

A Power of Attorney May Not Be Used to Evade the Real Estate License Laws

by Larry Alamao, Staff Counsel, Sacramento

From time to time, particularly in the area of management of rental properties, unlicensed persons have attempted to use a power of attorney from the property owner as an alternative to obtaining a real estate broker license. The Department of Real Estate has consistently rejected this approach. The California Court of Appeal for the Second Appellate District in *Sheetz vs. Edmonds* (2d CIVIL B029559, May 13, 1988) has upheld the Department's interpretation.

Section 10133 of the Business and Professions Code provides a number of exemptions from the Real Estate Licensing Law. Included in those exemptions are: "a person holding a duly executed power of attorney from the owner of the real property with respect to which the acts are performed." Section 10133 also states that the exemptions "are not applicable to a person who uses or attempts to use them for the purpose of evading" ...the law.

The power of attorney exemption, in the Department's view, is not available to someone who consistently performs licensed acts.

The Department has consistently interpreted the power of attorney exemption as applying to limited and infrequent instances where the owner is unable to act with respect to his or her property. The power of attorney exemption, in the Department's view, is not available to someone who consistently performs licensed acts. The power of attorney is not an alternative to a real estate license for someone who is in the real estate business.

The Court in the *Sheetz* case agreed with the Department's positions and with a 1951 Attorney General Opinion (18 OPS. A.G. 200)

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Comments on Recent Happenings

by James A. Edmonds, Jr., Real Estate Commissioner

License Fee Increase Bill Withdrawn

I'm the first to admit it when I've made a mistake and upon discovering that revenue received by the Department of Real Estate for the fiscal year ending June 30, 1988 escalated far beyond the original projected deficit, I immediately counseled with a number of people active in the real estate profession and decided to request that Assemblyman Lancaster withdraw his AB 3027. This bill, which was sponsored by the Department of Real Estate, would have increased license fees for both salespersons and brokers. The DRE has no intention of requesting statutory authority for higher fees until it is obvious the authority is needed!

Would you believe that we will increase the Real Estate Fund reserves by approximately \$1.4 million for the 1987-88 fiscal year, when we originally projected a loss of approximately \$645,000? The primary reason for this unex-

pected increase is the unanticipated and continuing increase in the number of real estate licensee examination applications — an unexpected 50% increase in fiscal year 1987-88, which prosperity continues today into the 1988-89 fiscal year.

Obviously, this unexpected revenue reversed a previously gloomy fiscal forecast and the anticipated deficit projection which caused DRE and myself to seek the support of organized real estate in introducing the fee increase bill. I must assume that because of the favorable real estate market and the economy, the large volume of applicants for the real estate license examination will continue throughout 1988 and probably into 1989. Thus, the unexpected revenues have prolonged the time when we must reconsider and address possible deficit problems. If future fiscal problems occur, the Department will then intro-

*Commissioner's Comments,
continued on page 8*

Annual Reports by Residential Mortgage Lenders Required

by Larry Smith, Manager Mortgage Loan Activities, Sacramento

Effective January 1, 1988 Senate Bill 1556 (Petris) amended Section 35815 and added Section 35816 to the California Health and Safety Code, also known as the Holden Act.

The Holden Act is designed to prohibit discriminatory mortgage lending practices — "redlining" — in residential housing and provides for the monitoring and investigation of lending patterns and practices. The amended and added sections mentioned above require the Secretary of Business and Transportation or the Secretary's designee to prepare an annual report to be submitted to the state legislature based upon reports prepared and submitted by specified nondepository mortgage loan originators.

This new legislation requires the reporting information be substantially the same as now imposed by the Federal Home Mortgage Disclosure Act (HMDA) on federally regulated depository institutions such as banks, savings and loans, and credit unions. Federally regulated depository institutions report their mortgage loan activity annually to their respective regulatory agency on the basis of census tract, location, number, type of loans and dollar volume. As indicated, similar reporting will be required of non-depository lenders to their respective regulatory agency at the

state level. This means that some real estate brokers and other nondepository mortgage lenders (mortgage bankers and brokers) will be required to report their lending activity as described above. In the case of real estate brokers, including mortgage bankers, such reports will be sent to the Department of Real Estate. The information gathered by the DRE from reporting real estate brokers and by other state regulatory agencies will be compiled, analyzed and used for investigative purposes where necessary and for submission of an annual report to the legislature.

This article is to alert nondepository mortgage lenders about this legislation and the reporting requirements for those engaged in mortgage lending activity. At this time, work is underway to formulate necessary regulations and procedures to implement SB 1556.

Further notifications to affected lenders/brokers are expected in the next few months. Tentative plans call for lenders to begin collecting the required loan data on January 1, 1989 for the calendar year 1989 and that reports be filed no later than March 1990.

Future articles will provide specifics about the reporting requirement once regulations have been adopted. ■

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DISCIPLINARY ACTION
March 1988 to May 1988

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

RREB - Restricted real estate broker
RRES - Restricted real estate salesperson
RPRLS - Restricted prepaid rental listing service
REC - Real estate corporation

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

FOR YOUR INFORMATION

The following are brief summaries of the numerical code sections listed 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 \$12.50 plus tax.

