



Real Estate Bulletin

Official Publication of the California Department of Real Estate

RONALD REAGAN, *Governor*

Summer 1970

BURTON E. SMITH, *Commissioner*

Recovery Fund Claims Hit One Million Dollar Level

Lying unobtrusively at the end of a recent administrative report is a good clue that the Recovery operation of DRE has matured. Irving Halpern, Senior Counsel, responsible for Recovery Fund operations, reported that in May 1970 the total amount of claims filed since 1964 reached \$1,006,870, of which \$346,695 has been paid; \$291,557 has been abandoned, denied, or compromised; and the balance is pending.

As most *Bulletin* readers know, the objective of this *Recovery* operation is to indemnify the public's loss due to wrongful acts of licensees; and in so doing, to enhance the prestige and integrity of the real estate profession.

Conferences and studies by government and industry that explored other methods of indemnification resulted in the finding that the Recovery Fund was much less expensive and more feasible than attempting to bond all licensees.

Another major factor of consideration was that no licensee is excluded from coverage under the Recovery Fund. It is worthy of note that the cost to cover a loss of \$10,000 in a single transaction, and \$20,000 for a given licensee, is about \$1 per year per licensee.

This program of indemnification came into being through legislation jointly sponsored by CREA and DRE in 1963, and it became effective in 1964. Included were limitations on the amount of awards, along with other safeguards to protect the Recovery Fund against unwarranted claims. To date, the program has received considerable and favorable commentary from both the public and the industry, and it appears destined to improve the public image of the industry. Arizona was the first state to implement this type of legislation and

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HELP ELIMINATE DELAYS

License applications and requests for license changes which are incomplete cause undue delay in all processing. When communicating with the DRE, please make sure that all necessary documents and fees are enclosed with any initial request, and that all applications are carefully reviewed and completed in full on up-to-date forms.

Broker-Salesman Contracts Will Prevent Disputes

The subject of employment contracts between brokers and salesmen is often touched on in the *Bulletin* because so many calls come into the DRE offices from salesmen and brokers who are engaged in disputes arising from their employment relationship. They ask about commission splits, salesman's listing compensation and innumerable other matters, and what the usual arrangement is in a particular situation. They want to know if these matters are covered by the law.

The law does not specifically require an "employment contract" between the employing broker and the salesman to be in writing. However, in connection with Regulation 2725, the

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Changes in Real Estate Law; Other Bills Affecting Real Estate Practice Discussed

This is an interim report of 1970 legislative action relating to real estate practice. An additional legislative report will be included in the fall or winter issue.

● AB 202 (Knox)—Amends Section 10251 of the Business and Professions Code relating to syndication. It clarifies the definition of a "real estate syndicate" by providing that *an interest held by a husband and wife shall be considered held by one person*. When the Real Estate Syndicate Act was enacted in 1969, jurisdiction over real estate syndicates involving 100 or less interests was transferred from the Corporations Commissioner to the Real Estate Commissioner. The amendment clarifies intent of the legislation by eliminating, categorically, any question as to classification and jurisdiction. *A departmental bill*.

● AB 130 (Z'berg)—Amends Civil Code Section 2943. Under the law, as amended, licensed escrow agents, title companies and real estate brokers handling their own escrows are "entitled persons" for the purpose of demanding a *specified statement* from a mortgage or trust deed beneficiary. An "entitled person," prior to the change in the law, could obtain a *specified statement* showing details and status of a mortgage from the beneficiary of a trust deed.

Only trustors or mortgagors of the property, beneficiaries under subordinate deeds of trust, and other persons having subordinate liens or encum-

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Real Estate Commissioner

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The Real Estate Bulletin is a quarterly published by the State of California, Department of Real Estate, as an educational service to all real estate licensees in the state under the provisions of Section 10083 of the California Business and Professions Code.

From the license renewal fee, \$1 is allocated to cover subscription to the Bulletin. Second Class Postage Paid at Sacramento, California.

Disciplinary Action—March 1970—June 15, 1970

REB—Real estate broker RES—Real estate salesman REO—Real estate officer
RREB—Restricted real estate broker RRES—Restricted real estate salesman 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 upon application are not published.

