

"Nothing Down" Industry Diminishes

by Frank Buda, Deputy Commissioner III,
Crisis Response Team, South

A FEW YEARS AGO THE PROPONENTS OF buying real property with "nothing down" were as plentiful as ants at a picnic. However, today many of these proponents have fallen on hard times. Many have stopped giving seminars, book sales have dropped, and some have filed Bankruptcy.

In May 1986, *Time Magazine* published a business and economy article entitled, "The Preachers of Easy Pickings ... real estate pitchmen draw disciples with a no-money-down creed." The article noted that although the instructional/inspirational financing packages offered by the "gurus of no-money-down" real estate transactions "apparently remain within the law... at least in one state, California, the Department of Real Estate has issued warnings to brokers, advising them to avoid such deals. Reason: authorities think no-money-down arrangements pose hazards to the seller, who could face foreclosure if an overextended buyer fails to keep up with payments."

Changing economic times and a better informed public have made the creative financing schemes of the "nothing-down gurus" less attractive.

Also influencing the demise of this practice have been the alert and competent real estate broker and sales professionals who have counseled their sellers regarding the inherent dangers involved in such schemes. The potential for harm to the seller is great because the buyers have no financial stake in the properties they are purchasing.

The greatest danger to the seller when confronted with a "nothing down" offer on his property is that the offer may in fact be a "cash to buyer" or "buyer walk-away" transaction. These transactions are simply variations on the same basic theme:

1. The buyer invests none of his own money.
2. The buyer arranges for a new first or second loan to finance the purchase or agrees to assume the existing financing and arrange for a new junior loan.
3. The seller carries back a large junior note and trust deed from the buyer.
4. The encumbrances against the property represented by the buyer's note and senior encumbrances exceed the fair market value of the property.
5. The seller agrees to the buyer receiving part of the cash from the new loan.
6. The buyer occupies the property for a short time or rents to a third person.
7. The buyer makes no payments, or a few

continued on page 4, **Nothing Down**

Real Estate Transfer Disclosure Statement: Debunking the Myths

by Deidre Johnson, Real Estate Counsel
San Francisco

IN THE WINTER 1986 *REAL ESTATE BULLETIN*, THE BASIC REQUIREMENTS OF THE NEW REAL ESTATE transfer disclosure law were set forth. All transfers of residential real property containing at least one but not more than four dwelling units by sale, exchange, installment land sale contract, lease with option to purchase, or ground lease coupled with improvements must be accompanied by delivery to the transferee (buyer) of a completed transfer disclosure statement.

The transfer disclosure statement must be completed by the transferor (seller) to the best of his or her personal knowledge.

Additionally, Section III of the form must be completed by the agent representing the seller and Section IV by the agent who obtains the offer, if it isn't the seller's agent. These portions of the disclosure statement must set forth the licensee's findings as a result of having made a reasonably competent visual inspection of the property. Sections III and IV of the form are designed to assist licensees in carrying out their Easton duties, as more particularly described in Civil Code Section 2079, et seq. (See the Winter Bulletin for a list of the exempt transactions.)

The Department has learned that a certain amount of confusion and misinformation exists about the duties of licensees to inspect for defects under the new law. The extent of the inspection responsibility for licensees has not changed. Real estate licensees simply need to make the same "reasonably competent and diligent visual inspection of the accessible areas of the property" that was codified in Civil Code Section 2079 in 1985.

Question: "What has changed, then?"

Answer: Now, the seller must provide in the transfer disclosure statement specific written disclosures to the best of his or her personal knowledge and the real estate agent must also set forth in the statement the findings of his or her inspection for delivery to the buyer.

The seller's inspection is made with ordinary and reasonable care.

The agent's inspection is measured by the degree of knowledge required to obtain a real estate license. So long as a reasonably competent and diligent visual inspection has been made and the information disclosed, neither the seller nor the seller's agent should be liable for any errors, inaccuracies or omissions in the disclosure statement, under traditional laws of negligence or misrepresentation.

The transfer disclosure law has not changed any other legal rights and remedies of the parties to the real estate transaction, except if certain experts are used.

Question: "Does the new law require inspection by a professional home inspector?"

Answer: Absolutely not! Part V of the form simply informs buyers and sellers that they "may wish to obtain professional advice and/or inspection of the property..."

The seller may employ a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or other expert to prepare a report of inspection dealing with matters within the scope of the respective professional's license or expertise. Many sellers may not need any special home inspection.

The field of "home inspection" is broad and there is no such thing as a licensed "home inspector" in this state. This means that there are no legally required standards or knowledge and experience that a person or company must possess in order to call themselves experts in "home inspection."

Licensed professionals, such as engineers, geologists, contractors, etc., on the other hand, have standards of qualification.

Question: "Why would a seller want an expert's opinion?"

Answer: The new law protects sellers and real estate agents from liability for negligent or reckless mistakes or omissions in the disclosure statement if the information relied on was not within their personal knowledge and came from (1) a public agency, or (2) the report or opinion prepared by "a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or

continued on page 3; **Disclosures**

California's Perspective: The World After Recent U.S. Supreme Court Decisions

Nollan vs. California Coastal Commission and

First English Evangelical Lutheran Church vs. County of Los Angeles

The California State University—Real Estate & Land Use Institute (CSU-RELUI) is producing a satellite-relayed televideo conference on the impact of these Court decisions on land use regulation.

The views and strategies of various California licensees, legislators, attorneys, homeowners, city and county planners, developers, environmentalists and others will be discussed.

For program and ticket information, call the CSU-RELUI Hotline (800) 852-5336.