Business and Professions Codes

480 denial of real estate license on grounds of conviction of crime, dishonest or fraudulent act, or act which would warrant suspension or revocation of license
490 relationship of conviction to licensed activity
10130 acting without license
10137 unlawful payment of compensation
10145 trust fund handling
10145(a) trust fund handling
10145(c) trust fund handling
10159.5 fictitious name
10176(a) making any substantial misrepresentation concerning trust funds
10176(c) fraud or dishonest dealing in licensed capacity
10176(f) procuring a real estate license by misrepresentation or material false statement
10177(a) conviction of crime
10177(b) 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
10177.5 judgement of fraud in a civil action

Regulations

2725 failure of broker to review and initial agreements
2726 broker-salesperson agreements
2731 unauthorized use of fictitious business name
2830 failure to maintain trust fund account
2831 inadequate trust fund records
2831.1 inadequate trust fund records
2832 failure to comply with specific provisions for handling trust funds
2832.1 broker's failure to obtain permission to disburse trust funds from an account involving multiple beneficiaries
2834 trust account withdrawals by unauthorized person

Licenses Revoked

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
AMS Realty, Inc. (REC)	429 W. Manchester Bl, Inglewood	4/26/88	2831, 2831.1, 2832.1, 2834, 10137, 10145, 10176(i), 10177(d), 10177.5
Anderson, Paul William (REB)	1893 N. Silverwood St, Orange	3/22/88	10177.5
B/C Property Management, Inc. (REC)	3770 Hancock St, #B, San Diego	3/23/88	2832.1, 10145(a), 10159.2, 10177(d)(h)
Blue Ribbon Properties, Inc. (REC)	1239 N. Chestnut, Fresno	5/17/88	2725, 2731, 2830, 2832.1, 10145, 10176(a)(f), 10177(d)
Budovsky, Yekaterina (RES)	1365 10th Av, #5, San Francisco	5/6/88	490, 10177(b)
Bumgardner, Dennis Dwight (RES)	770 Fifth Av, San Diego	4/20/88	490, 10177(b)
Carnody, Pamela Margaret (RES)	241 Maltson Av, Los Gatos	4/28/88	490, 10177(b)
Carter, Ernest Davidson (RRES)	4970 Warwick Av, Sacramento	4/28/88	2831, 10145, 10148, 10177(d)(k)
Cepeda, Ben L. (REB)(REO)	3770 Hancock St, #B, San Diego	3/23/88	2832.1, 10145(a), 10159.2, 10177(d)(h)
Chapman, Robert Allen (RES)	2517 Grouse Crossing Wy, Modesto	3/22/88	490, 10177(b)
Cirigliano, R. David (RES)	992 Michelangelo Dr, Sunnyvale	3/31/88	10177.5
Clay Huss & Associates Inc. (REC)	2343 S. Mission Rd, Fallbrook	3/15/88	10177(j)
Clay, Willard Hugh (REB)(REO)	30160 Mission Rd, Bonsall	3/15/88	10177(j)
Cluff, Valdon Walker (RES)	4000 Verdant St, Los Angeles	3/17/88	490, 10177(b)
Corral, Gabriel Benjamin (RES)	P.O. Box 9205, Ontario	3/15/88	490, 10177(b)
Culver, Melanie Lynn (RES)	3211 Reed Rd., Escondido	5/24/88	490, 10177(a)(b)

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Disciplinary Action, continued from page 2

