9/13/88	490, 10177(b)
Morrissey, Theresa Aida (RES) (Right to RRES license on terms and conditions)	556 Edelweiss Dr, San Jose	9/28/88	10176(a)(i)
Nacar, Antonietta Giandomenone (RES) (Right to RRES license on terms and conditions)	5803 Leadrope Way, Conita	7/19/88	490, 10177(b)
O'Rourke, Sharon (RES) (Right to RRES license on terms and conditions)	P. O. Box 493, Fair Oaks	9/15/88	490, 10177(b)
Posey, Mary Vandervalk (RES) (Right to RRES license on terms and conditions)	P.O. Box 26814, San Jose	9/1/88	490, 10177(a)(b)
Rennick, Henry Lewis (RES) (Right to RRES license on terms and conditions)	90 Crescent Dr, Palo Alto	10/11/88	490, 10177(b)
Sabedra, Virginia (RES) (Right to RRES license on terms and conditions)	7110 McClure Ct, Sacramento	10/6/88	10177(g)
Seckler, Philip Joseph (RES) (Right to RRES license on terms and conditions)	1156 Garrett Ct, San Jose	9/7/88	2831, 2831.1, 2834, 10130, 10137, 10145, 10177(d)
Sherrard, Toni Euster (REB) (Right to RREB license on terms and conditions)	3 Misty Meadow, Irvine	11/18/88	10177(h)
Shine, William George (REB) (Right to RREB license on terms and conditions)	1701 Westwind Dr, #130, Bakersfield	11/28/88	2731, 2830, 2832, 10130, 10137, 10145, 10161.8, 10165, 10177(d)(g)(h)

continued on page 5,

### Licenses Revoked With A Right To A Restricted License (continued from page 4)

NAME	ADDRESS	EFFECTIVE DATE	R. E. LAW & REGULATION VIOLATIONS
Stuppi, Nancy Anne (REB) (Right to RREB license on terms and conditions)	1010 Mason Mall, Crescent City	9/1/88	2731, 10145, 10148, 10159.5, 10176(e), 10177(d)
Tedden, Roy Roderick (REB) (Right to RREB license on terms and conditions)	415 Hwy 101 South, Crescent City	9/1/88	2725, 2831, 10137, 10145, 10148, 10177(d)
Thomas, Mark Allen (REB, REO) (Right to RREB license after 30 days on terms and conditions)	2305 Victoria Ave, Oxnard	10/4/88	2830, 2831, 2832.1, 10145, 10148, 10177(d)
Thomas, Richard Leland (RES) (Right to RRES license on terms and conditions)	303 E. Bullard, #127, Fresno	12/3/87	490, 10177(b)
Wesley, William (REB) (Right to RRES license on terms and conditions)	457 Grass Valley Hwy, Auburn	9/15/88	490, 10177(b)

### Licenses Suspended

NAME	ADDRESS	EFFECTIVE DATE	R. E. LAW & REGULATION VIOLATIONS
Afte, Julio Rafael (RES) (6 months)	431 Mayland, La Puente	11/22/88	10177(f)
DuCro, Clarence Eildred (RES) (30 days)	1140 West 77th St, Los Angeles	7/7/88	10176(a)(i), 10177(g)

### Licenses Suspended With Stays

NAME	ADDRESS	EFFECTIVE DATE	R. E. LAW & REGULATION VIOLATIONS
Barff, Delia May (REB) (Suspended for 30 days; Stayed for 1 year on condition)	1928 Main St, Fortuna	9/8/88	2785(a)(10) 10177(d)
Chambliss, David (REB) (Suspended for 30 days; Stayed on condition)	8250B Mira Mesa Blvd, San Diego	9/19/88	10148, 10177(d)
Langdon, Paige Alvin (REB) (Suspended for 30 days; Stayed for 1 year on terms and conditions)	1690 Woodside Rd, Ste 103, Redwood City	10/5/88	2832.1, 10145, 10177(d)
Musselman, Robert Earl (REB) (REO) (Suspended for 30 days; All but 7 days stayed for 1 year on terms and conditions)	1300 S. Mooney Blvd, Ste 6, Visalia	9/27/88	2731, 10159.5, 10177(d)(h)
Starks, Phyllis Joyce (RES) (Suspended for 60 days; All but 15 days stayed for 1 year on condition)	Star Rt Box 170, Wrightwood	9/7/88	10130, 10177(d)
Wall, Donald Fletcher (REB) (REO) (Suspended for 90 days; All but 30 days stayed for 1 year on conditions)	338 W Lexington Ave, Ste 106, El Cajon	10/31/88	10177(b)
Williams, Leslie Alan (REB) (Suspended for 30 days; Stayed for 1 year on condition)	223 N. San Mateo Dr, San Mateo	11/7/88	10176(a)(i), 10177(g)

