



Real Estate Brokers and the Escrow Law

by California Department of Corporations

It has been reported that real estate brokers are misusing the exemption from the escrow agent licensing requirements of the Escrow Law. This is an ongoing problem that has been previously discussed in the **Real Estate Bulletin**. Knowingly violating the Escrow Law can subject the violator to civil and criminal penalties under newly enacted sections of the Escrow Law. This article briefly explains the scope of the real estate broker exemption and identifies two types of abusive escrow arrangements.

Escrow agents are licensed and regulated by the Department of Corporations under the Escrow Law (Financial Code Section 17000 and following). Section 17004 defines "escrow agent" as any person engaged in the business of receiving escrows for deposit or delivery for compensation.

Section 17200 requires escrow agents to be licensed.

Section 17006(d) exempts a real estate broker from all requirements of the Escrow Law "while performing acts in the course of or incidental to a real estate transaction in which the broker is an agent or a party to the transaction and in which the broker is performing an act for which a real estate license is required." This exemption was not intended to allow real estate brokers to freely compete with escrow companies, but rather to allow real estate brokers to provide an incidental service to a client in a real estate transaction without becoming subject to dual regulation.

Some of the limitations of the real estate broker exemption have been explored by the California Attorney General. For example, in 54 Ops. Atty. Gen. 13 (1971) the Attorney General opined that where a licensed real estate broker negotiates a loan for the purpose of financing the sale of real property, he may conduct the loan escrow or a combined loan-sale escrow for compensation under the exemption because such escrows are incidental to his real estate business; but a sale escrow isolated from a loan escrow may not be so conducted by the broker except where the sale of property is expressly conditioned upon the broker's

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The Crisis Response Team Investigates Major Frauds

by Raymond L. Royce, Assistant Commissioner
Regulatory and Recovery

In recent years Regulatory operations of the Department of Real Estate (DRE) have been greatly influenced by what has come to be referred to in the DRE as the major fraud cases. These cases are generally characterized by large consumer and investor losses caused by fraud, misrepresentation and embezzlement. Usually there will be many transactions involved which means many witnesses to be interviewed and many paper trails or business records to be examined and documented. Such cases typically take a great deal of time to investigate and bring to successful prosecution. For that reason the DRE was having difficulty bringing the major fraud case investigations to conclusion.

In response to the problem, the DRE selected five of its most experienced investigators to form a special team which is now referred to as the Crisis Response Team, or the CRT. The objective is to keep the case load at a low level and to spend whatever time is necessary to produce quality investigations which can be successfully prosecuted, both administratively and criminally. Where criminal activity is found, the CRT will not only cooperate with law enforcement, but will actively inform district attorneys. Team members may work individually or as a team and may be moved around the state on special assignments.

While the CRT has been in existence only since July, 1985, at this writing it is investigating more than eighty cases. A thumbnail description of a few CRT cases are listed below.

1. Sale of an apartment complex from which buyer and broker walk away with over a million dollars at seller's expense. Investigation turned up other transactions using same *modus operandi*. CRT is working with law enforcement.

2. Savings and loan association failures resulting in take over by Federal Home Loan Bank Board, caused by loans to licensees which exceeded value of securing real property. Use of

straw buyers, inflated appraisals, misrepresentation. Loans defaulted.

3. A savings and loan sued a mortgage loan broker. DRE decides to audit the broker. Broker says records have been stolen. DRE has to reconstruct the records. Found trust account shortage of over two million dollars.

4. A group, including licensees, are estimated to have purchased over 100 homes from longtime owners. Homes are free and clear or nearly paid for. Owners to receive a cash down payment and carry back a note secured by first trust deed, actually get an unsecured note. Buyers get maximum financing from a lender, default and lender forecloses. Buyers walk away with the money and sellers left with worthless notes. The CRT is cooperating with the local police department.

5. Broker assists buyers and sellers in obtaining fraudulently inflated appraisals which are packaged with phony income tax statements, employment verifications and loan applications. Lenders fund loans in \$300,000 to \$500,000 range.

After existing liens are paid off, through broker's escrow company, broker and accomplices split the excess funds. The district attorney is interested in the case.

6. Broker services real estate loans for some 600 investors. CRT finds \$1,300,000 in trust funds are missing. Evidence indicates the trust funds were used for paying the payroll and operating expense of the broker's business.

With the CRT we are managing to conclude some very difficult case investigations which will result in revocation of licenses and in some criminal prosecutions.

We are reminded that all except a small minority of California's real estate licensees conduct business in an honest and ethical way. We believe the small minority who do not should not be allowed to cloud the image of an entire industry. For that reason we ask the industry to support and cooperate with our enforcement efforts. •



A Note from the Editor:

Beginning with the Spring 1986 issue of the **Real Estate Bulletin** readers should have noticed a change in publication format and design. The **Bulletin** is now being produced entirely "in-house" on a personal computer and LaserWriter Printer using *PageMaker* desktop publishing software. Please direct questions and comments regarding this publication to Steve Kolb, Information Officer, DRE P.O. Box 160009, Sacramento, CA 95816 or call (916) 739-3593.