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Curren, Joseph Robert (REB)(REO) Off - Ventura County Properties Inc.	1190 S. Victoria Av, Ste 106, Ventura	3/1/88	2830, 2832.1, 10176(e)(i), 10177(d)(j), 10231.1
Dillman, Walter E. (REB)	1462 W. Texas St, Fairfield	3/28/88	2830, 2831, 2831.1, 2832, 2832.1, 10145, 10176(e), 10177(d)
Estado Home Loan Company (REC)	1900 State St, Ste B, Santa Barbara	3/9/88	2831, 2831.1, 10145, 10145(a), 10148, 10177(d) 490, 10177(b)
Faust, Maurice Edward (RES)	P.O. Box 1364, Zephyr Cove, NV	3/28/88	490, 10177(b)
Franklin Estates, Inc. (REC)	2726 - 4th St, Bakersfield	4/20/88	2725, 2726, 2831, 2831.1, 10145(a), 10176(a)(i), 10177(d)(f)(g)(h)(j)
Giese, Jean Eloise (RES)	1780 Cedar Glenn, #A, Anaheim	3/23/88	490, 10177(b)
Gnash, Don Odonnelle (RES)	2278 Newport Bl, Costa Mesa	3/15/88	490, 10177(a), 10177(b)
Gonzales, Isaac (RES)	2836 W. Francis Av, #4, Los Angeles	3/29/88	490, 10177(b)
Graham, Billy J. (RES)	805 Robin Dr, Lake Elsinore	4/20/88	490, 10177(b)
Heath, Randall (RES)	960 N. Larrabee, #104, West Hollywood	4/20/88	490, 10177(a)(b)
Helsley, Donald Ray (RES)	P.O. Box 8061, Red Bluff	3/28/88	490, 10177(b)
Horn, Sherry G. (RES)	19095 Saratoga Glen Pl, Saratoga	4/27/88	490, 10177(a)
Jackson, Donald Hugh (RES)	302 N. Melrose, Monrovia	3/17/88	490, 10177(b)
Johnson, Pierce Jr. (REB)	1835 S. La Cienega Bl, Los Angeles	3/23/88	10176(a)(i), 10177(d)
Johnson, Woodruff (RES)	401 E. Ocean Bl, Ste 400, Long Beach	3/16/88	490, 10177(b)
Laber, Marian Roberta (REB)	164 Forest View Dr, San Francisco	3/14/88	2831, 10145, 10176(e), 10177(d)
Lee, Ching Shing (RES)	400 S. Atlantic Bl, #170, Monterey Park	3/22/88	490, 10177(b)
Lo Curto, Dean Thomas (REB)	1029 Blossom Hill Rd, San Jose	4/26/88	490, 10177(b)
Marquis, David Craig (RES)	P.O. Box 6747, Stateline, NV	4/18/88	2832.1, 10176(a)(e)(i), 10177(d), 10145
Morgan, Roberta Good (REB)	21157 Hawthorne Bl, Torrance	3/8/88	2731, 2830, 2832.1, 2834, 10177(d)
Nesler, John Joseph Jr. (RES)	3946 Carmona Av, Los Angeles	3/16/88	490, 10177(b)
Nuttall, Stanton Everett (RES)	16390 Stevens Canyon Rd, Cupertino	4/28/88	490, 10177(b)
Perez, Cesar Francisco II (RES)	1008 W. McFadden, Santa Ana	3/23/88	490, 10177(b)
Pintard, William Herbert (RES)	1117 State St, Santa Barbara	4/25/88	490, 10177(b)
Real Estate Center of Cerritos Inc. (REC)	17215 Studebaker Rd, Ste. 270, Cerritos	3/22/88	10177.5
Reece, Ronald Leroy (RES)	4633 Winnebago Av, San Diego	3/2/88	490, 10177(a)
Rental Bank, Inc. (REC)	13551 Ventura Bl, Sherman Oaks	3/29/88	10163, 10167.9(a)(3), 10167.9(a)(8), 10167.9(c), 10167.10(b), 10167.12, 10177(d)
Roth, Charles (REB)	25827 Lawton Av, Loma Linda	3/16/88	10177.5, 10177(d)
Ruiz, Edward Anthony (RES)	P.O. Box 1732, Temecula	3/30/88	10130, 10137, 10176(a)(i), 10177(d)
Sapronetti, Donald Edward Jr. (RES)	P.O. Box 856, Elk Grove	3/23/88	490, 10177(b)
Schaefer, Peter Carl (RES)	182 Brandon Dr, Goleta	5/24/88	490, 10177(b)
Slade, Robin G. (REB)	5527 Lawton Av, Oakland	5/23/88	10177.5
Stapleton, Walter Clyde (RES)	21314 Ave. San Luis, Woodland Hills	5/10/88	2731, 10130, 10177(d)
Sutzing, Robert Frank (RES)	14446 Ventura Bl, Sherman Oaks	3/15/88	490, 10177(b)
Tehrani, Kamran Bassiri (REB)	17524 Tuscan Dr, Granada Hills	4/12/88	490, 10177(b)
Thioune, Robin (REB)	5131 Ledge Av, North Hollywood	3/16/88	490, 10177(b)
Utlak, Leda J. (REB)	6410 Ridgebyrne Ct, Rancho Palos Verdes	3/8/88	2830, 2832, 2832.1, 2950(d)(h), 10176(e)(i), 10177(d), 10177.5
Ventura County Properties Inc (REC)	1190 S. Victoria Av, Ste 106, Ventura	3/1/88	2830, 2832.1, 10176(e)(g), 10177(d)(j), 10231.1
Walker, Arlene Rose (RES)	P.O. Box 2189, Oakhurst	3/29/88	10177(g)
Walker, James Leonard (RES)	P.O. Box 2189, Oakhurst	3/29/88	10177(j)
Warsi, Mohammed M. (RES)	P.O. Box 6447, Napa	5/12/88	490, 10177(b)
Yoon, Jae Key (REB)	4305 Gateway Av, #25, Los Angeles	3/16/88	490, 10177(b)

Fingerprint Fee Increase

by Lawrence Cannon, Managing Deputy Commissioner, Sacramento

An applicant for an original real estate license is required to submit one classifiable fingerprint card, acceptable to the Department of Justice, unless he or she is currently licensed or has held a license which expired within two years prior to the date the application was filed. A fingerprint processing fee is required in addition to the original license fee.

The Department of Justice has increased the fee charged to DRE for processing fingerprint cards. Therefore, effective August 1, 1988, the fingerprint processing fee was increased to \$19.00. The fee increase applies to all applicants who successfully pass the broker or salesperson examination on or after August 1, 1988. ■

University of California and Continuing Education of the Bar May Again Offer DRE C/E Programs

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

The Department of Real Estate is pleased to announce that University of California campuses may now re-enter the real estate continuing education program. Keith Sexton, Statewide Dean of the University of California Extension Program, has advised the DRE that the decision to re-enter DRE's C/E offering program resulted from a recent meeting of Deans from the various UC Extensions.