### Indefinite Suspensions Under Recovery Fund Provisions

NAME	ADDRESS	EFFECTIVE DATE
Art Bishop Realty, Inc. (REC)	11149 S. Crenshaw Blvd, Inglewood	10/26/88
Balcombe, Clayton Sexton (RES)	686 N. Carmelia Wy, Porterville	10/26/88
Balcombe, Donna Joyce (REB)	P.O. Box 1081, Porterville	10/26/88
Binns, Laura Lee (RES)	3217 Alta Wood Ct, Sacramento	11/01/88
Bishop, Art (REB)	11149 S. Crenshaw Blvd, Inglewood	10/26/88
Bohannon, Sharon Elardo (RES)	3809 Meade Ave, San Diego	10/03/88
Butler, Merlyn M. (REB)	P.O. Box 1750, Atascadero	10/06/88
Flynn, Charles Welch (RES)	14361 Lake St, Garden Grove	10/03/88
Golden Homes, Inc. (REC)	2285 Cleveland Ave, Santa Rosa	10/06/88
Leahy, Austin Joseph (REB)	1100 Quail St, Newport Beach	09/19/88
McCormack, Cyril Roland (RES)	P.O. Box 3200, Laguna Hills	10/03/88
Ryan, Joseph Patrick, Jr. (RES)	38800 Glenview Dr, Fremont	10/11/88
Saito, Mark (REB)	2512 El Camino Real, Redwood City	9/29/88
Thompson, Howard James (RES)	5906 Rancho Mission Rd, #14, San Diego	10/03/88
Tyhl, Robert Joseph (RES)	P.O. Box 5665, Tahoe City	11/04/88
Wayne, Barbara Sue (REO)	Golden Homes, Inc., 2285 Cleveland Ave, Santa Rosa	10/06/88
Wayne, Virgil Michael (RES)	c/o Golden Homes, Inc., 2285 Cleveland Ave, Santa Rosa	10/06/88

### Mobile, continued from Page 4

Business and Professions Code is no longer applicable. Real estate brokers should be able to maintain an office to engage in the sale of mobilehomes at any location where all except one of the mobilehomes have been attached to a permanent foundation system.

After a mobilehome has been attached to a foundation system pursuant to Health and Safety Code Section 18551, it is taxable in the same manner as other real property.

Licenses should refer to Health and Safety Code Sections 18080 — 18110 and appropriate HCD regulations for a detailed understanding of the requirements which must be followed in order to transfer title to a mobilehome and establish a lien interest. Knowledge of these criteria is particularly important in order to perfect a security interest in a mobilehome.

A broker engaged in the sale of mobilehomes should, with some degree of assurance, be able to advise clients and prospective clients of the following:

1. Any new mobilehome sold before July 1, 1980, is taxed under the depreciating "in lieu taxation" ("ILT") system administered by HCD, which also maintains the titling records to that mobilehome.
2. Any new mobilehome sold after July 1980, is taxed by the county in which it is situated, either on the unsecured property tax rolls or, if placed on a permanent foundation, as real property.
3. For mobilehomes taxed under the "ILT" system with HCD, any fees which are more than 120 days delinquent result in a lien placed on the mobilehome in favor of the State of California in the amount of the delinquency and a 20% penalty. Title will not be transferred on such a mobilehome until the lien is satisfied and an additional penalty of \$50 per transportable section of the mobilehome is paid.

A real estate broker engaging in used mobilehome sales must, not later than the end of the tenth calendar day after the sale of a mobilehome that is subject to registration, give written notice of the transfer to HCD on a form prescribed by that department.

Whenever a mobilehome is to be moved, licensees should contact CalTrans or HCD to ensure that all laws and regulations pertaining to the move are followed. In addition to statutory equipment requirements for the moving of a mobilehome over the public highway, a permit must also be obtained from the Department of Transportation or from the local authorities with respect to highways under their respective jurisdictions.