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DISCIPLINARY ACTION —
December 1985 to February 1986

- REB—Real estate broker
- RES—Real estate salesperson
- PRLS—Prepaid rental listing service
- RREB—Restricted real estate broker
- RRES—Restricted real estate salesperson
- RRPLS—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 and the action has been stayed, until the stay is dissolved. Names of persons to whom licenses are denied with respect to application matters 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
- 10165 covers various violations
- 10167.9(a)(3) failure to include required terms in PRLS contract
- 10167.9(c) use of unapproved contract
- 10167.10(a) PRLS licensee's failure to make refund
- 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) make false promise
- 10176(c) commingling trust funds
- 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
- 10231.2 failure to give self-dealing notice
- 10237.3 acting as real property securities dealer without endorsement
- 10237.4 failure to deliver specified statement to purchaser of real property security
- 10238.3 failure to obtain real property securities permit
- 10086 violation of order to desist and refrain

Regulations

- 2715 broker's failure to maintain current address with DRE
- 2725 failure of broker to review agreements
- 2726 broker-salespersn 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
- 2904 failure to disclose compensation for obtaining financing
- 2910 crime or act done in perpetration of crime substantially related to qualifications, functions or duties of the real estate profession
- 2950 broker-controlled escrow violation
- 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

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION OF REAL ESTATE LAW/REGULATIONS
Helms, Tony Jerome (REB)	2181 Sunset Cliffs Blvd., San Diego	10/28/85	2830, 10165, 10176(i), 10177(d)
Juarez, Sandra Lynn (RES)	2871 Mace Rd., Canino	12/2/85	2832, 10130, 10145, 10176(a)(i), 10177(a)(g)
Great Western Home Loan, Inc. (REC)	4240 Citrus Cir., Yorba Linda	12/3/85	2742(a) 10176(a)(i), 10177(f)
Bridges, Douglas Ray (REB)(REO)			
Off—Great Western Home Loan, Inc.	4240 Citrus Cir., Yorba Linda	12/3/85	10086, 10176(a)(i), 10177(d)
Cantagallo, Brandon James (RES)	18575 Vine St., Hesperia	12/10/85	490, 10177(a)(b)
Palencsar, Thensia Stella (RES)	74115 San Marino, Palm Desert	12/10/85	490, 10177(b)
Stair, Robert Alan (REB)(REO)	10352 Greenwood Ct. #4, Cupertino	12/13/85	10177(f)(j)
Fernandez, Georgia Tan (RES)	2108 W. 238th St., Torrance	12/16/85	490, 10177(b)
Peterson, Leo Morris (RES)	17411 Irvine Blvd., Ste. B, Tustin	12/16/85	490, 10177(b)

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Disciplinary Action, continued on page 3