Licenses Revoked From March 1970 Through June 15, 1970

Name	Address	Effective date	Violation R.E. Law/Regulations
Mogensen, Cecilia Aude (RES)	95 Roan Pl., Woodside	3/ 3/70	10177(b)
Rork, Wesley Lawrence (RES)	802 E. Windsor Rd., Glendale	3/ 5/70	10177(b) (f)
(Right to RRES license on terms and conditions)			
Harner, Robert Wayne (RES)	4431 La Madera, El Monte	3/17/70	10177(b) (f)
Lane, Thom Property Management Co. (REC)	25162-A Malibu Rd., Malibu	3/17/70	10145, 10177(d) (f)
Shroyer, Jack Morton (RES)	26158 E. Lynwood, San Bernardino	3/17/70	10177(b) (f) (k)
Earl, Neil Glenn (RRES)	14001 Ventura Blvd., Sherman Oaks	3/25/70	10177(f) (k)
Ramirez, Martin John (REB)	1395 W. Phillips, Pomona	3/26/70	10177(b) (f)
Alex, Clarence Joseph (REB)	524 Tenth St., Richmond	3/31/70	10145, 10162, 10176(c) (f), 10177(d) (f); 2754
Kearney, Dayton George (RES)	310 N. San Vicente Blvd., Los Angeles	3/31/70	10130, 10137, 10177(d)
(Right to RRES license on terms and conditions)			
Guerrero, Mario (RREB)	14870 Dalman Ave., Whittier	4/ 7/70	10177.5, 10177(f)
Asst. Secy., Calvestors, Inc. (REO)			
Zieber, Lillian Virginia (REB)	1132 Hamilton Ave., Campbell	4/13/70	10176(c) (f), 10177(d)
Dba Tahoe Top Properties			
Dba Kayco Sales Co.			
Carpenter, Duane Oliver (REB)	8620 Wilshire Blvd., Beverly Hills	4/15/70	10177(b) (f)
(Stayed for 3 yrs. on condition)			
Christoffel, Raymond Frank (RES)	10657 Andasol, Granada Hills	4/15/70	10177(b) (f)
Wermuth, Robert Merlin (RJO)	252 S. Wetherly Dr., Beverly Hills	4/15/70	10177(b) (f)
Asst. Secy., Condo Communities, Inc.			
Ballinger, Benjamin, Jr. (REB)	9601 S. Hoover, Los Angeles	4/28/70	10177(b) (f)
(Stayed for 3 yrs. on terms and conditions)			
Boynton, Albert Harrison (REB)	1020 B St., Hayward	5/ 5/70	10177(b)
Dba A B C Realty Co.			
(Right to RREB license after 30 days on terms and conditions)			
Menitto, John Gerald (RES)	6425 Hollywood Blvd., Los Angeles	5/ 6/70	10100, 10175, 10176(a) (f), 10177(d)
(Right to RREB license on terms and conditions)			
Wiggan, Herman Nicholas (REB)	1608 San Pablo Ave., Oakland	5/ 6/70	10145, 10176(c) (f), 10177(d) (f) (g)
(Stayed for 3 yrs. on terms and conditions)			
Froellich, Kenneth Albert (REB)	Rio Nido	5/12/70	10176(a) (g) (f), 10177(f)
Dba Froellich's Realty Co.			
(Right to RREB license after 30 days on terms and conditions)			
Scorsio, Gordon Kenneth (REB)	831 State St., Santa Barbara	5/12/70	10145, 10162, 10176(c) (f), 10177(d)
Francis, Byron Lathrop (RES)	1279 Westwood Blvd., Los Angeles	5/14/70	10177(b) (f)
Pope, Lyle Robert (RREB)	400 N. Newport Blvd., Newport Beach	5/14/70	10177(b) (f)
Thompson, Nelson (REB)	1038 E. Compton Blvd., Compton	5/14/70	10145, 10176(c) (f), 10177(f)
Dba Homebuyer's Mart			
(Stayed for 3 yrs. on terms and conditions)			
Kvasnicka, Jack Delbert (REB)	18 Friant Dr., South Lake Tahoe	5/18/70	10176(d), 10177(f)
(Right to RREB license on terms and conditions)			
Friedman, Herman (RES)	624 S. La Brea Ave., Los Angeles	5/19/70	10100, 10175, 10176(a) (f), 10177(f) (f)
(Stayed for 3 yrs. on terms and conditions)			
Gomard, Corinne Mary (RES)	3110 Barbara St., San Pedro	5/19/70	10177(b) (f)
Green, David Irving (REB)	624 S. La Brea Ave., Los Angeles	5/19/70	10100, 10175, 10176(a) (f), 10177(f) (f)
Pres., California Home Loan Corp. (REC) (REO)			
(Stayed for 3 yrs. on terms and conditions; one condition 90-day suspension)			
Whitehead, Frank Henry, Sr. (REB)	1809 N. Western Ave., Hollywood	5/19/70	10176(a) (d) (g) (f), 10177(f) (f)
Dba Whitehead Realty Co.			
Paris, Rocky Anthony (REB)	3575 Stevens Creek Blvd., San Jose	5/21/70	10176(a) (f), 10177(f) (f)
(Right to RREB license on terms and conditions)			
Bifarella, Peter Anthony (REB)	139 S. Washington St., Sonora	5/25/70	10177(b)
Cox, William Lee (REB)	245 N. K St., Tulare	5/25/70	10177(b)
Dba Town and Country Realty			
Dba Twain Harte Realty			
Dba Mi-Wuk Village Realty			
(Right to RREB license on terms and conditions)			
Cosgrove, Raymond Joseph (RREB)	2122 Market St., San Francisco	5/26/70	10177(b)
(Stayed for 2 yrs. on terms and conditions; one condition 15-day suspension)			
Williams, Fred Calvin (REB)	7811 S. Western Ave., Los Angeles	5/26/70	10145, 10176(f), 10177(d) (f)
Porjes, Michael (REB)	13050 E. Valley Blvd., La Puente	6/ 2/70	10165, 10177(d) (f)
LeClair, Carlos (RES)	1228 Loara St., Anaheim	6/ 4/70	10177(b) (f)
Reich, Kenneth Sproat (REB)	10380 Wilshire Blvd., Los Angeles	6/10/70	10177(b)
Dba Castle Real Estate			