According to Sexton, UC campuses wishing to offer continuing education license renewal (C/E) credit for any of their "non-academic credit - one or two day programs," may now do so on an individual campus basis after receiving DRE approval through normal application procedures.

"DRE, as well as many licensees, welcome and commend UC for this change in policy which will again allow C/E credit to be available for many of the excellent UC Extension programs," commented Real Estate Commissioner James A. Edmonds, Jr. "This decision could also result in C/E credit approval for many of the Continuing Education of the Bar (CEB) programs."

Because the decision to apply for C/E credit is one each individual UC campus and CEB will have to make, licensees are encouraged to verify with the UC campus in their area or the CEB prior to enrolling if the course being considered has been approved by the DRE for C/E credit. ■

Licenses Revoked With a Right to a Restricted License

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Aguirre, Manuel Rios (REB) (Right to RREB license on terms and conditions)	1079D 3rd Av, Chula Vista	3/24/88	2830, 2831, 2832, 10145, 10176(a)(i), 10177(d)(g)(h)
Armstrong, Suzanne (RES) (Right to RRES license on terms and conditions) (Restricted license to be suspended 90 days)	P.O. Box 1496, South Lake Tahoe	4/27/88	10176(a)
Bank, Kenneth Clifford (REB) (Right to RREB license on terms and conditions)	132 Wadsworth Av, Santa Monica	5/3/88	10130, 10177(d)

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Funds Availability Review

from the California Land Title Association

In California, the Insurance Code provisions governing escrow disbursements when out-of-state checks are used were modified by the enactment of Senate Bill 1637 (Keene). SB 1637 authorizes the Department of Insurance to allow an exception to current escrow rules for out-of-state financial institutions with expedited check payment systems. The statute permits the Department to accept applications from out-of-state banks which wish to have their items qualified for use in California title company escrows on the same basis as California items.

Under SB 1637, the security of California escrows will depend on the collection time standard which the Department uses for evaluating out-of-state applicants. The statute requires the Department to determine whether the applicant's class of check has been shown, based upon verifiable information, to be collected by depository banks within the same time or less as generally occurs for California items. This "California equivalence rule" is critical to the continued safety of escrows and the CLTA is actively following the Department's implementation of the law.

This new authority took effect on January 1, 1988, but, since it has not yet been exercised, title industry escrow practices remain fully subject to prior law. If any applicant is approved, the CLTA will promptly assist the Insurance Department in notifying industry members of the change.

Back in Washington, D.C., years of funds availability debate resulted in congressional action to restructure the nation's check clearing system. Signed into law by President Reagan on August 10, 1987, the Expedited Funds Availability Act of 1987 makes many changes to be phased in over a period of years. For title companies, however, the changes of greatest significance take place September 1, 1988.

...the Expedited Funds Availability Act of 1987 mandates that effective September 1, 1988, depository institutions must give next day availability to deposits of ...cashier's checks, certified checks, and teller's checks.

This Act mandates that effective September 1, 1988, depository institutions must give next day availability to deposits of, among other things, cashier's checks, certified checks, and teller's checks. (Teller's checks are defined as a check drawn by one financial

Funds Availability, continued on page 5

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Licenses Revoked With a Right to a Restricted License