Disciplinary Action, *continued from page 2*

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION OF REAL ESTATE LAW/REGULATIONS
Dorfmeier, Lily Ray (RES)	1233 Maljo, Clovis	12/16/85	10176(a)(i)
Lewis, Carl Edmund (RES)	5750 E. Nees Ave., Clovis	12/16/85	10176(a)(i), 10177(f)
Hixon, Eva Mae (REB)	1385 Sunnyside, Clovis	12/16/85	2725, 2830.1, 2831, 10176(a)(e)(i), 10177(d)(f)(g)(h)(i)
Goyette, Vernon A. (RES)	2409 W. Saginaw Wy., Fresno	12/16/85	10177(f)(j)
Rogers, Charles Williams (REB)			
Dba—Rogers Realtors	19600 Fairchild, Ste. 150, Irvine	12/17/85	490, 10177(b)
Chi, Simon Li-Huei (RES)	321 N. Margueta Ave., #D, Alhambra	12/17/85	490, 10177(a)
Leggett, J.B. (REB)	2958 Imperial Ave., San Diego	12/17/85	490, 10177(b)
Alstod, Robert (RES)	P.O. Box 23351, Pleasant Hill	12/17/85	10145, 10176(a)(e)(i), 10177(d)(f)(j)
Hasche, Evelyn Susanna (RES)	5496 Rincon Beach Park Dr., Ventura	12/17/85	490, 10177(b)
Hasche, Nina Annine (REB)	3443 State St., Santa Barbara	12/17/85	490, 10177(b)
Conner, James Herbert (RES)	4790 Irvine Blvd, Ste. 108 P.O. Box 19633, Irvine	12/17/85	490, 10177(b)
Hudson, Peter Henry (RES)	1259 El Camino Real, #197, Menlo Park	12/23/85	490, 10177(b)(f)
Eastman, Bradley Lawrence (RES)	4162 Eileen, Simi	12/24/85	490, 10177(b)
Wilson, Vernon Claude (REB)	4916 Steele Way, Fair Oaks	12/30/85	490, 10177(b)
McDaniels, Patrick E. (REB)	2830 G St., Sacramento	12/30/85	490, 10177(b)
Fielder, Robert Avron Jr. (REB)	1301 Ygnacio Valley Rd., Walnut Creek	1/2/86	490, 10177(b)(f)
Powell, Gary Douglas (REB)(REO)	1904 Olympic Blvd., Ste 8, Walnut Creek	1/2/86	10145, 10176(i), 10177(d)(f)
Fennoy, David Henderson (RES)	1140 Page St., Berkeley	1/6/86	490, 10177(b)(f)
Kennedy, Guy Howison Jr. (REB)	1799 Hamilton Ave. #207, San Jose	1/6/86	10145, 10176(e), 10177(d)
Auyoung, Tom (REB)	2716 Fruitvale Ave., Oakland	1/7/86	2830, 2832, 10145, 10148, 10176(a)(i), 10177(d)
Sunseri, John Thomas (RES)	159 Park Ellen Dr., San Jose	1/8/86	490, 10177(b)(f)
Coh, Renato Legaspi (RES)	222 Lincoln, Daly City	1/13/86	10145, 10176(a)(i), 10177(d)
Martin, Christine Martha (RREB)	1196 S. Winchester Blvd., San Jose	1/15/86	10145, 10177(d)(k)
Pickard, Claudia Marie (RES)	2001 Jefferson St., Napa	1/27/86	10176(a)(i), 10177(f)
Castillo, Oleta Louise (RES)	300 Marcus St., Bakersfield	1/27/86	490, 10177(b)
Beach, Carolyn Jean (RES)	280 Ironwood St., Vacaville	1/27/86	490, 10177(b)
Antwine, Michael LaVorne (REB)	7700 Frost Way, Sacramento	1/27/86	490, 10177(b)
Parham, Marion Kenneth (REB)	6341 Auburn Blvd, Citrus Heights	1/27/86	10145, 10162, 10176(e), 10177(d)
Grissel, Martha Ann (RES)	1637 Heritage Dr., Visalia	1/27/86	2904, 10176(a)(i), 10177(g)
Colvin, Richard Lee (REB)	1418 S. Mooney Blvd., Visalia	1/27/86	10177(h)
Sunridge International Investments, Inc. (REC)	1441 N. D St., Ste. 101, San Bernardino	1/29/86	10177(f)(j)
Beaumont-Grainger Investment Corp. (REC)	10717 Wilshire Blvd, #1101, Los Angeles	1/29/86	10137
Ehman, Arthur (RRES)	4480 Continental, Stockton	2/3/86	490, 10177(b)
Rutter, Norman Lynn (RES)	8644 Curtis St., Hanford	2/5/86	10130, 10137, 10177(d)(f)
Joaquin, Maurice Melvin (REB)	344 W. Cortner, Hanford	2/5/86	2726, 10177(d)(f)(h)
Intracoastal Investment & Mortgage Co. (REC)	2625 Fair Oaks Blvd., Sacramento	2/6/86	2832.1, 2950, 10145, 10176(e)(i), 10177(d)(j)
All Mortgage Service Co, Inc. (REC)	2625 Fair Oaks Blvd., Ste. 9, Sacramento	2/6/86	2832.1, 2950, 10145, 10176(e)(i), 10177(d)(j)
Binder, Morton (REB)			
Off—Intracoastal Investment & Mortgage Co.			
Off—All Mortgage Service Co., Inc.	2625 Fair Oaks Blvd., Ste. 1, Sacramento	2/6/86	490, 2832.1, 2950, 10145, 10176(e)(i), 10177(b)(d)(g)(h)(j)
Sande, Roger Alvin (RES)	P.O. Box 20250, San Jose	2/18/86	490, 10177
Stride Inc. (REC)	240 S. Hickory St., Ste 107, Escondido	2/18/86	2977, 10176(a)(i), 10177(d)(f)
Stride Management Inc. (REC)	240 S. Hickory St., Ste 110, Escondido	2/18/86	10231.2, 10237.3, 10237.4, 10238.3
Gottier, Aileen Marie (REB)(REO)	240 S. Hickory St., Ste 110, Escondido	2/18/86	2977, 10177(d), 10237.3, 10237.4, 10238.3
Off—Stride Inc.			
Off—Stride Management Inc.			
Gottier, Robert Lee (RES)	240 S. Hickory St., Ste 110, Escondido	2/18/86	2977, 10176(a)(i), 10177(d), 10231.2, 10237.3, 10237.4, 10238.3
Shepherd, Frank Copeland (REB)	19743 Glenbrae Dr., Saratoga	2/19/86	490, 10177(b)(f)
Nelson, David Lee (RES)	19 Poinsettia Ave., San Mateo	2/19/86	490, 10177(b)(f)

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negotiation of a loan to finance the sale.

In 44 Ops. Atty. Gen. 105 (1964) it was opined that a real estate broker may not advertise that he conducts an escrow department unless the advertisement indicates that he can act as escrow agent only for his real estate business.

In 43 Ops. Atty. Gen. 284 (1964) the Attorney General further opined that a real estate broker could not act as escrow agent if he did not participate in the sale of the property unless he did so as a licensed escrow agent.

Some brokers have attempted to bring what would ordinarily be considered an independent escrow operation within the literal terms of the exemption. Invariably, this involves an attempt through a

The payment of a referral fee or similar fee to a broker for referring escrow business is evidence that the escrow operation is not entitled to the exemption.

nonsubstantive transaction or device, to link the escrow operation and the subject real estate transaction.

Two primary types of abuse of the exemption have come to the attention of the Departments of Real Estate and Corporations. The first involves the use of so-called "broker-escrow cooperatives." In these cooperatives, two or more brokers hold a branch license at the same location and share one or more of the employees who perform escrow services at that location. The "employees" are purportedly acting under the supervision of the particular broker who handled the transaction and, therefore, within the authority of the exemption. Brokers should be aware that courts narrowly construe the exemption and look through form to substance in these cooperatives. As a result, the courts have imposed financial and other penalties for unlicensed escrow activity in connection with such cooperatives.

The second common abuse of the exemption involves real estate brokers who accept a nominal commission in connection with a transaction referred by another broker who actually performed the services for which a real estate license was required. Again, courts will look through form to substance and the mere receipt of a nominal commission will not satisfy the requirements of the exemption that the broker has performed an act for which a license is required in the transaction which is the subject of the escrow.