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DISCIPLINARY ACTION
 December 1986 to February 1987

REB - Real estate broker
RES - Real estate salesperson
PRLS - Prepaid rental listing service
REO - Real estate officer
RRER - Restricted real estate broker
RRER - 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

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 for 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 Codes

490 relationship of conviction to licensed activity
 10086 violation or order to desist and refrain
 10130 acting without license
 10131 real estate broker definition
 10131(a) negotiating sale of real property
 10131(b) negotiating rental of real property or collecting rents
 10131(d) negotiating mortgage loans
 10137 unlawful payment of compensation
 10141.5 failure to record or deliver trust deed within one week after close of transaction
 10142 failure to deliver copy of agreement to signatory
 10145 trust fund handling
 10146 failure to handle advance fees as trust funds or to furnish verified accounting to principal retention and availability of real estate broker records
 10148 making any substantial misrepresentation
 10176(a) making false promise
 10176(b) commingling trust funds
 10176(c) secret profit or undisclosed compensation
 10176(d) fraud or dishonest dealing in licensed capacity
 10176(e) procuring a real estate license by misrepresentation or material false statement
 10177(a) conviction of crime
 10177(b) false advertisement
 10177(c) violation of real estate law or regulations
 10177(d) conduct that would have warranted denial of a license
 10177(g) negligence or incompetence as licensee
 10177(h) failure to supervise salespersons
 10177(i) fraud or dishonest dealing not in licensed capacity
 10177(k) violation of restricted license condition
 10177.5 civil fraud judgment based on licensed acts
 10231.2 failure to give self-dealing notice

10233

10234

10238.3

11010

11018.1

11018.2

Regulations

2715

2725

2731

2785(a)(10)

2794

2830

2831

2831.1

2832

2832.1

2834

2972

2950(e)

2950(g)

2950(i)

failure of MLB to have written servicing contract
 failure of broker to record trust deed in loan transaction or to cause recorded assignment of trust deed in sale of note secured by trust deed failure to obtain real property securities permit failure to file notice of intention to sell or lease subdivision
 failure to give public report
 illegal subdivision sales (sale of subdivision lots without public report)

broker's failure to maintain current address with DRE
 failure of broker to review and initial agreements
 unauthorized use of fictitious business name
 unauthorized earnest money refund
 failure to provide a public report prior to purchase
 failure to maintain trust fund account
 inadequate trust fund records
 inadequate trust fund records
 failure to comply with specific provisions for handling trust funds
 broker's failure to obtain permission to disbursement trust funds from an account involving multiple beneficiaries
 trust account withdrawals by unauthorized person
 advance fee accountings
 failure by broker to maintain and make escrow records available for inspection
 broker-controlled escrow violation
 broker-controlled escrow violation

LICENSES REVOKED

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Martin, Thomas Lee (RES)	2227 E. Santa Clara, #D, Santa Ana	7/1/86	490, 10177(a)(b)
Gottlieb, Jerome (RES)	16856 Golden Star Av., Riverside	11/12/86	490, 10177(b)
Fuente, Jose N. (RES)	414 W. Hellman Av., Monterey Park	12/2/86	10130, 10131(a), 10177(d)
Wilson, Johnie Lafette (REB)	P.O. Box 4821, Carson	12/2/86	10176(e)(i), 10177(d), 10177.5
Gray, Tyrone (REB)	P.O. Box 4634, Inglewood	12/2/86	490, 10177(b)
Parker, John Madison (REB)	946G Kiely Bl., Santa Clara	12/3/86	10177(c)
Eaton, Larry Albert (RES)	2060 Ball Ct., Arcata	12/3/86	490, 10177(b)(f)
Moore, Mike Doyle (RES)	644 San Benito, Los Gatos	12/3/86	490, 10177(b)
Bishop, Art (REB)(REO)	11149 S. Crenshaw Bl., Inglewood	12/9/86	490, 10177(b)
Marrison, Tina (RES)	P.O. Box 1303, Pomona	12/9/86	490, 10177(b)
Ammann, Roger John (REB)(REO)	9478 W. Olympic Bd., Ste. 6279, Beverly Hills	12/9/86	490, 10177(b)
Elmore, Margaret Carolyn (RES)	5807 Topanga Canyon Bl., #B-202, Woodland Hills	12/9/86	490, 10177(b)
Wilkins, Saed Akil (RES)	3755 W. 115th St., Hawthorne	12/9/86	490, 10177(b)
Leon, Mario Antonio (REB)	284 Duncan St., San Francisco	12/9/86	490, 10177(b)(f)
dba-Mission Properties			
Biermann, Ronald Frederick (RES)	657 Sunset Wy, Redwood City	12/10/86	490, 10177(b)(f)

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Disciplinary Action, continued from page 2