LICENSE INFORMATION MUST BE OBTAINED FROM SACRAMENTO

Department district office personnel report that many licensees believe erroneously that duplicate license files are maintained in the district offices. License files are all maintained in Sacramento.

You may telephone, write or visit the nearest district office for license information if it is more convenient for you. You will receive the answer by mail from Sacramento.

For immediate up-to-the-minute answers, you may call Sacramento direct at 445-5741 (Code Area 916).

The information available concerning the license status of an individual or corporation is: (1) Confirmation that the person is licensed; (2) business address; (3) expiration date; (4) name of agency, if operating under fictitious name; and (5) record of any formal disciplinary action.

Licenses Suspended From March 1970 Through June 15, 1970

Name	Address	Effective date	Violation R.E. Law/Regulations
Taylor, Richard Kenyon (REB)	1007 Russ Bldg., San Francisco	3/ 3/70 270 days	10177(f) (j)
Howard, Kenneth Newton (RES)	7901 McConnell Ave., Los Angeles	3/10/70 45 days	10177(f) (j)
Crosby, Donald Richard (REB)	2237 Contra Costa Blvd., Pleasant Hill	3/17/70 15 days	10145, 10176(e), 10177(d) (f); 2830, 2831.1, 2832
Graham, Homer Dale (REB)	18 E. Canon Perdido, Santa Barbara	3/17/70 60 days	10145, 10176(i), 10177(d) (f) (j); 2831, 2831.1
Rigney, Daniel David (REB)	2337 Market St., San Francisco	3/17/70 60 days	10176(a), (i), 10177(f) (g) (j)
Robinson, Virgil Eugene (RRES)	35930 Vinewood St., Newark	3/17/70 30 days	10177(k)
Fontaine, Jack Bisby, Jr. (REB)	1425 Ocean Ave., San Francisco	3/24/70 Indefinitely	10475
Partin, James Franklin (RES)	1637 S. Euclid St., Anaheim	3/26/70 60 days	10177(a) (b) (f)
Wallace, Edward (RES)	12047 Paramount Blvd., Downey	3/26/60 180 days	10177(b) (f)
Roxy, David Raymond (RES)	2023 Middlebrook Rd., Torrance	3/27/70 One year	10177(b) (f)
Escobar, Juan Jose (REB)	3017 Mission St., San Francisco	3/31/70 5 days	10145, 10176(a) (i), 10177(d) (f); 2830, 2831.1
Staple, Dorcen Hazel (RES)	8833 Hazeldon St., Santee	3/31/70 120 days	10177(b) (f)
Williams, John Oliver (REB)	275 S. La Cienega Blvd., Beverly Hills	4/ 1/70 180 days	10145, 10176(i), 10177(d) (f) (j); 10249
Rose, George Roscoe (REB)	2710 Howe Ave., Sacramento	4/ 6/70 30 days	10177(f) (g)
Ward, Lem Fred (REB)	529 S. Second Ave., Covina	4/15/70 90 days	10177(d) (f)
Hendry, Margarete Erika (RES)	10889 Wilshire Blvd., Los Angeles	4/16/70 30 days	10177(b)
Patterson, Jay Richard (RES)	102 E. Blithedale, Mill Valley	4/21/70 15 days	10177(d) (g); 2901
Kockos, Basil (REB) (REO)	180 El Camino Real, Millbrae	4/29/70 30 days	10130, 10177(d) (f) (g)
Kockos, John (REB) (REO)	133 Pepper Ave., Burlingame	4/29/70 30 days	10176(i), 10177(f)
Hogstrom, Raymond William (REB)	1200 S. Hwy. 9, San Jose	5/12/70 5 days	10176(a), 10177(f) (g)
Swartz, Robert Norman (RREB)	1200 S. Hwy. 9, San Jose	5/12/70 20 days	10176(a), 10177(f) (g)
Zissis, James (REB) (RES)	Hearst Bldg., San Francisco 15454 Via Caballero, Monte Sereno	5/15/70 15 days	10176(e), 10177(g)
Chrm., Bd of Dir., American Plan Inv't. Corp. (REO)	Hearst Bldg., San Francisco		
Green, David Irving (REB)	624 S. La Brea Ave., Los Angeles	5-19/70 90 days	10100, 10175, 10176(a) (i), 10177(f) (j)
Doctor, Arthur (REB)	8350 Melrose Ave., Los Angeles	5/20/70 134 days	10162, 10165, 10177(d) (f); 2754
Williams, Fred Calvin (REB)	7811 S. Western Ave., Los Angeles	5/26/70 15 days	10145, 10176(i), 10177(d) (j)
Cole, Patricia Lee (RES)	1665 S. Brookhurst St., Anaheim	5/27/70 15 days	10177(f)
Kamins, Marvin Stanley (REB)	22745 Dolorosa St., Woodland Hills	6/ 2/70 30 days	10131, 10177(d) (b); 2731, 2851, 2852
Santa, Charles Paul (RES)	8005 Florin Rd., Sacramento	6/ 3/70 10 days	10176(i)
Manas, Salvador Rubio (REB)	2008 - 28th St., Sacramento	6/ 9/70 10 days	10176(e) (i)