The payment of a referral fee or similar fee to a broker for referring escrow business is evidence that the escrow operation is not entitled to the exemption. Brokers should be aware that Business and Professions Code Section 10177.4 authorizes the Real Estate

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Commissioner to suspend or revoke the license of a real estate licensee who receives a commission, fee or other consideration, as compensation or inducement, for referral of customers to any escrow agent.

Brokers who are invited to participate in such escrow operations must carefully balance their fiduciary obligations to clients against the risks of having a client transaction handled by an unlicensed operation. In addition, brokers conducting escrows which are not entitled to an exemption expose their license to possible disciplinary action by the Department. Brokers should note that Department of Corporations regulations guiding the activity of licensed escrow agents is much more extensive than applicable regulations under the Real Estate Law. In some respects, this means that greater protections are provided to the parties to the escrow conducted by a licensed escrow agent, than one conducted by a real estate broker.

The Department of Corporations aggressively pursues unlicensed escrow activity and real estate brokers are urged to contact the Department at (213) 736-2751 for information as to whether a proposed activity is within the scope of the Section 17006(d) exemption. •

Caution for Continuing Education Certification

*by Tom Mabry
Manager, Education*

CAUTION-

When receiving either continuing education or statutorily required college-level course certificates of completion, you are encouraged to:

- 1 - Make several copies of each certificate;
- 2 - File the originals in a safe place as you would any other important document; and
- 3 - Keep the extra copies in your desk or other easily accessible location.

DRE's Education Section is occasionally contacted by individuals on the verge of panic saying they have had their certificates destroyed or misplaced and are unable to locate the issuing Continuing Education Sponsor or private real estate school. Most of the time the sponsor or school has only changed address and we are able to help the caller by giving them the new address.

Unfortunately, however, there have been instances in which the sponsor or school has gone out of business and no new address is available. Being unable to obtain a duplicate certificate, the caller is then faced with the need to repeat the course or courses needed. This often results in a great loss of time and money.

Remember, once you receive a certificate, it is your responsibility to keep it in a safe place for future use. •

Disciplinary Action, *continued from page 3*

LICENSES REVOKED WITH A RIGHT TO A RESTRICTED LICENSE

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION OF REAL ESTATE LAW/ REGULATIONS
Hobby, James (REB)(REO) Dba—Golden Eagle Realty (Right to RREB license on terms and conditions)	5800 Wilshire Blvd., Los Angeles	12/10/85	490, 10177(b)
Hathorn, Willie Marvis (REB)(REO) (Right to RRES license on terms and conditions)	P.O. Box 21266, San Jose	12/12/85	2832.1, 10145, 10177(d)
Steven, Mike (REB) Dba—M. Steven & Co. Realtors (Right to RREB license on terms and conditions)	1187 Coast Village Rd. #9, Montecito	12/16/85	490, 10177(b)
Hardy, Ray Lynn Jr. (REB) (Right to RREB license after 30 days on terms and conditions)	340 Townsend Ln., Santa Maria	12/16/85	10141.5, 10177(d)(g)(h)
Williams, David John (REB) (Right to RREB license on terms and conditions)	245 N. Rancho Santa Fe Rd., Ste. 204 San Marcos	12/17/85	490, 10177(b)
Castillo, Richard Joseph (RES) (Right to RRES license on terms and conditions)	14828 Freeman Ave., Lawndale	12/20/85	490, 10177(b)
Petit, Anne Russick (REB) (Right to RREB license after 15 days on terms and conditions)	2309 Northgate Blvd., Sacramento	12/21/85	10145
Green, Joan Mary (REB) (Right to RREB license on terms and conditions)	32802 Crown Valley Pky, Laguna Niguel	12/26/85	490, 10177(b)
Levig, Lee Alan (RES) (Right to RRES license on terms and conditions)	304 Seawind, Vallejo	12/30/85	490, 10177(b)
Albers, Laurel S. Shannon (RES) (Right to RRES license on terms and conditions)	Rte. 2, Box 671, Shingletown	12/30/85	490, 10177(b)
Troop, Mark Trevor (RES) (Right to RRES license on terms and conditions)	10444 Canoga Ave., #21, Chatsworth	12/31/85	10177(g)
Wilson, Cathleen Patricia (RES) (Right to RRES license on terms and conditions)	23593 Sunnymead Blvd., Sunnymead	1/28/86	490, 10177(b)
Pyle, Connie Jo (RES) (Right to RRES license after 90 days on terms and conditions)	8811 N. Colfax St. Fresno	1/29/86	10177(g)
Knell, James Phillip (REB)(REO) (Right to RREB license on terms and conditions)	55 Hitchcock Wy, Ste. 209, Santa Barbara	1/30/86	490, 10177(b)
Turner, Lynne Ryder (RES) (Right to RRES license after 25 days on terms and conditions)	866 Hidatsa Ct., Fremont	1/30/86	2725, 10130, 10177(d)(g)
DeRobles, Gloria Jean (RES) (Right to RRES license on terms and conditions)	1631 Executive Ct., Sacramento	2/4/86	490, 10177(b)
Van Buskirk, Steven L. (REB) (Right to RREB license on terms and conditions)	921 E. Terrace, Fresno	2/4/86	10177(d)
Serpa, Adam (REB) (Right to RREB license on terms and conditions)	1998 N. Douty St., Hanford	2/5/86	10161.8, 10177(d)(f)(f)
Mason, Robert Lee (REB) (Right to RREB license on terms and conditions)	Hwy 120 & Femititi Rd., Groveland	2/6/86	10177(g)
Baldwin, Michael Joseph (REB) (Right to RREB license on terms and conditions)	519 Guadalupe Dr., Rancho Murieta	2/6/86	490, 10177(b)
Quan, Victor (RES) (Right to RRES license on terms and conditions)	810 Franklin St., Ste. 1101, Oakland	2/13/86	490, 10177(b)(f)
Eipper, William Henry (RES) (Right to RRES license on terms and conditions)	5605 Omni Dr., Sacramento	2/19/86	490, 10177(b)
Silvey, Frederick Robert (REB) (Right to RREB license on terms and conditions)	1035 Contra Costa Blvd., Pleasant Hill	2/24/86	10145, 10177(d)
Brown, Neecha Michelle (PRLS) (Right to RPRLS license on terms and conditions)	1247 Highland Ave., Ste. 1, National City	2/24/86	10167.9(a)(7), 10167.10(a)(1), 10167.10(b), 10167.11(a), 10167.11(b)(1), 10167.11(b)(3), 10167.11(b)(4), 10167.12(a)(1) 10177(h)
Worth, Bernard Enrol (REB)(REO) (Right to RREB license on terms and conditions)	753 Valpariso Rd., Claremont	2/25/86	10177(h)
Bunce, Carmen Katherine (RES) (Right to RRES license on terms and conditions)	410 Monterey Ln., San Clemente	12/11/85 (1 year)	490, 10177(b)