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Jaregui, Phillip Leo (RES)	14415 Woods Valley Rd, Valley Center	12/10/86	490, 10177(b)
Nowzari, Ali (RES)	P.O. Box 2000-74, Mission Viejo	12/10/86	10177.5
Hoggard, Gurney Lindell (REB)	P.O. Box 894, Ridgecrest	12/16/86	10177.5
Golden Plan of California (REC)	P.O. Box 5213, Sacramento	12/22/86	2832.1, 10145, 10176(a)(b)(i), 10177(d)(j)
Personal Home Loan Inc. (REC)	1507 21st St., Ste. 205, Sacramento	12/22/86	10176(a)(i), 10177(j)
Monaco, Frank Danial (REB)(REO)	191 Arends Dr., Danville	12/22/86	2832.1, 10145, 10176(a)(i), 10177(d)(j)
Monaco, Daniel Albert (RES)	2503 K St., Sacramento	12/22/86	490, 2832.1, 10145, 10176(a)(i), 10177(b)(d)(j)
Clark, Edward Raymond (RES)	21344 Mission Bl., Hayward	12/22/86	490, 10176(a)(i), 10177(b)(j)
Reese, Patti Jaclyn (RES)	6915 Centennial Wy, Sacramento	12/22/86	10176(a)(i)
Monaco, Sammy Vincent (RES)	3447 College Av., Sacramento	12/22/86	10176(a)(i)
Tortorelli, Jefferson Andrew (REB)	358 E. Bonita Av., San Dimas	12/23/86	2731, 2831, 2832.1, 10145, 10177(d)
Gerdes, Joan Margaret (RES)	2628 8th Av., Oakland	12/29/86	12/29/86, 490, 10177(b)(f)
Hourihan, John Joseph (REB)	35 Mitchell Bl., Ste 4, San Rafael	1/5/87	490, 10177(b)(f)
O'Keefe, Brian Allen (REB)(REO)	835 Piner Rd., #B, Santa Rosa	1/7/87	10176(a)(i), 10177(f)(j)
Off—O'Keefe Financial, Inc.			
O'Keefe Financial, Inc. (REC)	3251 Hidden Valley Dr., Santa Rosa	1/7/87	10176(a)(i), 10177(f)(j)
Barclays Mortgage Corporation (REC)	17702 Cowan St., Irvine	1/8/87	2725, 2832.1, 2834, 10233, 10145, 10148, 10176(a)(e)(f), 10177(d)(i)
Eady, Phillip Michael (REB)(REO)	12329 Breezewood, #2, Whittier	1/8/87	10177(h)
Mendez, James Leopold (REB)	1616 N. Canyon Dr., Fullerton	1/13/87	10176(a)(i), 10177(d)
Db—International Real Estate Network/Natalie Woods & Associates			
Bartlett, David Alfred (RES)	1200 8th St., Manhattan Beach	1/13/87	490, 10177(b)
Murphy, William Jr. (RES)	P.O. Box 1107, Tustin	1/13/87	490, 10177(b)
Heidi, Irene Mary (RES)	2951 Shadowbrook Ln, Westlake	1/13/87	490, 10177(b)
Redd, Randy Eugene (RES)	8919 Mays Av., #29, Garden Grove	1/20/87	490, 10177(b)
Allison, Charles Edward, Jr. (REB)	555 Fairview Av., Arcadia	1/20/87	490, 10177(b)
Parnell, Carol Ann (RES)	20801 Sherman Wy, #3, Winnetka	1/20/87	10177(f)(j)
De Ruosi, Michael Anthony Jr. (REB)	948 11th St., Ste. 11, Modesto	1/21/87	2830, 2832.1, 2834, 10145, 10177(d)
Db—World Real Estate & Development			
Dunn, Jeffery Craig (RES)	29001 Garden Oaks Ct., Agoura Hills	1/27/87	490, 10177(b)
Hochman, David Lincoln (RES)	17144 Bameston Av., Granada Hills	1/27/87	490, 10177(b)
Realty Empire Corporation (REC)	950 Northgate Dr., Ste 200, San Rafael	2/2/87	2950(e), 10148, 10231.2, 10233.1, 10176(a)(b)(c)(i), 10177(d)(j)
Walker, Bob (RES)	P.O. Box 37343, Los Angeles	2/3/87	490, 10177(b)
Klein, Kenneth M. (RES)	14803 Addison St., Sherman Oaks	2/3/87	490, 10177(b)
Grissette, Arnold James (REB)	3042 Grove St., Berkeley	2/4/87	490, 10177(b)
Cater, Billy F. (RES)	P.O. Box 1221, Clearlake Oaks	2/9/87	10145, 10176(a)(e)(g)(i), 10177(d)(f)
Tom, Barbara Jean (REB)	241 S. San Antonio Rd., Los Altos	2/10/87	490, 10177(b)
Dahlstrom, Donald Allan (REB)	P.O. Box 27484, San Diego	2/17/87	490, 10177(b)
Singh, Harpreet (RES)	1831 Manzanita Dr., San Pablo	2/26/87	10137, 10176(a)(i), 10177(d)

LICENSES REVOKED WITH A RIGHT TO A RESTRICTED LICENSE

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Dix, Alfred Milton (RES) (Right to RRES license on terms and conditions)	13900 Panay Wy, M-306, Marina Del Rey	11/4/86	490, 10177(b)
Cummings, John Jerome (REB) Db—AAA Financial Services (Right to RREB license after 1 year on terms and conditions)	2565 Chapman Av., #215, Fullerton	12/2/86	2972, 10146, 10177(d)(g)
Tan, Shirley, S. (RES) (Right to RRES license on terms and conditions)	1528 Grandridge Av., Monterey Park	12/2/86	2785(a), 10142, 10145, 10176(a)(b), 10177(d)(g)
Wong, Joseph Tin Sang (REB)(REO) (Right to RRES license on terms and conditions)	P.O. Box 116, Newark	12/3/86	10176(a)(i), 10177(f)(j)
Woelfel, William Michael (RES) (Right to RRES license on terms and conditions)	20000 Wright Dr., Los Gatos	12/4/86	490, 10177(b)(f)
Stewart, William Francis (RES) (Right to RRES license on terms and conditions)	1060 Northwood Dr., San Carlos	12/4/86	490, 10177(a)(b)
Stelle, Stephen Ren (RES) (Right to RRES license on terms and conditions)	69 Terrace View Dr., Scott Valley	12/8/86	10145, 10177(d)

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Disclosures, continued from page 1

other expert, dealing with matters within the scope of the professional's license or expertise." (Civil Code Section 1102.4.)

Question: "When would a seller want an expert's opinion?"

Answer: The reasons vary depending on the property, but may involve a "red flag" of some sort. For example, if the seller or agent sees the "red flag" of water spots in an unusual location and determines that the problem could be bad plumbing or a leaky roof, the initial disclosure statement to the buyer would warn of the existence of the spots and the inability to specify the source of the problem after a reasonable visual inspection. The parties may then decide to hire an expert roofing and/or plumbing contractor to give an opinion. Seller would then amend the disclosure statement to set forth the expert's opinion. (Note: This would give the buyer/transferee an additional three or five days, depending on how the disclosure statement is delivered, to terminate his or her offer.)