Broker-Salesman Contracts

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broker may not delegate his responsibility to review and initial real estate agreements to salesman or broker unless he has entered into a written employment agreement which delegates the authority to initial such agreements.

Unquestionably, written employment contracts would prevent most of these disputes which can be so damaging not only to individual morale but to the potential of a business. The following have been listed as benefits deriving from the use of broker-salesman employment contracts and they merit careful attention where such contracts are not already in use:

- It is good business practice. Most businesses have found verbal contracts unsuccessful and now use written contracts.
- A written agreement is professionally sound.
- It tends to prevent broker-salesman disputes. Disputes generally occur due to misunderstanding rather than negligence or intent to defraud. An adequate contract, therefore, could alleviate much of the dispute problem.
- A contract designates responsibility. Both the broker and salesman know what is expected of them when they have a written agreement.
- Broker-salesman contracts certify the promises made between a salesman and broker and leaves no room for forgetting promises.
- A contract serves as legal support in evaluating broker-salesman complaints. If the time ever arises where a case goes into the courtroom, a written contract serves as proof where a verbal contract certainly leaves room for doubt.
- A broker-salesman contract offers peace of mind. When a contract is used, the salesman is freed from worries about commissions and he knows his responsibilities and can therefore concentrate on good salesmanship.

COMMISSIONER MAKES CHANGES IN ORGANIZATIONAL STRUCTURE

In a move to establish more flexible work assignments and cross-training capabilities with a better chain of supervision and control, the Commissioner recently appointed Raymond M. Dabler, Assistant Commissioner, to administer a newly reorganized section in Sacramento including education and research, publications, examinations and qualifications. Dabler was formerly in charge of the Northern

Regulatory Area, with headquarters in San Francisco.

The change involves merging the department's Central and Northern Regulatory operations into one area with Harold H. Wells, Assistant Commissioner, in charge. Wells formerly headed the Central Regulatory operations.

The Commissioner also appointed Robert L. Stevenson, Senior Deputy,

to the position of Associate Appraiser with headquarters in Sacramento. Stevenson will be responsible for appraising subdivision property located outside the state which is offered for sale in California. Real estate syndicate appraisals will also be handled by Stevenson. He worked for the State Department of Veterans Affairs as an appraiser prior to employment in the Department of Real Estate in 1960.

License Examinations Protect Public Interest— Test Questions Stem From Instructional Source Material

Because of the interest which pervades a license examination, this article was written to give the reader a better insight into the Department of Real Estate's examination procedures. It will serve its purpose if it establishes in his mind that license test questions are not thrown together—that much effort goes into the simplest test question.

How do we go about preparing tests for the more than 30,000 license examinations each year? How do we determine what questions are relevant and appropriate for a license test? How do we weed out inappropriate or weave-in appropriate questions? These are but a few of the many evaluations that confront the test builder.

Test Format

The department's testing program primarily follows guidelines and techniques set by the State Personnel Board and other leading test authorities. For example, the format and outline of all license tests as we know them today were created through a research grant to the University of California in 1956. After considerable study, research and committee meetings, five major fields of real estate were established to which all real estate subject matter is indexed. These five fields are (1) real estate law, (2) finance, (3) appraisal, (4) public control and (5) minor fields include taxation, land development, escrows and mathematics. Each salesman and broker basic examination is constructed from real estate content from each field. For example, each of the 130 to 140 examinations developed during the year are of the same general calculated difficulty level.