LICENSES SUSPENDED WITH STAYS

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION OF REAL ESTATE LAW/ REGULATIONS
Salemo, Joseph Angelo (REB) (Stayed for 1 year on terms and conditions)	7427 W. Sample Rd., Fresno	1/28/86 (30 days)	10177(g)
Malta, Michele L. (REB)(REO) (Stayed for 1 year on terms and conditions)	39783 Paseo Padre, Fremont	1/30/86 (45 days)	10177(g)(h)
Interface Associates, Inc. (REC) (Stayed for 1 year on terms and conditions)	222 N. Mountain Ave., Ste. 206, Upland	2/19/86 (30 days)	2831, 2831.1, 2834(b), 10137, 10177(d)
Sorenson, Yolanda Maria (RES) (Stayed for 1 year on terms and conditions)	P.O. Box 2095, Upland	2/19/86 (30 days)	10177(g)

Disciplinary Action, continued from page 4**INDEFINITE SUSPENSIONS UNDER RECOVERY FUND PROVISIONS**

NAME	ADDRESS	EFFECTIVE DATE
Strathmeyer, Charles R. (REB)	3785 Via Nona Marie, #308, Carmel	12/9/85
Hathorn, Willie Marvis (REB)	P.O. Box 21266, San Jose	12/9/85
Bondoc, Reynaldo Camacho (RES)	3300 Judah St., San Francisco	12/9/85
Reza, Cord (RES)	3333 Wellington, Sacramento	12/17/85
Bull, John Charles (REB)	1515B Fourth St., Napa	12/18/85
Jackson, Delores (RES)	6140 Pittsburgh Ave., San Diego	12/18/85
Smith, Lyons & Jackson, Inc. (REC)	1107 41st St., San Diego	12/19/85
Brennan, Kathleen Claire (REB)	1550 S. Pacific Coast Hwy, #206 Laguna Beach	12/19/85
Real Estate Center of Cerritos Inc (REC)	17215 Studebaker Rd., Ste. 270, Cerritos	1/16/86
Stewart, Ellen Jane (REB)	19320 S. Hullford, Carson	1/16/86
Oden, Tom Nick	7131 Governor Cir., Sacramento	1/16/86
Pre Builder Land Management Corp. (REC)	15250 Ventura Blvd. Ste 403, Sherman Oaks	1/16/86
Pre Builder Land Corporation (REC)	15300 Ventura Blvd. St. 421, Sherman oaks	1/16/86
Pre Builder Land Resale Corporation (REC)	8540 S. Sepulveda Blvd., Los Angeles	1/16/86
Hutchens, Randall Craig (RES)	17135 Anne Freda, Canyon Country	2/5/86
Chamberlain, William V. (RES)	1307 Ocean St., Santa Cruz	2/5/86
Sherrard, Randall Lee (REB)	2671 Caminito Abeto, San Diego	2/5/86
Erskine, William Charles (REB)	1361 S. Winchester Blvd., #208, San Jose	2/5/86
Thomas, Robert Lee (REB)	P.O. Box 224, San Dimas	2/24/86
Salonga, O. Edward (RES)	464 Verducci Dr., Daly City	2/24/86
Fain, Mildred Viola (REB)	333 W. Baseline, San Bernardino	2/24/86
Schultz, Raymond Andrew Jr. (RES)	18092 Norwood Park, Tustin	2/24/86
Welsh, James Leroy III (RES)	1826 K St., Merced	2/25/86

PUBLIC REPROVALS

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION OF REAL ESTATE LAW/REGULATIONS
Mohit, Behzad (REB)(REC)	2087 Toledo Ave., Palm Springs	1/29/86	2715, 10162, 10177(d)
Off—Castle Mortgage Castle Mortgage (REC)	1100 Larkspur Landing Cir., Ste 295, Larkspur	1/29/86	2715, 10162, 10177(d)

WHITE COLLAR CRIME**DRE Working to Protect California Consumers**

by Raymond L. Royce, Assistant Commissioner
Regulatory and Recovery

In recent years we have heard the term "white collar crime" used more and more.