After the close of escrow, if it were discovered that the expert made a mistake, the seller and real estate agent who acted in good faith would not be liable under the disclosure law for damages to the buyers.

Question: "But, doesn't the disclosure form require detailed information about structural and flooding problems, soil slip-page, encroachments, etc.?"

Answer: The answer is "yes" and "no." The form requires the seller to disclose these and other items, if he or she is personally aware of them. The seller's knowledge is based on what is actually known, or what should be known using ordinary or reasonable care. In the absence of any information that would lead a seller to suspect a problem, the seller may safely state there is no such problem to the best of his or her knowledge. Honesty in the disclosure is all that is required.

Question: "May I rely on an expert's opinion?"

Answer: The answer is "yes," if the following conditions are met.

First, the opinion must deal with matters within the scope of the professional's "license of expertise." If the person giving the report is not licensed in the area of the subject(s) of the report, that person's expertise should be carefully evaluated and checked. An inspection by a licensed plumber, or a licensed geologist, will not protect a seller or his or her agent from inaccurate information given by them about the roof, for example.

Unlicensed "home inspectors" may not have the education, training and experience to qualify as an "expert" as to each area of disclosure addressed in the report. As such, the seller and real estate agent will not be protected and cannot rely on their findings and opinions as a shield to possible misrepresentations or omissions.

Question: "To complete the form, doesn't the seller either have to be a building expert or hire an expert to keep from being sued by the buyer?"

Answer: No. Where the inspection is rea-

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Nothing Down, *continued from page 1*

payments, before defaulting on the loans and keeps the cash he has received from the new loan as profit as well as any rental proceeds.

In a "cash-to-buyer" or "buyer walk-away," the seller is seriously damaged, faced with the choice of losing the property through foreclosure by the holder of a senior trust deed or of foreclosing himself and taking the property subject to the senior encumbrance.

In previous *Bulletin* articles the Department of Real Estate has cautioned licensees about making such offers and reminded them of their fiduciary duty as an agent to fully explain to the seller all the potential adverse consequences of accepting such an offer.

Further, the Department will not hesitate to take disciplinary action against real estate licensees who have been involved as buyers, or as listing or selling agents in the "cash-to-buyer" or "buyer walk-away" transactions, and who have failed to fulfill their fiduciary duties to their principals.

As a warning to those who might still contemplate perpetrating cash-to-buyer transactions, they should consider that if the lender of the senior encumbrance is a federally insured institution and either the buyer or real estate licensee have made or aided in the falsification of a loan application to that lender (misstated the purchase price, the amount of the down payment, or credit worthiness of the loan applicant), those involved may be charged with felonies (18 U.S.C. §371, §1014) punishable by up to five years in prison and a \$10,000 fine. A number of U.S. Attorneys have prosecuted individuals who have perpetrated "buyer walk-away" schemes under these federal statutes.

Recently, in Los Angeles, DRE's Crisis Response Team investigated a variation on the "cash-to-buyer" scheme. In numerous transactions two independent but related groups of individuals used "straw buyers" to make approximately thirty-five offers to purchase property each day. The offers were made to sellers who either had no encumbrances on their properties or small loan amounts still owed. The offers were for the seller's full price with a substantial down payment if the seller would carry back all the financing. These groups in league with an escrow officer had the escrow instructions state that the seller's loans were secured by a "note" without including a corresponding provision for the loans to be secured by a trust deed. Further, the notes would include a provision in the boiler plate which stated that the sellers agreed to subordinate their loans to any other encumbrance as well as a statement that the sellers were aware that their properties were going to be over-encumbered. These groups would then have the sellers sign the notes. In each transaction second escrows were opened in which new loans up to 90% of the fair market value of the properties were obtained. Part of the proceeds from these loans would then be used to make the down payments in the original transactions as well as to pre-pay a year's interest on the seller's notes.

The Crisis Response Team submitted investigations for the filing of accusations to revoke real estate licenses of those members of these

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Disciplinary Action, *continued from page 3*