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Chai, Caroline Kaiian-Hsuih (RES) (Right to RRES license on terms and conditions)	1906 Big Bend Dr, Milpitas	4/28/88	490, 10177(b)(f)
Conway, Joanne Irene (REO) (Right to RREB license on terms and conditions)	15917 Arena Dr, Ramona	2/10/88	10177.5
Connier, Raymond William (RES) (Right to RRES license on terms and conditions)	6262 Foothill Bl, Tujunga	5/17/88	490, 10177(b)
Cory, Steve Norman (RES) (Right to RRES license after 30 days on terms and conditions)	1960 Sheridan, Leucadia	5/17/88	10177.5
Costa, Gonzalo C. (RES) (Right to RRES license on terms and conditions)	16303 Doublegrove, Valinda	5/24/88	490, 10177(b)
Covill, Douglas Clinton (RES) (Right to RRES license on terms and conditions)	2110 K St, Ste 13, Sacramento	5/16/88	10177(j)
Decker, Peter John (RES) (Right to RRES license on terms and conditions)	4610 Green Valley Rd., Suisun City	4/11/88	490, 10177(b)
Dohan, William Scott (RES) (Right to RRES license on terms and conditions)	8035 Santa Rosa, Atascadero	3/28/88	490, 10177(b)
Dooling, Deliana (RES) (Right to RRES license on terms and conditions)	400 Davey Glen, #4605, Belmont	5/1/88	490, 10177(a)(b)
Gabriel, John Oliver (RES) (Right to RRES license after 60 days on terms and conditions)	P.O. Box 464, Glendora	3/29/88	480, 10177(b)
Galvez, Rachel Rangel (REB)(REO) (Right to RREB license after 30 days on terms and conditions)	1615 N. French St, Ste 203A, Santa Ana Off - Freedom D&R Realty Incorporated	5/17/88	480(2), 10176(a)(i), 10177(f)(g)
Hall, Edna Maria (REB) (Right to RRES license on terms and conditions)	2793 San Bruno Av, San Francisco	4/26/88	10145, 10177(d)
Hatkoff, Stanley David (REB) (Right to RRES license on terms and conditions)	4525 Montgomery Dr, #10, Santa Rosa	4/7/88	10177.5
Hausman, Frank Arnold (REB)(REO) (Right to RREB license on terms and conditions)	2726 4th St, Bakersfield	4/20/88	2725, 2726, 2831, 2831.1, 10145(a), 10176(a)(i), 10177(d)(f)(g)(h)(j)
Hubanks, Betty Lorraine (RES) (Right to RRES license on terms and conditions)	32339 Amy Av, Bakersfield	3/8/88	10145, 10176(a), 10177(d)
Huston, Darrell Dean (RES) (Right to RRES license on terms and conditions)	23862 Del Cerro Cir, Canoga Park	3/10/88	490, 10177(a)(b)
Jara, Victor Armando (REB)(REO) (Right to RREB license on terms and conditions)	504 W. Baseline Rd, Glendora	4/5/88	490, 10177(b)
Koch, Klaus (REB) (Right to RREB license on terms and conditions)	19509 Cabrillo Hwy South, Half Moon Bay	3/14/88	490, 10177(b)
Lemaster, Ingrid Ruth (RES) (Right to RRES license on terms and conditions)	3475 Margarita Ct, Redding	5/5/88	490, 10177(b)
Lloyd, Kenneth James (REB)(REO) (Right to RREB license on terms and conditions)	2123 San Joaquin Hills Rd, Newport Beach	3/30/88	490, 10177(b)
Padilla, Kathryn Elizabeth (REB) (Right to RREB license on terms and conditions)	2990 Jamacha Rd, Ste 136, El Cajon	5/17/88	490, 10177(b)
Pershall, Walter William (REB)(REO) (Right to RREB license on terms and conditions)	17772 Irvine Bl, Ste 103, Tustin	3/19/88	10176(a), 10176(i), 10177(g)
Quigley, Michael Henry (RES) (Right to RRES license after 30 days on terms and conditions)	833 Ave A, Redondo Beach	3/29/88	490, 10177(b)
Ricchini, Greg Stephen (RES) (Right to RRES license on terms and conditions)	15924 Cambrian Dr, San Leandro	5/3/88	490, 10177(a)
Richardson, Duanne Gail (RES) (Right to RRES license on terms and conditions)	2015 24th St, Bakersfield	4/20/88	10130, 10145(c), 10176(a)(i), 10177(d)(j), 11177(d)
Robertson, Sonia Mendiola (RES) (Right to RRES license on terms and conditions)	3590-B Edison St, San Mateo	5/12/88	490, 10177(b)
Shade-Smith, Cristina Adrian (RES) (Right to RRES license on terms and conditions)	11260 Wilbur Av, Ste 101, Northridge	3/29/88	490, 10177(a)
Swallows, Margaret Gloria (RES) (Right to RRES license on terms and conditions)	5431 Willowick Cr, Anaheim	3/15/88	490, 10177(b)
Thomas, Daniel Lee (RES) (Right to RRES license on terms and conditions) (Restricted license to be suspended for 30 days)	P.O. Box 1322, Kings Beach	5/15/88	2830, 10145(c), 10176(a)(i), 10177(d)
Tufele, Seni Suatele (RES) (Right to RRES license after 45 days on terms and conditions)	1625 E. 218th St, Carson	5/17/88	10176(i), 10177(j)
Wilson, Willie Clayton (REB) (Right to RREB license after 180 days on terms and conditions)	8731 S. Western Av, Los Angeles	4/1/88	10177(f)
Yuryeva, Rimma (REB) (Right to RREB license on terms and conditions)	8753 Rosewood Av, Los Angeles	3/23/88	490, 10177(a)(b)

continued on page 5, Disciplinary Action

Disciplinary Action, continued from page 4**Licenses Revoked With Stays**

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Jeknavorian, George Lawrence (REB)22704 Ventura Bl, #124, Woodland Hills (Stayed for 5 years on terms and conditions) (Suspended for 180 days)		3/1/88	10177.5

Licenses Suspended With Stays

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Bartlett, Theodore Daniel (REB) (All but 5 days stayed for 1 year on condition)	1027 N. Lake Av, Pasadena	4/12/88 (10 days)	10177(g)
Collins, Michael Eugene (REB)(REO) (Stayed for 1 year on condition)	4560 N. Pershing Av, Stockton	3/29/88 (15 days)	10137, 10177(g)(h)
Davies, Minnie (RES) (Stayed for 1 year on condition)	1210 Castle Oaks Dr, Stockton	3/29/88 (10 days)	10130, 10177(d)
Johnston, William Noland (REB) (Stayed for 1 year on condition)	1398 Los Osos Valley Rd, Ste C&D, Los Osos	3/21/88 (30 days)	10137, 10145, 10159.5, 10177(d), 10177(h), 2731, 2834
King, Anthony Wayne (RES) (Stayed for 1 year on condition)	1398 Los Osos Valley Rd, Los Osos	3/21/88 (30 days)	10130, 10177(d)
Smith, Alvin Marion (REB) (May be suspended indefinitely)	1239 N. Chestnut, Fresno	5/17/88 (20 days)	2725, 2731, 2830, 2832.1, 10145, 10176(a)(i), 10177(d)
Williams, Frank Eugene (REB) Dba - Security Financial	1020 Manhattan Beach Bl, Ste 106, Manhattan Beach (Stayed on condition)	4/26/88 (15 days)	2830, 2831, 2831.1, 2832.1, 2834, 10145, 10176(e), 10177(d)