Generally speaking, "white collar crimes" are those crimes which are committed without the use of weapons or other violent means. We are all aware of the money and property taken from ordinary citizens and businesses by schemers, conspirators, embezzlers, and con artists.

Real estate, securities, insurance and investment counseling have been among the favorite vehicles of the white collar criminal. In real estate, consider the case of the retired person with a lifetime of savings invested in trust deeds for a monthly income who later learns the person with whom the savings were invested is self-dealing and has lost the money. The con artist will probably take hundreds of others at the same time. Homeowners are victims of cash to buyer transactions. Families who finally saved enough money to purchase a home have the money embezzled by the real estate agent. Then there is the con artist out selling investments in real estate, telling of the glowing profits to be had. He takes the money, but doesn't deliver the product. And of course there are the sophisticated con artists who have looted some of our financial institutions of millions in recent years through fraudulent loans.

We are aware of the multi-million dollar losses to the white collar criminal and the personal anguish caused by those losses. The DRE has determined to inform, cooperate with and assist district attorneys and law enforcement agencies to the extent we are able to do so. Several months

continued on page 6, White Collar Crime

**Deed of Trust: Sales—
Changes in the Law**

from Tom Mabry
Manager, Education

On September 28, 1985 Governor George Deukmejian approved AB 1441, Chapter 1206, authored by Assemblyman Gerald Eaves, which amends the Civil Code relating to real property (Deeds of Trust: Sales). The Legislative Counsel's Digest of this Bill reads as follows:

AB 1441, Eaves. Deeds of trust: sales

(1) Under existing law, if an obligation secured by a deed of trust with a power of sale or a mortgage becomes due because of default, the default may be cured by payment of the amount that would have been due had no default occurred plus certain costs and fees, if payment is made within three months of recording the notice of default.

This bill would permit the default to be cured by that payment if made before five business days prior to the date of sale. The bill would provide that there shall be no liability for failure to allow reinstatement during that 5-day period prior to sale and would make various conforming technical changes.

(2) Under existing law, the trustee's or attorney's fees which may be charged with respect to the exercise of a power of sale under a deed of trust, which has been defaulted upon and then cured, is limited to \$150 as to any unpaid principal of \$50,000 or less.

This bill would increase that fee limitation to \$200.

(3) Under existing law, the trustee's or attorney's fees chargeable for conducting a sale pursuant to a power of sale in a deed of trust may not exceed \$300 or 1-1/3% of the unpaid principal, whichever is greater.

This bill would reduce that percentage limitation to one percent of the unpaid principal.

(4) Under existing law, whenever a sale under a power of sale in a deed of trust on real property is postponed, the trustee under the deed of trust is required to publicly declare a new date, time, and place of sale.

This bill would, with specified exceptions, require a minimum interval between the expiration of a court injunction, restraining order, or stay delaying the sale, or expiration of a delay caused by operation of law, and the date of the sale, as specified. The bill would make related changes.

(5) This bill would incorporate additional changes in Section 2924d of the Civil Code proposed by SB 930 contingent upon the prior enactment of that bill.

To obtain a complete copy of Assembly Bill 1441 (Chapter 1206) write to:

Legislative Bill Room, State Capitol,
Room B-32 Sacramento, CA 95814.

The first copy of each bill requested is free; there is a small charge for additional copies. Prices for copies may be obtained by calling (916) 445-2323.

Adults-Only Common Interest Subdivisions: What Role Does Age Play in Renting and Buying?

by William O. Kewley
Managing Deputy Commissioner IV
Subdivisions Technical Section

In May 1983 the California Supreme Court held in a 5 to 2 decision that a condominium owners' association could not restrict occupancy in the development to persons over the age of 18 years [O'Connor vs. Village Green Owners Association (1983) 33 Cal. 3d 790]. In reaching this determination, the majority held that the condominium owners association was a "business establishment" subject to the Unruh Civil Rights Act. The Unruh Act prohibits all forms of "arbitrary discrimination" against residency of real property by minors.

Although the Village Green Owners Association was a condominium association, this holding of the Supreme Court was clearly applicable to owners associations for all types of common interest subdivisions with governing instruments which purported to restrict occupancy to adults. (The California Supreme Court decision was summarized in the Fall 1983 Bulletin.)

The Supreme Court decision left considerable confusion concerning enforceability of occupancy restrictions based on age in so-called senior citizen or retirement housing projects including common interest subdivisions.

Legislation Helps Dispel Confusion

During 1984 the Legislature passed AB 3909 (Davis) and SB 1553 (Boatwright). The legislation, effective January 1, 1985, helps dispel the confusion which remained in the wake of the O'Connor decision and the prior Marina Point decision which previously held that arbitrary age restrictions on residency in an apartment complex were in violation of the Unruh Act and were therefore unenforceable by the landlord.

AB 3909 added Section 51.2 to the Civil Code to provide that a business establishment is prohibited from discriminating in the sale or

rental of housing based on age of the buyer or renter.

However, where accommodations are designed to meet the physical and social needs of senior citizens, a business may establish and preserve such housing for senior citizens. The legislature provided this exception to the age-discrimination prohibition when it enacted SB 1553 adding Section 51.3 to the Civil Code. This provision was added based on the perceived special needs of seniors and the inadequate supply of this type of housing in California.