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Davenport, Keith William Jr. (REB) (Right to RRES license on terms and conditions)	10509 San Diego Mission Rd., San Diego	12/9/86	490, 10177(b)
Kreutzer, Jerome David (RES) (Right to RRES license on terms and conditions)	7407-135 Alvarado Rd., La Mesa	12/9/86	490, 10177(b)
Barnette, Gary Wayne (RES) (Right to RRES license on terms and conditions)	1821 Martha Ln, Santa Ana	12/9/86	490, 10177(b)
Lund, Revard Llwellyn (REB) (Right to RREB license on terms and conditions)	21730 Nisqually, Apt. 8, Apple Valley	12/9/86	490, 10177(b)
Sanguily, Rafael G. Jr. (RES) (Right to RRES license after 60 days on terms and conditions)	7316 Otis Av., #8, Bell	12/9/86	490, 10177(b)
Cossio, Herman Julio (RES) (Right to RRES license on terms and conditions)	19724 S. Kimberly Ct., Cerritos	12/10/86	10176(a)(i), 10177(g)
Cowdery, Craig Alan (REB) (Right to RREB license on terms and conditions)	248 Topeka Av., San Jose	12/15/86	490, 10177(b)(f)
Long, Simone Ivy (RES) Right to RRES license after 30 days on terms and conditions)	4537 Katherine Av., Sherman Oaks	12/15/86	10177(f)
Cary, Donald David (REB) (Right to RREB license on terms and conditions)	1045 Ocean Av., #9, Santa Monica	12/16/86	490, 10177(b)
Philastre, Eugene Joseph (REB) Db-a-Pro Realtors (Right to RRES license on terms and conditions)	1195 W. Shaw Av., Ste. C., Fresno	12/16/86	10176(a), 10177(g)
Pastor, Monon Hubert (REB)(REO) (Right to RREB license on terms and conditions)	1700 Monterey Av., Coronado	12/16/86	10167.10(b), 10167.11(a), 10177(h)
Estrada, Marla Anne (RES) (Right to RRES license on terms and conditions)	10875 Godwin Ln., Grass Valley	12/22/86	10177.5
Estrada, George Paul (REB) Db-a-Country Roads Real Estate Ponderosa Home Loans (Right to RRES license on terms and conditions)	10875 Godwin Ln., Grass Valley	12/22/86	10177.5
Scobey, Sherry Lynn (RES) (Right to RRES license on terms and conditions)	6656 Lakeridge Rd., Los Angeles	12/23/86	490, 10177(b)
Bernad, Alain Armand (RES) (Right to RRES license on terms and conditions) Suspended for 30 Days	1133 Newhall St., San Jose	12/23/86	10145, 10177(d)
Schacher, Ronald Edwin (RES) (Right to RRES license after 30 days on terms and conditions)	201 Dunsuir Ct., Aptos	12/30/86	490, 10177(b)(f)
Rastegari, Asmail (RES) (Right to RRES license on terms and conditions)	P.O. Box 3465, Fullerton	1/7/87	490, 10177(a)(b)
Meals, Robert Lester, Jr. (RES) (Right to RRES license on terms and conditions)	39 Paloma Av., #16, Venice	1/8/87	490, 10177(b)
Irvine, Jean (RES) (Right to RRES license on terms and conditions)	5382 Catowba Ln., Irvine	1/13/87	490, 10177(b)
Tang, Amanda See Fun (RES) (Right to RRES license after 60 days on terms and conditions)	739 Paseo Grande, Corona	1/15/87	490, 10177(b)
Fox, Homer Melvin (REB) (Right to RREB license on terms and conditions)	204 W. Old Mill Rd., Corona	1/20/87	490, 10177(b)
Paz, Ramon Carlos (RES) (Right to RRES license on terms and conditions)	8619 Bothwell Rd., Northridge	1/27/87	490, 10177(b)
Aubry, Al F. (RES) (Right to RRES license on terms and conditions)	2403 Poinsetta Av., Santa Ana	1/27/87	490, 10177(b)
Wagner, Bruce Kenneth (RES) (Right to RRES license on terms and conditions)	220 Hiwatha Av., Pacifica	1/28/87	490, 10177(b)(f)
Evaristo, Victor Loyola (RES) (Right to RRES license on terms and conditions)	988 Sunrise Dr., Fremont	2/3/87	490, 10177(b)
Renner, Walter Frank III (REB)(REO) Db-a-Century 21 Walter Renner Realty (Right to RRES license on terms and conditions)	4951 Mission St., San Francisco	2/3/87	10177(a)(f)(g)
Cleff, Gary O. (RES) (Right to RRES license on terms and conditions)	4348 Ventura Canyon Av., #3, Sherman Oaks	2/3/87	490, 10177(b)
Western Money Fund (REC) (Right to RREC license on terms and conditions)	1111 W. El Camino Real, Ste. 135, Sunnyvale	2/4/87	10131(d), 10137
Perry, Marcus Hamilton (REB)(REO) Off-Western Money Fund (Right to RREB license on terms and conditions)	1111 W. El Camino Real, Ste. 135, Sunnyvale	2/4/87	10131(d), 10137
Jayne, Robert P. (REB)(REO) (Right to RREB license on terms and conditions)	1465 Beachpark Bl., #240, Foster City	2/10/87	10176(a)(i), 10177(f)
Dom Plaz & Company (REC) (Right to RREC license on terms and conditions)	344 N. Central Av., Glendale	2/10/87	2831.i, 2832.1, 10177(d)
Davis, David Ellsworth (RES) (Right to RRES license on terms and conditions)	21917 Oakview Ln., Cupertino	2/24/87	490, 10177(b)
Wang, Helen H.M. (RES) (Right to RRES license on terms and conditions)	37 Coolidge Terrace, Oakland	2/26/87	10130, 10131(b), 10145, 10177(d)(e)

Disciplinary Action, *continued on page 5*

Disciplinary Action, continued from page 4

Social Security Number Requirements

by Thomas R. Hensley, Managing Deputy
Commissioner IV, Sacramento

EFFECTIVE JULY 1, 1987, BUSINESS AND PROFESSIONS CODE, SECTION 30, added by statutes 1986, Chapter 1361, Section 1, requires each licensee, at the time of issuance or renewal of a license to provide the DRE with their social security number, which will be furnished to the Franchise Tax Board. Failure to provide this information is subject to the penalty provided in Revenue and Taxation Code Section 19276.

Social security numbers shall not be deemed public records and shall not be open to the public for inspection. The Franchise Tax Board will use the information to establish identification exclusively for tax purposes. □

Disclosures, continued from page 3

sonably competent, and the seller discloses all information he or she knows or should know about the property as required in the form, there should be no valid basis for a lawsuit under the transfer disclosure law.

Negligence is "the failure to use ordinary or reasonable care." Reasonable care is "that care which persons of ordinary prudence would use in order to avoid injury to themselves or others under similar circumstances." That is the seller's common sense responsibility. For the real estate licensee, "reasonable care" will be that which "other real estate licensees of ordinary prudence" would use in the circumstances. There is no basic change in these traditional concepts. In fact, it is hoped that litigation between buyers and sellers will be reduced because of the transfer disclosure law. Specific items listed in the form will be discussed before escrow closes, and the form is a written record to protect both parties. □

Nothing Down, continued from page 4

groups who are licensed by DRE. The accusations were based on fraud and dishonest dealing. During the course of the Crisis Response Team's investigation, the team provided information to the Los Angeles District Attorney's Office which resulted in the District Attorney filing criminal charges against the participants.