Licenses Suspended

NAME	ADDRESS	EFFECTIVE DATE	VIOLATION REAL ESTATE LAW REGULATIONS
Ferrier, Helen Mae (REB)(REO)	3333 Bechelli Ln, Redding	3/21/88 (30 days)	10177(d), 10130
Wolf, Maryann (RES)	5647 Ramara Av, Woodland Hills	4/1/88 (60 days)	10137

Indefinite Suspensions Under Recovery Fund Provisions

NAME	ADDRESS	EFFECTIVE DATE
Baker, William Glenn (REB)	2740 Broadway, Redwood City	4/26/88
Capital Mortgage & Loans, Inc. (REC)	131 5th St, Colusa	3/21/88
Capitol Consultants, Inc. (REC)	1029 K St, Ste. 23, Sacramento	3/21/88
Capitol Growth, Inc. (REC)	131 5th St., Colusa	3/21/88
CDC Management Corp. (REC)	912 Crenshaw Bl, Los Angeles	4/1/88
Crites, Robert Stephen (REB)	1961 Ardith Dr, Pleasant Hill	4/1/88
Gitolston, Andrew Jackson (REB)	4740 Federal Bl, Ste F, San Diego	3/25/88
Guerrero, Edward R. (RES)	3992 Mission St, Apt. 205, San Francisco	3/25/88
Hart, Tifeni (RES)	117 W. Main St, Woodland	4/13/88
Hooks, Melvin Andre (RES)	2029 Century Park East, Ste 600, Los Angeles	4/1/88
Horizon Land, Inc. (REC)	131 5th St., Colusa	3/21/88
Joseph J. Martin & Associates (REC)	2885 Bechelli Ln, Redding	3/31/88
Laber, Marian Roberta (REB)	164 Forest View Dr, San Francisco	4/1/88
Lytowski, David Andrew (RES)	201 Berkeley Wy, San Francisco	4/1/88
Martin, Joseph Junior. (REB)	P.O. Box 389, Redding	3/31/88
Nash, John Charles (REB)	P.O. Box 4303, Palm Desert	2/26/88
Nash, Marilyn L. (RES)	446 Shadow Ln, Laguna Beach	2/26/88
Norcutt, Robert John (REB)	P.O. Box 26345, San Diego	5/11/88
Robinson, Hugh Martin (REB)	P.O. Box 3074, San Jose	3/14/88
Rodriguez, Joel (RES)	P.O. Box 9603, Brea	5/16/88
Savant, William Green (REB)	22455 Birdseye Dr, Diamond Bar	3/14/88
Stabile, Joseph Michael (RES)	2904 State St, Santa Barbara	5/16/88
Utihak, Leda J. (REB)	P.O. Box 7000-258, Rancho Palos Verdes	3/4/88

Power of Attorney,

continued from page 1

which reached the same conclusion. The Court stated, "We agree with the Attorney General's opinion that the Legislature intended the power of attorney exemption to apply only where a property owner is compelled by personal necessity to empower another to consummate a particular or isolated transaction. Any other interpretation would defeat the purpose of the licensing scheme by allowing unlicensed persons to conduct the business of real estate. Indeed, subdivision (b) of Section 10133 specifically prohibits the use or attempted use of the power of attorney exemption to evade the licensing requirement."

The Court further held that it makes no difference for licensing exemption purposes whether or not the property owner has agreed to the power of attorney or is completely satisfied with the unlicensed person's performance.

The Sheetz opinion should dispel any doubts about whether a power of attorney may be used as an alternative to a real estate license. The answer to that question is a resounding *NO*.

Funds Availability,

continued from page 4

institution on another financial institution.)

This next day rule applies to these items irrespective of dollar amount. For title companies and their deposits, the next day rule seems appealing until the fine congressional print is read. The Act states expressly that it should not be construed to effect a financial institution's right to revoke a provisional settlement or charge back a customer's account.

Fortunately, alarm over cross-country traffic in teller's checks as a means to create float is not solely a title company concern. In implementing the federal act, the Federal Reserve is inviting comment upon numerous aspects of the Act. A chief concern identified by the Federal Reserve is the advisability of requiring depository banks to grant next day availability on teller's checks drawn on distant locations. The Federal Reserve actually draws attention to the practice of delaying disbursement through the use of teller's checks where the two institutions are geographically remote and suggests the practice is possibly violative of congressional intent in the enactment of the Expedited Funds Availability Act. Since such remote disbursement arrangements prompted the reforms of Senate Bill 1550 in 1984, the CLTA is planning to comment upon the new federal act. The changing check clearing rules triggered by the new Act also will make it necessary for the CLTA to work with the Department of Insurance during 1988 to understand how the escrow/collected funds rules of California law can be reconciled with the federal law.