The Exception Carries Conditions That Must Be Met

The statute specifically provides, with respect to accommodations designed to meet the physical and social needs of senior citizens, that a business may establish and preserve such housing, provided the following

conditions are met:

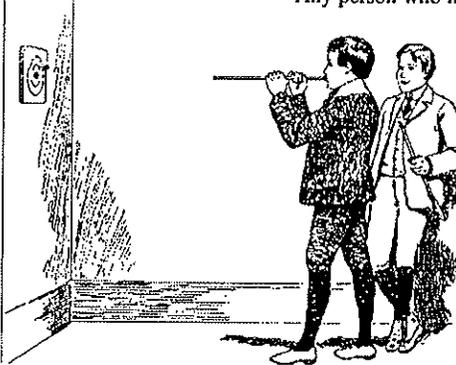
- The Covenants, Conditions and Restrictions (CC&Rs) or other documents or written policy of the senior citizens housing development do limit occupancy, residency, or use to qualifying residents who are at least 62 years of age (55 years of age in what the Legislature has defined as a "senior citizen housing development"). A senior citizen housing development is defined to mean that in a metropolitan statistical area there must be at least 150 dwelling units in the development, and in all other areas, 35 dwelling units, which have been developed, substantially rehabilitated, or renovated for senior citizens.
- The spouse of a qualifying resident or a person who is residing in the unit and is providing primary economic and/or physical support to the senior citizen may be a person of any age. Any resident other than the qualifying resident, or the spouse, or the person providing primary physical or economic support to a qualifying resident must be at least 45 years of age.
- Temporary residence of not less than 60 days in any calendar year is permissible for a person less than 45 years of age.
- Any person who has met the conditions for permanent residency may

continue to reside in the unit upon the death, dissolution of marriage, hospitalization, or prolonged absence of the qualifying resident.

- If a common interest subdivision or a multiple family residential property was subject to residency restrictions based on age on January 1, 1984, the landlord in the case of an apartment complex, or the homeowners association, developer, or subdivider in the case of a common interest subdivision project, can continue to enforce the age restrictions, but only to the extent permitted by this statute notwithstanding lower age restrictions contained in the current CC&Rs or policies.

- The statute also provides that any person having a right on January 1, 1985 to reside in, occupy, or use a housing facility with occupancy restrictions based on age may continue to reside there notwithstanding the enactment of this statute.

SB 758 (Boatwright) became effective January 1, 1986. The measure authorizes the issuance of a public report for a senior citizen housing development through phased development even if the initial phases of the subdivision do not include enough units to qualify as a "senior citizen housing development." The subdivider must submit to the Department of Real Estate, under penalty of perjury, evidence that the applicant owns or controls enough land to contain the requisite number of qualifying units, an explanation of the annexation provisions and that the phase is intended ultimately to be part of a senior citizen housing development. •



White Collar Crime, *continued from page 5*

ago the DRE became a member of a white collar crime task force formed by the Sacramento County District Attorney. Several police agencies and other state regulatory agencies are members. The DRE and other state regulatory agencies have also formed a statewide white collar crime task force to encourage the prosecution of crimes, particularly those crimes which cross our jurisdictional lines.

The DRE also cooperates with federal enforcement agencies. For example, if we learn of an advance-fee operator who is using the U. S. mail to advertise a real estate service which is not delivered we will inform the Postal Inspectors. If we learn of one who has received income from crime, we will inform the Internal Revenue Service. We cooperate with the Federal Bureau of Investigation and other federal regulatory agencies such as the Federal Home Loan Bank Board when there is occasion to do so. Such occasions usually involve one or more of our licensees.

Most of our readers understand that the authority of the DRE is defined by and limited by law. The DRE is a regulatory and licensing agency. It issues real estate licenses and, under certain circumstances, might suspend or revoke real estate licenses. The DRE itself does not prosecute crimes. However, it may refer criminal matters to law enforcement agencies having authority to prosecute crimes.

It is our observation that many white collar crimes are very difficult and expensive to prosecute in terms of time, money and the expertise required. Investigations usually require special expertise and an enormous amount of time to support successful prosecution.

The vast majority of our licensees are honest, ethical and law abiding. They will be well-served by helping with the removal of white collar criminals. In so doing, the vast majority of honest professionals may find some relief from the liability insurance problems with which they are now faced. •

DRE License Examination Applications at an All-Time High

by William R. Groome
Real Estate License Examiner II,
Examination Preparation Unit

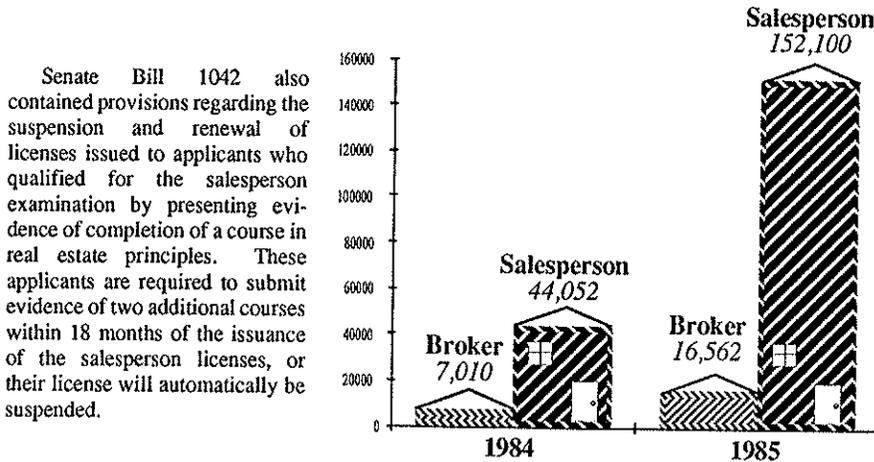
With the passage of Senate Bill 1042—Lockyer (Chapter 66), the minimum qualifications required to take both the broker and salesperson examinations were increased.