To date, two members of the group have pled guilty to charges of grand theft. Eight other individuals are currently awaiting trial on thirty counts of grand theft. The District Attorney has stated that he will seek the maximum sentence of ten years imprisonment in these cases.

Although "cash-to-buyer" and "buyer walk-away" transactions are not as common as they were a few years ago, vigilance by real estate licensees is still necessary to protect the interests and property of their clients. □

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
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Snyder, Sam Stuart (RES)	1812 Westholme, #8, Los Angeles	12/16/86 (30 days)	10177(g)
Monaco, Gregory Joseph (RES)	4018 Nobel Dr., #304, San Diego	12/22/86 (1 year)	10177(g)
Fontaine, Marcus A. (REB)(REO) (effective after 30 days)	2554 Lincoln Bl., Ste 352, Marina Del Rey	11/28/86 (90 days)	10141.5, 10148, 10177(d)(g)(h)
Pinkus, Lee Roy (REB) (effective after 31 days)	2500 Wilshire Bl., Ste 101, Los Angeles	12/16/86 (30 days)	10177(g)
Brown, Angenetta Louise (RES) (effective after 30 days)	1546 W. 60th Pl., Los Angeles	2/4/87 (60 days)	10176(a)(i), 10177(k), 10177.5
Pinkus, Paul (REB)(REO) (effective after 61 days)	2500 Wilshire Bl., Ste 101, Los Angeles	12/16/86 (30 days)	10177(g)

LICENSES SUSPENDED WITH STAYS

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
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Ozanich, Anton Matthew, Jr. (REB) (Indefinite suspension unless certain conditions complied with)	5025 Fillmore Av., Bakersfield	6/12/86	2731, 2831.1, 10086, 10177(d)
Cathy Inc. (REC) Dbc-Cathy Realty & Investment (Stayed for 1 year on terms and conditions)	138 S. Atlantic Bl., Monterey Park	12/2/86 (15 days)	2725, 10177(g)(h)
Wang, Curt Yong-Chin (REB)(REO) Off-Cathy Inc. (Stayed for 1 year on terms and conditions)	138 S. Atlantic Bl., Monterey Park	12/2/86 (15 days)	2725, 10177(g)(h)
McBride, Suzanne Sevier (REB) (All but 10 days stayed for 1 year on terms and conditions)	2828 E. St., Eureka	12/9/86 (15 days)	2794, 11010, 11018.1, 11018.2
Burnitt, Roland L. (REB) (Stayed for 1 year on terms and conditions)	13361 E. Hwy. 20, ClearLake Oaks	12/9/86 (10 days)	2794, 11010, 11018.1, 11018.2
Carpenter, June Castellani (REB) (Stayed for 1 year on terms and conditions)	4817 Klamath Rd., Kelseyville	12/9/86 (15 days)	2794, 11010, 11018.1, 11018.2
Kupper, Victor David (REB)(REO) Dbc-Protected Realty Services (All but 10 days stayed for 1 year on terms and conditions)	141 N. Las Palmas Av., Los Angeles	12/19/86 (60 days)	2830, 2831, 2831.1, 2834(b), 2842.5, 10137, 10145, 10176(e), 10177(h), 10240
Morgan, James Joseph (REB) Dbc-Viking Loan & Inv. Co. (Stayed for 2 years on terms and conditions)	1936 Camden Av., San Jose	12/23/86 (45 days)	2832.1, 10145, 10177(d)
Monterey Mortgage Co. (REC) (All but 10 days stayed for 1 year on terms and conditions)	603 S. Atlantic Bl., Monterey Park	1/5/87 (45 days)	2830, 2831, 2832, 2834, 10145, 10177(d)
Gee, Wilson Wee (REB)(REO) Off-Monterey Mortgage Co. (All but 10 days stayed for 1 year on terms and conditions)	800 N. Broadway, Los Angeles	1/5/87 (45 days)	2830, 2831.1, 2832, 2834, 10145, 10159.2, 10177(d)(h)

INDEFINITE SUSPENSIONS UNDER RECOVERY FUND PROVISIONS

NAME	ADDRESS	EFFECTIVE DATE
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Patchen, Robert Harry (REB)	1901 Hagsstom Ct., Modesto	12/10/86
Speer, Edwin H. (RES)	P.O. Box 125, Imperial Beach	12/15/86
McInerney, John Francis (REB)	P.O. Box 491, Oxnard	12/22/86
Sorenson, C. Neil (REB)	P.O. Box 218, Lake Arrowhead	12/10/86
Caskey, James L. (REB)	5365 Lassen Av., San Jose	12/1/86
White, Neal Elliot (RES)	8169 Suntree Ln., Fair Oaks	12/1/86
Hobbs, Ted Bruce (RES)	7400 Madison Av., Fair Oaks	12/31/86
Richards, Steven (REB)	1901 S. Bascom, Ste. 1340, Campbell	12/31/86
Esperanza, Romeo Ayson (RES)	P.O. Box 5532, San Francisco	1/8/87
Esperanza, Patt Ganai (RES)	P.O. Box 5532, San Francisco	1/8/87
The Cosmic Corporation (REC)	P.O. Box 429, San Jose	1/8/87
Peterson, Ronald F. (REB)	110 East 9th St., Ste. B882, Los Angeles	1/8/87
Adams, Richard Jr. (REB)	P.O. Box 585, Alamo	1/13/87
Raicovich, Ivan Joseph (REB)	440 San Mateo Av., San Bruno	1/20/87
Ojeda, Dean (REB)	P.O. Box 1600, Palmdale	1/20/87
Kennedy, Francis Eugene III (REB)	1130 Meadow Wood Av., Covina	2/3/87
Larson, Dwayne Eugene (RES)	P.O. Box 4024, Santa Ana	2/3/87

Notes from Licensing

by Lawrence J. Cannon, Managing Deputy
Commissioner II, Sacramento

Don't Ignore License Expiration Dates

HAVE YOU PUT OFF RENEWING YOUR LICENSE OR DECIDED to leave the real estate business for a certain period of time and return in the future? Such a decision is not uncommon considering changing economic trends, interest rates, and housing growth rates.