The Changing Face of the American Borrower

by Dru Bergman, from FreddieMac REPORTS, June 1988

John Doe is dead. You remember John. He, his wife Mary, and their 2.5 children took a 30-year fixed-rate mortgage, didn't ask a lot of questions, and lived happily ever after.

Volatile markets, affordability problems, new products, and changing demographics killed John Doe. And when he died, he took the comfortable world of "one size fits all" mortgage lending with him.

Today, lenders face an increasingly fragmented market which makes mortgage origination more challenging than ever. The fragmentation is not just in terms of demographics. Sure, there are more singles, more empty-nesters. But the crux of the challenge is the varying levels of understanding and acceptance borrowers display toward different mortgage types. Today, with so many choices, borrowers have to absorb a lot more information.

The Sophisticates

Some borrowers adapted to this new "information age" extremely well, learning to integrate their mortgage into their overall financial strategy. For instance, some borrowers with plenty of cash on hand are nonetheless maximizing their mortgage debt in order to take advantage of the mortgage interest tax deduction, one of the few deductions left intact under the Tax Reform Act of 1986.

Many borrowers also have learned to tailor their mortgage financing to fit their lifestyles. One real estate licensee in Wisconsin noted that ARMs are particularly popular with academics at the University of Wisconsin who transfer every few years.

These borrowers belong to that group we hear so much of these days, the "sophisticated borrower." They thrive in today's more complex world by doing their homework.

They've received a lot of help from the media. In recent years, reporters have greatly increased their coverage of mortgage finance. Most newspapers, at minimum, list the rates offered by area lenders, and many carry in-depth articles and advice columns.

The Bewildered

But the term "sophisticated" is bandied about too freely. It is true that some borrowers are adapting to today's market, but a significant segment of the population is still overwhelmed. "You have to sit across from them at closing and see the fear and anxiety in their eyes... After all, we're dealing with the major financial commitment in most people's lives," said a California licensee.

The anxiety is greatest for first-time buyers. "They've often gotten lots of misinformation from relatives and friends and are sometimes brainwashed that they can't possibly afford a home," said one mortgage lender.

Research indicates that as the baby boomers age, first-time buyers are becoming a smaller segment of the overall home buying population. The U.S. League of Savings Institutions reports that they were 35.1 percent of all buyers in 1987, down from 36.3 percent in 1977.

But even second- and third-time buyers can be overwhelmed by today's dynamic mortgage markets. Repeat borrowers are more sophisticated, but they still don't know about a lot of the changing rules.

The Great Middle Ground

Most repeat buyers, and some first-timers, fall into a vast middle ground between the bewildered and the savvy. These borrowers know the terminology and are asking the right questions, but they still need a lot of guidance.

This middle ground also includes the lender's newly found nemesis: the price shopper. The media have educated borrowers to a certain degree to shop around, but they haven't educated them about how a lender operates. As a result, borrowers are much more likely to walk away from a commitment without remorse when rates fall. "That used to happen in 5, 10, or 15 percent of the cases; now it happens in 50 percent," noted one lender.

This obviously hurts the lender, but indiscriminate price shopping can be hazardous for the borrower, too. A consumer who is just price shopping has no idea of the level of service to expect. The lender may be unable to close the loan or service it properly.

Geographic Fragmentation

In addition to different levels of understanding about mortgages, there are regional variations in the appeal of different loan types. U.S. League of Savings Institutions statistics show that ARMs have been more popular in the Northeast and West than in the Midwest and South.

In part, this is a function of affordability. U.S. Housing Markets, in its annual study of housing affordability in 27 cities, found that 15 of the 18 markets with better-than-average affordability were in the Midwest and South. In contrast, eight of the nine less-affordable markets were in the Northeast and West.

But it's not just sophistication and concern about affordability that define today's borrower. Ingrained attitudes toward debt and housing also play a role. "In the Midwest, for instance, borrowers tend to be fairly conservative and less accepting of ARMs," noted one Milwaukee lender. "Borrowers in the North tend to be more receptive to new mortgage products than their southern counterparts," added a mortgage banker with experience in both markets.

The split also extends to urban versus rural borrowers. "Rural borrowers generally will take an ARM only if it has very strong consumer safeguards," said one Alabama-based lender.

Implications for Lenders

How are lenders coping with this more fragmented market? One way is by increasing their education efforts. For instance, one lender in the northeast is working with a state housing finance agency to conduct seminars for first-time home buyers. Some lenders have also stepped up internal training. Citing consumers' more sophisticated questions, one lender moved from an informal system of educating loan officers about different products to writing very detailed, formal specification sheets. Another lender is increasing automated processing in order to give its loan officers more time to counsel borrowers. Others are becoming more oriented to having good sales tools - visual aids, easily understood statistics - to demonstrate how a loan will perform over time and why it will work well for a particular borrower.

Real Estate Licensee's Role

Even though many borrowers shop more today, real estate licensees remain a primary influence on borrower's mortgage decisions. Thus, lenders are looking at new ways to work with licensees.

At the same time, as originations fall and competition increases, it is getting harder for lenders to gain access to licensees. "Lenders have worn out the carpet in my office," lamented one licensee.