Effective January 1, 1986 applicants for the salesperson examination are required to submit evidence of completion of a three-semester-unit college-level course in real estate principles prior to taking the examination. They must also submit evidence of completion of two additional courses within 18 months of licensure.

Broker examination applicants are now required to submit evidence of completion of eight three-semester-unit college level courses (instead of six) along with verification of two years of full-time real estate salesperson experience or the equivalent. A large number of Californians filed applications for examinations under the pre-SB 1042 requirements as calendar year 1985 came to a close. In fact, the number of applications for examination applications filed was at an all-time high during the latter part of 1985.

The DRE received such a large number of examination applications by December 31, 1985 that the Department finished processing the applications in February 1986 and was scheduling 1985 qualified applicants on a one-time only basis during the first three months of 1986. For comparison purposes, we have defined the eight month period of July 1985 through February 1986 as "1985" and the eight month period of July 1984 through February 1985 as "1984."

Comparison of 1984 and 1985 Applications Received



Senate Bill 1042 also contained provisions regarding the suspension and renewal of licenses issued to applicants who qualified for the salesperson examination by presenting evidence of completion of a course in real estate principles. These applicants are required to submit evidence of two additional courses within 18 months of the issuance of the salesperson licenses, or their license will automatically be suspended.

Having submitted evidence of completing these two additional courses they will only be required to submit evidence of completing an approved three-hour Ethics course to satisfy the Continuing Education requirement at the time of their first renewal.

However, applicants who qualified to take the salesperson examination under the 1985 laws, when there were no course requirements (even though their exam may have been scheduled for a date in early 1986) will be required to complete 45 clock-hours of approved Continuing Education courses including three hours of Ethics, at the time of renewal.

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 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 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 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 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.

Please Do Not Send Cash

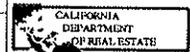
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A Note From NARELLO:

NARELLO reports that the 1986 "DIGEST OF REAL ESTATE LAWS" is the only reference guide of license law statistics of its kind. Designed for real estate executive officers, educators, attorneys and those in need of state-by-state statistics on license law requirements. Information contained in the "DIGEST" has been used extensively in testifying and lobbying before legislative bodies throughout the U.S.

The guide is updated and published annually and, according to NARELLO, includes:

- Licensing requirements state-by-state
- Legislative updates affecting licensees
- Educational requirements for licensure
- Court decisions
- Reciprocity/non-residency
- Subdivided lands, time share and camp resort data
- Real estate school and instructor certification.

The digest costs \$30.00 and is available from the:

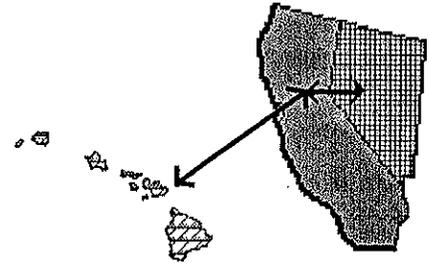
National Association of Real Estate License Law Officials (NARELLO),
P.O. Box 129,
Centerville, Utah 84014-0129. •

Non-Resident Reciprocity Statute Update

Under current California law, if a foreign state requires residency as a condition for real estate licensure, residents of that state are not eligible to renew existing real estate licenses or to apply for a new real estate license in California (Section 10151.5 of the Business and Professions Code). This provision affected the right of residents of 12 states— including Alaska, Arizona, Florida, Hawaii, Idaho, Louisiana, Mississippi, Nevada, South Carolina, Tennessee and Washington—to be licensed in California.

However, recent developments in Nevada and Hawaii have enabled residents of California to once again obtain real estate licenses in those two states. As a corollary, residents of Nevada and Hawaii are also now eligible for licensure in California.

In Nevada, a resident of California filed suit in the First Judicial District Court of the State of Nevada, Carson City, against the State of Nevada's Department of Commerce and its Real Estate Division seeking to have Nevada's residency requirement for licensure declared unconstitutional. Pursuant to a stipulation entered into by the paintiff and the State of Nevada, Nevada's residency requirement was determined to be unconstitutional. As part of the settlement the Nevada Division of Real



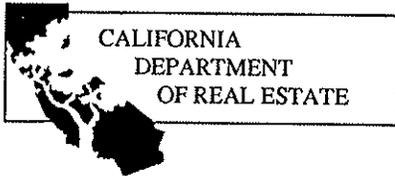
Estate agreed not to attempt to enforce the residency requirement. The order was filed effective May 1, 1986.

In Hawaii, the same result was achieved when its Governor signed into law legislation deleting the Hawaii residency requirement for real estate licensure. The Hawaii law became effective on April 29, 1986.

The net result of these actions is that residents of Nevada and Hawaii are once again eligible to renew existing California licenses or to apply for and obtain a new California real estate license, and residents of other states, including California, have similar rights in each of these states. Commissioner Edmonds has so advised both the Nevada Division of Real Estate and the Hawaii Real Estate Commissioner. •



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