It is important not to ignore your license expiration date. Although licensees are allowed to renew their license on a late basis up to two years beyond the license expiration date, there are some negative factors to consider.

First, once a license expires, no licensed activities can be performed by the licensee. Licensed activities may not be resumed until a new license certificate is issued. Conversely, if all renewal requirements are submitted prior to the expiration date of the license, the licensee may continue to conduct licensed activities until a renewed license certificate is received. Moreover, a licensee who in good faith submits evidence of completion of the Continuing Education requirement which he or she had reason to believe would qualify for renewal, but the evidence does not in fact qualify, then the Commissioner will normally grant a 90-day grace period to submit evidence of compliance.

Second, there is an additional late charge; \$40.00 for a salesperson renewal and \$55.00 for a broker renewal, if the renewal application is submitted after the license expiration date.

Third, all educational courses which must be completed as a prerequisite to qualify for the salesperson or broker examination must be satisfied. This may mean having to take additional courses for some persons who qualified for licensure before the new courses were added to the list of courses necessary to qualify for a license examination.

Finally, if a licensee renews on a late basis, continuing education courses must have been completed within four years prior to the date the late renewal application is submitted. Some courses which were completed in the four year period prior to the license expiration date may be over four years old when the late renewal application is submitted and may not be utilized toward the 45 hour requirement.

It is not uncommon for an individual to contact us, after allowing his or her license to expire, who, suddenly needs to renew it because of a potential profitable transaction. Unfortunately, more often than not, the individual's two year late renewal grace period has expired. In that case, the individual has no choice but to requalify for a new license, which will eventually require additional time and fees to complete.

Partly because of the negative factors listed in this article, the Department believes that it is wiser for the licensee to keep track of his or her license expiration date and file the appropriate renewal requirements in a timely manner. □

Proper ID Required to Take Continuing Education Examinations

by Thomas L. Mabry,
Managing Deputy Commissioner II

THE DEPARTMENT OF REAL ESTATE REQUIRES SPONSORS of Continuing Education courses to comply with regulations governing both course content and examination process to ensure that course sponsors and enrollees conform with standards of performance to meet CE requirements. One regulation about which DRE staff has received numerous requests for clarification is the requirement for licensees taking continuing education exams to present proper identification in order to take the examination.

You name it... health club, discount store or other similar, non-official forms of identification cards have been presented to continuing education sponsors or their representatives by licensees attempting to take course exams.

All of these forms of ID are unacceptable: they do not meet the requirements of Regulation 3007.3(a)(1). The regulation reads: "A participant shall present one of the following forms of identification as a prerequisite to taking the final examination:

- (A.) A current California drivers license.
- (B.) A current identification card described in Section 13000 of the California Vehicle Code.
- (C.) Any identification of the participant issued by a governmental agency within the immediately preceding five years which bears a photograph and description, signature and identification number of the participant."

Too often licensees who are refused entrance to a Continuing Education final examination because they present non-official forms of identification, wrongfully direct their wrath toward the sponsor or representative who is properly doing the prescribed job.

Regulation 3007.3(b) states, "A violation of a final examination rule by the sponsor or the sponsor's representative administering the examination shall constitute grounds for denial or withdrawal of approval of the offering." Understandably, the sponsor does not want to jeopardize the course approval due to a licensee's forgetfulness.

Before departing for your next continuing education course, take a few moments to be sure you have your proper form of identification with you. An ounce of prevention may be worth a wasted trip, your time and money. □

Responsibilities of Continuing Education Course Attendees

by Thomas L. Mabry
Managing Deputy Commissioner II,
Education Section, Sacramento

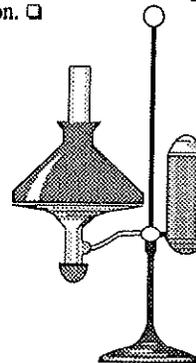
AMONG OTHER THINGS, THE PROCESS OF RENEWING A real estate license requires the submission of a completed RE 251 — "Continuing Education Course Verification" form. Upon signing this form, licensees certify under penalty of perjury that they "...have taken and completed the courses listed above and will furnish the Department of Real Estate upon request evidence of having taken any or all of the courses listed."

Successful completion of a continuing education course requires not only achieving a score of 70% or better on a supervised closed-book final examination (or receive a pass rating on an evaluation of performance and achievements over the entire course) but for courses other than those offered by correspondence, one must be physically present during at least 90% of the course presentation.

Licensees should be well aware that the falsification of information used in the renewal of a license is grounds for disciplinary action against the individual's real estate license by the Department.

Grounds for corrective or disciplinary action would also include the willful use of falsified information by a course sponsor on a certificate of completion issued to a licensee. An example of this would be a completion certificate issued to a course participant by the sponsor without the sponsor requiring the participant to meet the 90% attendance and successful completion of a final examination and/or evaluation requirements.

If you are aware of a situation involving the improper issuance of certificates by a course sponsor, do not jeopardize your own license by using such falsified information. Details regarding such occurrences should be reported to the nearest office of the DRE for appropriate corrective action. □



Disciplinary Action, continued from page 5

NAME	ADDRESS	EFFECTIVE DATE
Hixon, Eva Mae (REB)	1385 Sunnyside, Clovis	2/6/87
Moore, Robin Cairns (REB)	210 W. Main St., #104, Tustin	2/5/87
Frankfurth, James Alfred (REB)	22622 Lambert St., Ste. 301, El Toro	2/13/87
Perkins, Samuel LeRoy (RES)	13701 Pine Needles Dr., Del Mar	2/18/87
Kraemer, Larry M. (REB)	7419 Tierra Way, Fair Oaks	2/17/87
Banescu, Teodor Aureliu (RES)	8444 Reseda Bl., #G, Northridge	2/17/87
Poulain, Golden Evangeline (REB)	8444 Reseda Bl., #G, Northridge	2/17/87
Poulain, Glenn Edward (RES)	8444 Reseda Bl., #G, Northridge	2/17/87
Bromber, Robert Frank (REB)	5348 Shirley Av., Tarzana	2/25/87

Key Promotions at DRE

COMMISSIONER JAMES A. EDMONDS JR. RECENTLY announced personnel promotions in several key positions in the Department of Real Estate.