In essence, the basic plan developed by the university determined the real estate substance to be evaluated. All valid measurements start with a basic plan or test outline. So, from this rather modest research grant over a decade ago, the department (through its examination functions) has developed over 2,500 test items of a multiple choice nature relevant to the five major fields. Each item has a known statistical value or level of difficulty and is cross referenced to the master library of test questions.

In planning the test for a real estate license applicant, the purpose must be identified. Unlike an aptitude test, the license examination is more like an achievement test, but still has characteristics peculiar only to a licensing examination. Basically, it is a mastery test of knowledge. It is planned and developed as an integral part of the instructional process with emphasis upon practical application. Since the examination is not competitive, its nature becomes qualifying and no set quota or rank of applicants is required. The examination process cannot possibly predict future success in the business of real estate. It is meant to select the better qualified or competent from the less competent or knowledgeable person.

Test Construction

The conscientious examiner or test writer suffers anxieties when he begins to prepare an examination. It is his job to develop a series of test items which, in fact, measure that which he is attempting to measure.

To construct a good measuring device, it is essential that the component parts of the test be consistent and valid with relevancy to the subject matter being evaluated. Accordingly, each question or item is a test in itself and must meet the technical characteristics demanded of the test as a whole.

Individual items which lack validity result in a test which likewise lacks validity. In other words, the item must discriminate between examinees who are more competent and those who are less competent with respect to the particular point in question. It cannot be too easy; nor too difficult. If too easy, it is answered correctly by most examinees, thus it fails to discriminate between good candidates and poor candidates and adds nothing to the test's measuring ability. Contrasted, if it is too difficult, the proportion of examinees answering correctly may approximate the proportion who might select the right answer by chance alone—25 percent for a four-choice item. Again, the validity of the item is jeopardized.

It has been said that the production of good test items is one of the most exacting tasks in the field of creative writing. Few other words are read with such critical attention to implied and expressed meaning as those used in a test. The department takes several weeks to develop an examination question. For example, an examination deputy may be asked to write a number of questions in accordance with the Master Outline of Subject Material in a specialty field. The assignment may require the individual who is specifically qualified in this "specialty" to write questions on Syndication or Land Projects. Since these are relatively new fields, considerable research and review is not uncommon.

After the new material is written, it is duplicated, coded by index and distributed to other staff members who study each item carefully and indicate whether it appears satisfactory as written; whether certain questions should be revised; or whether some questions should be considered inappropriate and discarded. This critical processing of individual questions is done routinely before submitting them to the senior reviewing committee for review of each item, including editorial comments. Each question is subjected to a frank, critical and detailed review; again, the questions might be revised or discarded.

The department submits all new test material to a delegated member of the real estate industry who additionally reviews and adds his comments to make certain that questions are relevant and practical from a practitioner's viewpoint.

Additionally, the department has exchanged many questions with other states under a reciprocal agreement.

Examinations

My college instructors have furnished excellent test questions for which the department is grateful.

One of the most difficult tasks in the preparation of an effective test item is to phrase it in such manner that it truly probes the applicant's knowledge without making him wonder about its meaning. To ensure this exactness, experience reveals that, on the average, eventually about one-third of the questions originally written need some revision. About one-third are discarded as too difficult, too easy, unimportant, not generally accepted, or for other reasons not appropriate for the examination. *Only about a third are accepted*—and the bulk of these revised.

Each question, then, should be free from ambiguity, accurately written and representative of important aspects of the subject. In a multiple-choice examination, each distractor (incorrect answer) must have the appearance of plausibility.

What Makes A Good Test Item

The construction of good questions requires not only knowledge of the subject matter of the test but also familiarity with the techniques and devices available for objectively scorable multiple-choice questions. If we were to prepare a check list in constructing an examination question, we should ask ourselves:

1. Does the item deal with one or more important aspects of the subject?
2. Does it call for information which any good practitioner should know without consulting a reference book?
3. It is appropriate for the level of knowledge expected of the examinee?
4. Is the central problem stated clearly and accurately?
5. Is the question written with as few words as possible to make it clear and complete?
6. Is the item type the best one for the particular point or problem?
7. Are double negatives avoided?
8. Is it written in conformity with the designated format?
9. Is each alternative (distractor) a plausible response?
10. Is it clear that there is only one BEST response?

New Tests Constantly Under Development

The process of constructing new test material appropriate to the complex and ever changing field of real estate is continuous. New questions are gradually fed into the process with perhaps ten or fifteen of these carefully analyzed before and after use. The item-analysis process applied to each question and answer assures both a subjective and objective statistical review. Indices of difficulty and other test analysis results are accurately logged to the library copy. After hundreds of samples have been

validated, the examiner is able to determine the value of that specific item and its qualities or characteristics before it is logged for continuous use. If it doesn't meet the standards for testing characteristics, it is revised or even discarded.