Business and Professions Code Section 10177.2

Mobile, continued on Page 6

**Mobile**, continued from Page 5

sets forth the grounds on which the Real Estate Commissioner can revoke or suspend a real estate license. Grounds for discipline include, as particularly appropriate to mobilehome transactions, the following:

1. Using a false or fictitious name, knowingly making a false statement, knowingly concealing a false fact in any application for registration or otherwise committing a fraud in such application.
2. Failure to provide for delivery of a properly endorsed certificate of title or ownership from the seller to the buyer.
3. Knowingly participating in the purchase or sale of a stolen mobilehome.
4. Violation of one or more of the terms and provisions of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, of Part 5 (commencing with Section 101701) of Division 2 of the Revenue and Taxation Code, or Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code, or a rule or regulation adopted pursuant thereto.
5. Submission of a check, draft or money order to HCD for any fee or obligation due the State for which payment is refused on presentation.

When selling a mobilehome, licensees are not required to use third party escrow holders when preparing escrow instructions; the proration of usual items such as ground rent, or taxes is permissible. The proration of license fees is also permitted if buyer and seller agree to it.

If an escrow is used, the sale is complete upon the close of escrow. When no escrow is used, the sale is complete when the buyer has signed a purchase contract or security agreement and has taken possession of the mobilehome. If a broker chooses not to use a third party escrow in connection with a mobilehome sale transaction, then he must comply with the terms of Section 2950, Title 10 of the California Administrative Code.

Many laws apply to mobilehomes: Real Estate Law, Health and Safety Code, Civil Code, Commercial Code, Business and Professions Code, Vehicle Code, Revenue and Taxation Code, and Administrative Code, and the federal Truth in Lending Act.

Before marketing your mobilehome listing, be certain to review these code sections to avoid enforcement activities by the DRE and other regulatory agencies. ♦



## New guidelines for ethics & agency courses

by Thomas L. Mabry Managing Deputy Commissioner II

In response to recommendations from his Code of Ethics Task Force, Real Estate Commissioner James A. Edmonds, Jr. has developed new curriculum guidelines for continuing education course sponsors offering courses in Ethics and Agency.

Real Estate licensees are required under provisions of the Business and Professions Code (Section 10170.5) to complete three-hour continuing education courses in the fields of Ethics and Agency prior to each four-year license renewal. According to the task force's findings, repetition of the same basic course content by licensees each renewal period may reduce the educational benefit of the courses. The new guidelines, which are listed below, are intended to provide flexibility in course content and accord each student the opportunity to benefit from in-depth coverage of the subjects of Ethics and Agency.

### ETHICS:

Courses should include a minimum coverage of one subsection of Commissioner's Regulation 2785 as pertaining to California real estate licensees, however, coverage of Commissioner's Regulation 2785 subsections may be compared to and discussed as they relate to the real estate standards of other professional organizations, institutes, societies, etc., and to the specialized areas of real estate practice, e.g., commercial, industrial, business opportunities, mortgage lending, etc.

Coverage of appropriate court decisions and practical examples and/or case studies as related to real estate practice and ethical behavior are recommended.

### AGENCY:

Include as the primary focus of the course, coverage of Agency Relationships in a modern brokerage practice, review of duties, required disclosures and confidences and required forms, including those specified under Civil Code Section 2373 et. seq. (Assembly Bill 1034, Chapter 785, Section 2) as related to:

- In-house sales
- Dual agency
- Cooperative sales
- Buyers brokerage

It is recommended that other Agency topics of current interest which are related to the activities of California real estate licensees be included in proposed course content. Any legislation, regulation, article, report, court decision, etc., mentioned in the course should be referenced for the student's convenience.

Instruction time for both Ethics and Agency courses, including exam time, must total a maximum of 150 minutes (three classroom hours). If a licensee completes either an Ethics or Agency course approved for more than three (3) hours, the excess time will be credited to the "Consumer Protection" category. Thus, if an Ethics (or Agency) course is approved for eight (8) hours of credit, three (3) hours will be counted as Ethics (or Agency) and five (5) hours will be credited as Consumer Protection. The licensee's certificate of completion, issued by the course sponsor, will indicate eight (8) hours of Ethics (or Agency) credit, however, when processing the licensee's renewal application, the Department will accept five (5) hours excess credit under the Consumer Protection category. ♦