Betty R. Ludeman, formerly Regional Manager of the Northern Regulatory Area, has been promoted to Assistant Commissioner, Statewide Regulatory Activities. Ludeman began her employment with the DRE in 1974. She has served as Manager of the Sacramento Regu-

latory and Subdivision Sections and was DRE's Northern Regulatory Manager since 1983.

Robert McCabe, Manager of the Fresno District Office has been promoted to manage the Northern Regulatory Area. He will be based in Sacramento. McCabe has been in charge of the Fresno District Office since 1979. He joined the Department as an investigating deputy in the Los Angeles District Office in 1976 and later worked in the exams and licensing section.

Jerry Fiscus, a member of the Department's Crisis Response Team in the Los Angeles District Office, has been promoted to Manager of the Fresno District Office. With the Department for six years, Fiscus has had a varied range of responsibilities having served on the public complaint, mortgage advertising and mortgage loan desks, and in the Department's regulatory and subdivision sections.

These appointments took effect July 1, 1987. □

1987 Edition Reference Book Published

PROFESSIONAL STATURE IN THE REAL ESTATE INDUSTRY equates to a combination of experience, a broad general background and a specific knowledge of current real estate law. The Department of Real Estate publishes the Real Estate Law Book and the Reference Book to help keep novice and experienced real estate agents informed on both general and specific levels.

The 1987 edition of the Reference Book contains 30 chapters covering such topics as escrows, transactions, trust accounts, financing and licensing, as well as sample real estate forms and various charts and tables useful in real estate transactions. The price for the 1987 edition of the Reference Book is \$12.50 plus state sales tax.

The Real Estate Law book, currently the 1985 edition with the 1986 Supplement, contains additions, amendments and deletions to California real estate law and regulations enforced by the Real Estate Commissioner. It also has excerpts from other California Codes which have a direct effect on real estate practice such as the new laws relating to agency and real property transfer disclosures. The price of the most current edition of the Real Estate Law book (the 1985 edition with the 1986 Supplement) is \$10.00 plus state sales tax.

The 1987 edition of the Real Estate Law book should be available to the public in fall of 1987. The price of the 1987 edition will be \$12.50 plus state sales tax.

It is recommended that all active real estate licensees have the most recent editions of the Reference Book and Real Estate Law book handy at all times; the Reference Book as a quick reference, and the Real Estate Law book when questions arise relating to the legal duties and obligations of an agent.

Use the order form provided on this page when ordering either the Real Estate or Reference Book.

Educational Videos Released by DRE

Two new educational video programs are now available from the DRE. The videos are entitled, **Trust Funds and Supervision of the Real Estate Office**. Both video programs are suitable for use as independent training aids, or as supplements to Continuing Education or Statutory Pre-License college-level courses. Among the subjects discussed in each program are methods of operation, forms, and procedures governing the

activities of California Real Estate licensees.

Some of the topics discussed in the programs include:

Trust Funds - Definition of terms, basic documents and procedures, maintenance of records, proper handling of funds, case examples, withdrawals, commingling and conversion, etc.

Supervision of the Real Estate Office - Defini-

tion of terms, legal responsibilities of the broker relating to supervision of a sales staff, licensing and continuing education requirements, office practice and professional conduct, review of transaction documents, office policies, delegation of authority, etc.

The tapes are available in VHS format only at a cost of \$25 each. Please use the order form on this page to request these video programs from DRE.



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Title	Quantity	Cost	Your Cost
1985 Real Estate Law Book & 1986 Supplement		\$10.00 ea.	
1987 Reference Book		\$12.50 ea.	
Trust Funds (<i>Real Estate and Land Use Institute - 1987</i>)		\$25.00 ea.	
Supervision of the Real Estate Office (<i>RELUI - 1987</i>)		\$25.00 ea.	
		Subtotal	
		- Discount	
		+ California Tax	
Separate copies - 1986 Supplement to Real Estate Law		\$1.00 ea.	
TOTAL ENCLOSED			\$



IMPORTANT NOTICE



EFFECTIVE JULY 1, 1987, SECTION 10170.5(b) of the California Business and Professions Code mandates that in order to renew a real estate license, the licensee must complete a three-hour course in agency relationships and duties in a real estate brokerage practice, including instruction in the disclosures to be made and the confidences to be kept in the various agency relationships between licensees and the parties to real estate transactions.

If the license renewal applicant has not complied with all the requirements of the law as set forth

under Section 10170.5, then the Department is prohibited by law from renewing the applicant's license until such time as the applicant is in compliance with Section 10170.5.

Licensees are strongly urged to check with the sponsor prior to enrollment in an "Agency" course to determine if the course being offered is approved by DRE to meet the new "Agency" requirement. Several courses addressing the general subject of agency have been approved for continuing education credit over the past years; however, unless specifically approved under the new requirements, they will only be acceptable for

credit under the "Consumer Protection" category. Licensees who previously completed an "Agency" course should contact the course sponsor or the Department of Real Estate to determine whether the course is acceptable.

It is expected that additional courses designed to meet the new "Agency" requirement will soon be approved and available to licensees. Again, you are strongly advised to check with the course sponsor prior to enrolling in any "Agency" course to determine if the particular course being offered will satisfy this new requirement.



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