The department prepares a different examination for each broker examination session including the special Finance and Appraisal tests. The salesman examination is used once in each of the five testing locations and returned to storage for possible later random use. Generally, the salesman examinee can expect a different test each session.

There were over 10,000 separate examinations administered throughout the state last December. It is not uncommon to administer 3,000 examinations in a single month.

The confidential nature of test materials is an important part of the commissioner's examination program. Since the questions are continuously being reused, they are not discussed definitively with a potential examinee. Discarded test booklets are destroyed following a rigid accounting procedure.

Summarization

A parting thought to the potential examinee might be summarized as follows:

- Have confidence in yourself as well as the test. There is no trick intended. You are unknown to the examiner.
- Your first impulse to answer is usually the best.
- Read the question carefully—often the examinee hurriedly scans the question and misses a *key word* or a factor which is crucial. Again, read the question more than once—if need be.
- Glance through the whole test booklet before starting to answer the first question.
- Remember, as in any selling field, you must have confidence both in the product and your ability. That is one reason why so much effort is put into preparing the examination—so the examinee will have confidence in its value as a measuring device.

In general, a good test is a test which: Measures what it claims to measure; is neither too difficult nor too easy; separates applicants according to ability level; is representative of material studied and abilities acquired; can be scored without bias; provides a truly representative sample of the applicant's ability. A good test may be defined in terms of validity, reliability, comprehensiveness, ease of scoring, administrative utility, and test items with appropriate discrimination and difficulty indices. All of these computations and analyses serve the internal purpose of verifying the precision of the measuring instrument. Hence, assurance can be given that tests are tailored with as much precision as possible.

Commissioner Outlines DRE Appraisal Functions

EDITOR'S NOTE: The Commissioner has received inquiries concerning the functions and operations of the department's appraisers. He felt the following brief summation of their duties would be of interest to all our readers.

The department's appraisal staff was organized in 1962, when it became evident that full-time appraisers were necessary for examination of properties to determine whether out-of-state offerings would meet the "fair, just and equitable" test.

Using standard and accepted appraisal procedures, the DRE appraiser's primary duty is to appraise real property where market value is a determining factor in ascertaining compliance with sections of the Real Estate Law and/or Commissioner's Regulations.

Real Property Securities, etc.

The appraiser may be assigned to make a value determination of real property used as security for notes or contracts of sale offered to the public by real property securities dealers. He also determines values of out-of-state subdivisions offered for sale in California. Added recently is the evaluation of syndicated properties. Value determinations in these areas of real property securities, out-of-state subdivisions and syndications, are neces-

sary to help establish the fair, just and equitable concept under the law.

Replacement Costs

He also determines the replacement cost of condominiums and community recreation areas, e.g., pools, cabanas, tennis courts, etc. This is necessary where the building or facilities are not constructed prior to offering for sale. In order to ensure completion of planned or advertised future installations, a value must be arrived at by studying plans to make sure that a sufficient sum is bonded or impounded by the developer for completion.

Analysis of Maintenance and Operational Costs

Budgets for maintenance and operational costs related to condominiums and common areas are analyzed to assure the proposed assessments are adequate. This would include exterior maintenance of buildings, landscaping, pool service, taxes, insurance, legal, accounting, and any service to be paid for by a member of an association. This determination is also made so that sufficient funds are impounded by the developer to insure payment of operational costs during the formational period.

Beckstead Named Vice President Of State Real Estate Group

Zan Beckstead has been named to succeed H. Jackson Pontius as Executive Vice President and State Secretary of the California Real Estate Association. He began his new duties on July 1, 1970.

The new state association official joined the CREA staff in 1964 as Conference and Field Service Director. In 1967, he served for one year as Executive Vice Presi-



ZAN BECKSTEAD

dent of the Honolulu Board of Realtors where he initiated plans resulting in the formation of the Hawaiian Association of Real Estate Boards. In addition to his regular assignments, he helped form local boards on the islands of Hawaii and Maui.

Upon returning to CREA, he served as administrative secretary until his promotion.

A native of Idaho, Mr. Beckstead attended Brigham Young University Provo, Utah, and Los Angeles State College. He is a veteran of the U.S. Army Engineer Corps. He has been active in the civic affairs of his city, presently serving as secretary of the San Fernando Valley Business and Professional Association, North Hollywood, and co-chairman of the Van Nuys Sister City Project.

He resides in North Hollywood with his wife and two daughters.

RECOVERY FUND CLAIMS

(Continued from Col. 1, Page 905) recently other neighboring states—Hawaii, Idaho and Nevada—have enacted similar programs.

It is obvious that the creation of a better "collective image" in the eyes of the public hinges upon the performance of the individual licensee, who is duty bound to rectify any wrong committed against a client. Every licensee should hasten to point out the industry's willingness to support a fund which underwrites uncollectible court judgments against any licensee in actions based upon fraud, misrepresentation or deceit.