## News about salesperson license exams

As part of the Department of Real Estate's ongoing efforts to maintain the currency of its licensing examinations, a *Job Analysis and Testing Procedures Study* was completed by Educational Testing Service in 1987. Effective February 1, 1989, the real estate salesperson examinations were revised to reflect the recommendations of the study. The content areas and overall weightings for the revised salesperson examination are:

	WEIGHT
1. Real Property and Laws Relating to Ownership	11%
2. Tax Implications of Real Estate Ownership	8%
3. Valuation/Appraisal of Real Property	15%
4. Financing Real Estate	17%
5. Transfer of Property	10%
6. Real Estate Practice	22%
7. Brokerage: Responsibilities and Functions of Salespersons	17%

New broker examinations also will be developed in accordance with the study's recommendations and will be administered in winter, 1989/90.

**THERE HAS BEEN NO CHANGE IN THE REQUIREMENTS TO APPLY FOR EITHER THE SALESPERSON OR BROKER EXAMINATIONS.**

To obtain a copy of the *Job Analysis and Testing Procedures Study* send \$6.00 plus tax to the Department of Real Estate P.O. Box 187006, Sacramento, CA 95818-7006. ♦

# Anti-rebate laws

by Bob Gilmore, Asst. Commissioner, Subdivisions

Almost every real estate transaction involves choosing a title company for title insurance. Most consumers have no idea which company they want to use, and have little knowledge as to the comparisons between title insurers on the basis of product cost, quality, or service. Instead they rely on the advice and referral of the real estate agent. A real estate licensee may recommend a title company to a client if he or she does not receive any unlawful rebates.

Business and Professions Code Section 10177.4 empowers the Real Estate Commissioner to suspend or revoke a real estate license for claiming, demanding or receiving a commission, fee or other compensation for referring a

customer to any title insurer, escrow service, structural pest control firm, or home protection company. Compensation may include a fee, commission, gift or some other form of inducement.

Receipt of compensation for performing certain activities is not considered unlawful compensation. This would include bona fide payments for goods or services actually furnished by the licensee if the payment is reasonably related to the value of the goods or services furnished.

It would be acceptable to furnish documents or services of a customary nature in the real estate business and which relate to the product or services of the furnisher if available on an equal basis to all customers. Also the receipt of moderate expenses for meals, beverages and similar items by licensees or groups or associations is acceptable if within the customary practice pertaining to the business furnishing these items.

Anti-rebate, continued on Page 8

## REAL ESTATE PUBLICATION REQUEST

Cut here or photocopy order form.

*Make check or money order payable to:*  
Department of Real Estate

*Mail To:*  
Department of Real Estate  
Book Orders  
P. O. Box 187006  
Sacramento, CA 95818-7006

*Do Not Send Cash*

*For Faster Response:*  
Please include a self-addressed mailing label (not less than 1 1/2 x 3 1/2 in size)

*DRE Cannot Accept Returns or Make Refunds*

*Prices Are Subject To Change*

*Allow 4-6 Weeks For Delivery*

*California Sales Tax:*  
Orders originating in California must include state sales tax. Requests and fees will be returned if the appropriate sales tax is not included.

DRE#	RE#	Title of Publication, Brochure, Report or Video	Cost Per	Quantity	Your Cost
	1	1987 Reference Book	\$12.50		
	2	1987 Real Estate Law Book (Free 1988 Supplement included)	\$12.50		
	3	1988 Supplement to Real Estate Law (brochure)	\$2.00		
	4	Instructions To License Applicants (brochure)	Free		
	6	Disclosures in Real Estate Transactions (1987; brochure)	\$2.00		
	7	A Homeowner's Guide to Foreclosure in California (1987; brochure)	\$2.00		
	35	Trust Deed Investments - What you should know (1989; brochure)	\$2.00		
	11	Consumer Protection and Licensee Liability Protection (1987; report)	\$6.00		
	12	Deregulation of Financial Institutions (1987; report)	\$6.00		
	17	Future of California Housing Resale Market (1986; report)	\$6.00		
	18	Licensee Interaction With Respect To Marketing REO's (1987; report)	\$6.00		
	19	Common Interest Homeowners' Associations Management Study (1987; report)	\$6.00		
	20	Payment and Interest Rate Shock (1987; report)	\$6.00		
	21	Job Analysis and Testing Procedures Study (1987; report)	\$6.00		
	22	Real Estate Licensee's Role in the Marketing of Housing to the Elderly (1986; report)	\$6.00		
	23	Real Estate Specialization - Need for Special Licenses and/or Educational Requirements (1987; report)	\$6.00		
	24	Reasons for Today's Foreclosures (1987; report)	\$6.00		
	25	Rental Housing Data Base (1986; report)	\$6.00		
	26	Restructuring of the Real Estate Brokerage Industry (1986; report)	\$6.00		
	27	Review of California's Continuing Education Program—including testing requirements (1987; report)	\$6.00		
	30	Study of California's Real Estate Appraisal Industry: Past Performance and Future Outlook (1988; report)	\$6.00		
	28	Supervision of the Real Estate Office (1987; video)	\$25.00		
	29	Trust Funds (1987; video)	\$25.00		
	32	Compliance with the Real Estate Transfer Disclosure Law (1988; video)	\$25.00		
	33	Agency Disclosures in Residential Real Estate Transactions (1988; video)	\$25.00		