SIGNIFICANT LAW CHANGES ENACTED BY 1970 LEGISLATURE

(Continued from Col. 3, Page 905)

branches of record thereon were considered "entitled persons."

● **AB 899 (Braithwaite)**—Amends Section 11543.5 (Subdivision Map Act). Permits a local ordinance to require the payment of a fee as condition of approval of a parcel map for lot splits (not amounting to a subdivision) to defray costs of constructing specified public improvements relating to water drainage.

● **AB 1213 (Fenton)**—Amends Section 10153.3 relating to separate real estate broker license examination sessions or course completions in real estate financing and real estate appraisal. Prior to the change, the section erroneously provided that it would have no effect after December 31, 1972, which conflicted with another section

of the B&P Code (enacted at the same time) which made it mandatory for real estate broker applicants to have completed courses in appraisal and financing on or after January 2, 1972. In changing the above termination date to December 31, 1971, the overlap in the two sections of the law has been corrected.

● **AB 774 (Schabacum)**—Makes it possible for the Real Estate Commissioner to adjust subdivision fees downward to match more closely the actual costs of administering the Subdivided Lands Act. Fees would be set by regulation after public hearing, on an annual basis or sooner, if necessary. The existing statutory fee structure as set by the legislature would be retained as a ceiling. *A departmental bill.*

The Customers Always Write

The Chief Deputy of real estate license examinations in Sacramento has the fascinating obligation to read many letters of complaint. Some are helpful letters of understanding criticism. But, the majority are letters which suggest they were written within minutes after an examinee has been notified of his failure of the exam.

One letter began: "Before you finish this letter, you will have an unusual request . . . it seems that there is some 'obstacle' during the examination that I have difficulty overcoming — so I'm wondering if you could have an average of all the grades I have made, two tests, I know I would have enough points to pass . . ."

The reply, in part: "Your letter was, indeed, a most unusual request. Since your score on the first test was 58 and the score on the second test was 55, your average would be 56.5 which is still considerably below the 70 passing score."

Another examinee complained about not hearing of his results from an examination which he claimed to have taken over a year earlier. His letter, in part, stated: "I still have the admittance card sent me as to the room number and place in which I was supposed to take the case." Obviously this examinee did not know whether or not he had taken the examination, but thought he would "put us on" a little in ascertaining how well we kept our records.

And then there was the writer who stated: "I hate to take any of your time. I have a legal complaint. For the last six months I have attended a private Real Estate School. I took your re-examination and found out that the examination consists of questions I have never heard of. Also, the real estate salesman examination had been changed, it was not the one that was given to me at the real estate school."

The examinee is remembered who filled out the IBM score sheet calling for parallel pencil marks, very beautifully making a complete pattern, looking something like wallpaper. He had circled each item and had drawn floral stems.

Another applicant answered 150 questions when only 130 were given. Of course the student of psychology would be more than interested in the answers that one applicant conveyed on the IBM score sheet. He filled in *everything*. That is, he filled in each of the four possible answers as being correct, even though there was only one correct answer to each question. This affinity for completeness caused him to receive a final score of zero.

Sometimes, a letter is received from an appreciative examinee. But some of those, too, can be odd. "Thank you for the news," one examinee said. "The examination is not only easy, but a welcome relief from the necessity of studying further. I suggest that you make it tougher for the others."

Disclosure of Race or Color Is Discrimination

In view of a recent opinion of the California Attorney General, it is our duty to advise licensees that disclosure of the race, creed or color of a prospective buyer or a tenant of housing accommodations is held to be a discriminatory act.

Most licensees are aware of their obligation to fully disclose to a principal all material facts that might influence the principal's decision concerning any real estate transaction. The recent ruling (Op. 69/263) explains that race, creed or color is not a material fact and should not be disclosed, even though the furnishing of such information is at the request of the owner.

Salesman Cautioned to Complete Reverse Side of Transfer Form

When a salesman desires to transfer employment to a new broker, notification of the transfer must be made on a transfer form obtainable at any DRE office.

The form must be properly completed on both sides, be signed by both the new employing broker agreeing to the employment and the broker whose employ he is leaving.

If the last employing broker is not available to sign, or should he refuse to sign the transfer within a reasonable time, the salesman may certify that he has notified the broker he is transferring his employment to another broker. The reverse side of the form provides space for the salesman to explain why he did not obtain the signature of the broker.

To reiterate, salesmen should be certain that the reverse side of the form is completed, and if a salesman cannot obtain his past employing broker's signature, that the reason is clearly set forth.

BROKER'S FIDUCIARY DUTY TO DISCLOSE IN PROBATE SALE

A recent case clarified that a real estate broker in a probate sale owes the same fiduciary duty to disclose his interest to the estate's personal representative and to the probate court as he does in other real estate transactions.

The Real Estate Commissioner revoked a broker's license for misconduct. Investigation revealed that on two occasions he had received a broker's commission on a probate sale while concealing from the court that the purchaser was his brother-in-law, who was acting as a dummy buyer for

a corporation in which the broker had an interest.

Prior to the effective date of the order of revocation, the broker instituted a mandamus action to obtain judicial review of the administrative order. The Superior Court ruled that the findings of fact were proper, but concluded that the commissioner had erred in assuming that the broker owed any fiduciary duty to the sellers in the probate sale in that he was acting only as a middleman or finder.

The commissioner appealed. The District Court of Appeal reversed the

judgment of the lower court and sustained the commissioner's action. The court held there was no doubt the broker was a fiduciary who had a duty to disclose to the personal representatives of the estates and the probate court his interest in the transaction, as he does in other real estate transactions.

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**Premature Broker Applications
 Cause Problems**

Salesmen interested in becoming real estate brokers should not prematurely file broker applications in anticipation of approval without remitting the necessary fees and supporting evidence.

If the applicant desires information relative to the broker requirements, ask for the "Instructions to License Applicants" pamphlet which will be furnished by any district office of the department. The pamphlet is current and furnishes all the necessary information to qualify and file for the real estate broker examination.

COMPLAINT DECREASE

A survey of department statistics has shown a continuing substantial decline in the amount of complaints against licensees that are received for investigation by the department's regulatory section.

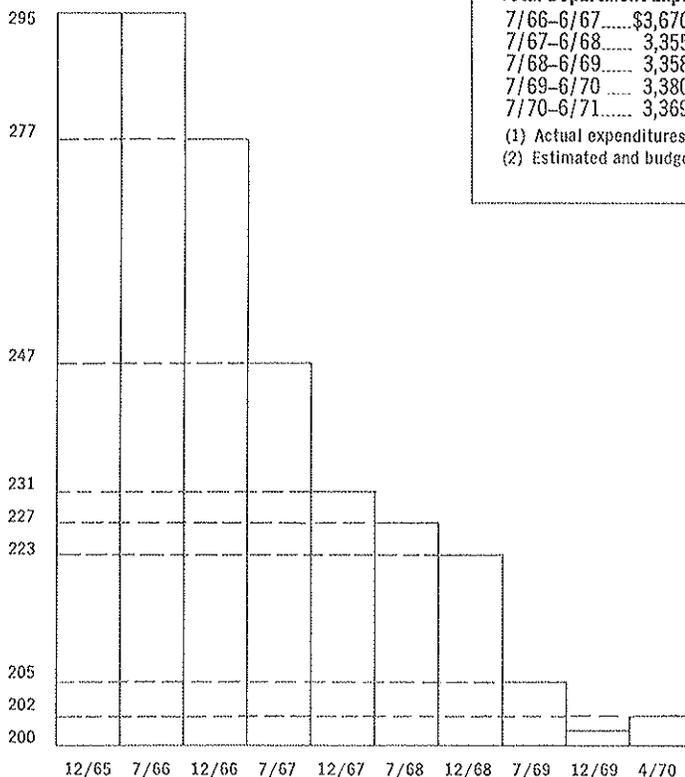
During a ten months' test period in 1967 and 1968, complaints were coming in at the rate of 400 per month. This has gradually and steadily decreased until during a comparable period in 1969-70 less than 300 per month were received. As a natural result, there was also a decrease in formal disciplinary actions from an average of 32 per month in 1967-68 to 26 per month in 1969-70. This is an encouraging trend and may be a direct result of the increased emphasis on education and the interest in professionalization now prevalent throughout the industry.

DRE STAFFING AND EXPENDITURES

In conformance to Governor Reagan's announced policy of cutting cost of government in the coming budget year and in the past four budget years, the Department of Real Estate has attempted to achieve reductions in expenditures and at the least to operate within a "hold the line" budget. In spite of annual increases in costs of goods and services estimated at 25 percent or more in the past five years and minimum increases in wages, which will probably total 30 percent or more for the period July 1, 1965 to June 30, 1971, the following chart illustrates that the department has held the line.

A major factor in realizing this objective was the reduction in personnel through attrition. There has been no reduction in overall services rendered to the public or the quality of such services.

* Number of Filled Positions



Total Department Expenditures

7/66-6/67	\$3,670,081 (1)
7/67-6/68	3,355,424 (1)
7/68-6/69	3,358,380 (1)
7/69-6/70	3,380,283 (1)
7/70-6/71	3,369,041 (2)

(1) Actual expenditures.
 (2) Estimated and budgeted.

* Filled positions charted at 6-month intervals for the period 12/65 through 4/70.