Shipping Name		
Shipping Address		
City	State	Zip Code

SUBTOTAL	
+ CALIFORNIA STATE SALES TAX	
TOTAL ENCLOSED	\$

**Rent-a-broker, continued from Page 1**

company and its business. She had no responsibility for the daily operations of the company, including hiring and firing, loan decision-making or investor solicitation. She was, essentially, used as a front for the salesperson. Based on the foregoing evidence, her individual real estate broker license was revoked. (The licenses of the corporation and the salesperson were also revoked.)

In another case, a broker who maintained his main office in southern California, opened a property management branch office in northern California and allowed a real estate salesperson to operate the office with virtually no supervision. When a trust account shortage was discovered in the northern California office, a formal action was initiated and the evidence showed that the broker was little more than a figurehead. The Commissioner revoked the broker's license outright.

A person who deliberately compromises the duties imposed upon him or her by virtue of being licensed as a broker has failed to act according to the standards imposed by the Department of Real Estate for protection of the public. The DRB has and will vigorously continue its efforts to remove such persons from the real estate industry.

If you are a licensed broker, you are aware of the time and effort you have expended in order to obtain your license. Do not be so foolhardy as to jeopardize your future status as a licensee by becoming a "Rent-A-Broker."

It's not worth it!

**Anti-rebate, continued from Page 7**

Insurance Code Section 12404 has similar restrictions imposed on title insurers. Section 12404 makes it unlawful for a title company to furnish rebates to a licensee for referring customers. This prohibits the payment, either directly or indirectly, of any commission, rebate or other consideration as an inducement for referring business to the title company.

As found in the prohibitions of referrals by licensees, there are certain exceptions given to the title insurers. This may include moderate expenditures for food and the furnishing of certain property information to customers and licensees.

These laws were enacted in order to promote a free and competitive consumer oriented market.

The underlying assumption for these anti-rebate provisions is that the licensee may not choose a service that will be the most competitive in pricing or service for the consumer, if the licensee is receiving some special compensation for the referral.

It is also assumed that someone selecting a service for a client who is not receiving any personal compensation for the selection will either recommend a listing of competitive companies or will not make a recommendation.

This enables competing firms of title insurers, escrow companies, etc. to provide competitive prices and services directed towards satisfying the final consumers.

**Enterprise zones: opportunities for development**

The California Department of Commerce's Enterprise Zone Program offers real estate licensees an opportunity to promote job-producing industrial development of benefit to all Californians. Licensees are needed to assist in promotion of California's 19 enterprise zones and employment incentive areas.

Department of Commerce representatives will be pleased to visit your office and present to you and your colleagues a definitive, 30-minute dialogue. The presentation is designed to explain the benefits of enterprise zone development and enlist support from California's real estate professionals.

Enterprise zones and employment incentive areas are located in:

Bakersfield	Madera	San Jose
Calexico	Marysville	San Pedro
Colton	Pacoima	South Gate
Eureka	Pittsburg	Watts
Fresno	Porterville	West Sacramento
Huntington Park	Rialto	Wilmington
Los Angeles	Riverside	Yuba City
Lynwood	Sacramento	
	San Diego	

If you are interested, call John Henry King at the California Department of Commerce. His telephone number is (916) 322-3507. Ask for the Real Estate Broker Information Package.



Official Publication

CALIFORNIA DEPARTMENT OF REAL ESTATE

P.O. BOX 187000

Sacramento, California 95818-7000

Second Class Postage

PAID

at

Sacramento, California