In order to reach licensees, lenders are finding they have to provide more than just rate sheets. "If you have some information that will help the licensee better serve clients, they will see you," one loan officer said. He has found success by providing statistics and detailed product information to help licensees counsel borrowers. At the same time, professional education about mortgage finance within the real estate industry is becoming a top priority.

The Direct Approach

In order to reach borrowers who are shopping more, lenders also are beefing up their direct advertising, including radio ads, billboards and TV commercials. "Lenders are definitely thinking about direct ads as an auxiliary to going through brokers," observed one trade association representative.

Public relations and marketing are taking an increasingly important place in the corporate strategies of mortgage lenders. One has found using a monthly bill to replace the annual coupon book an effective means of keeping its name in front of the consumer. Monthly billings include solicitations encouraging borrowers to tell friends and neighbors buying or refinancing about the company.

RIP John Doe

The transition is sometimes a rocky one, but in the end, borrowers and lenders will both win in the new world of mortgage finance. Poor John Doe - he had to accept a 30-year fixed-rate loan. Fortunately, his 2.5 children have lots more choices. ■

Notes from Licensing

Printed License Status Now Available

Effective July 1, 1988, the Department of Real Estate implemented a new policy with regard to computer print-outs which contain the current status of specific real estate licensees. This policy is being implemented in an attempt to further increase the Department's operating efficiency.

As of July 1, requests for information on five or fewer specific licensees may be directed to your nearest DRE District Office. Requests for information on six or more specific licensees must be submitted in writing to: Department of Real Estate, Licensing Information Section, P.O. Box 187000, Sacramento, CA 95818-7000.

Requests for printed information should include the following (if available): 1) licensee's full name; 2) licensee's business address; and 3) licensee's identification number.

Individuals or business entities may obtain printed information for up to 25 licensees per month at no charge. There is a 25¢ per name fee charged for requests of 26 or more names, with a \$5 minimum charge (i.e. 25 names/free; 40 names/\$5; 60 names/\$8.75). Appropriate fees must accompany the written requests.

The information provided on the printout will include the following: 1) license type; 2) license identification number; 3) licensee's full

name; 4) mailing address; 5) license expiration date; 6) employing broker (if any); 7) branch offices (if any); 8) employees (if any) by full name and identification number; and 9) public comments, if any (i.e., disciplinary actions taken, Mineral Oil and Gas Permits issued, etc.)

This policy is not applicable to the random mass mailing lists of licensees which can be purchased by zip codes, counties or mailing addresses (RE Form 249).

Questions regarding this new policy may be directed to your local DRE District Office or the Department's License Information Section in Sacramento at (916) 739-3758.



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- **PRICES ARE SUBJECT TO CHANGE.**
- **ALLOW 4-6 WEEKS FOR DELIVERY.**

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

Any order not including California State Sales Tax will be returned unfilled	Subtotal	
	+ California Tax	
	TOTAL ENCLOSED	\$

California Community Colleges Real Estate Educators' Conferences in October

George Bairey, Director, Real Estate Education Center, Modesto

California Community Colleges Real Estate Educators' Conferences have been scheduled in October in Oakland and Irvine for the benefit of real estate instructors throughout the state. The one-day conferences will feature instructional workshops with emphasis on teaching techniques.

Conferences will be held Friday, October 14 in Irvine at the Registry Hotel, 18800 MacArthur Blvd., and on Friday, October 28 at the Oakland Airport Hilton, 1 Hegenberger Rd. The Registry Hotel is located near the John

Wayne-Orange County Airport. The Oakland Hilton is located near the Oakland International Airport.

The California Community Colleges Chancellor's Office and the Real Estate Education Center in Modesto sponsor instructor workshops each semester which are funded by earnings from the Community Colleges Real Estate Education Advancement Endowment Fund. The endowment was established in 1975 by a grant from the Department of Real Estate to the California Community Colleges Board of Governors.

Conference registration is open to all real estate instructors, both public and private. Registration fee is \$15 for instructors affiliated with a community college and \$45 for non-community college educators. Registration will be accepted the day of the conference on a space-available basis. Registration at the door is \$20 for community college instructors and \$50 for non-community college educators.

For additional information, contact the California Community Colleges Real Estate Education Center, P.O. Box 4065, Modesto, CA 95352 or telephone (209) 575-6465.

Commissioner's Comment, *continued from page 1*

duce a bill to increase the statutory authority for increasing license fees for both salespersons and brokers, after consultation with organized real estate, with the intent that an actual fee increase will not be imposed by regulation until absolutely necessary.

The unexpected revenue, however, does point out the volatile and unpredictable nature of revenues received for fiscal projections. For example, in fiscal year 1986-87 revenue received by the Department was below expectations. These fiscal projections must take into account fluctuations in the economy as well as often

drastic shifts in licensing activity, which are quite difficult to predict.

Federal Appraisal Legislation

In June 1988, Congressman Barnard introduced amendments to HR 3675, Real Estate Appraisal Reform Act of 1988, and on July 6, 1988 the House Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs voted nine to one in favor of the bill. It will now go to the full Committee on Government Operations.

In August, John Liberator (Chief Deputy Commissioner) and I attended a meeting called by

the National Association of Real Estate License Law Officials (NARELLO) which was attended by representatives of the National Association of Realtors and the appraisal trade associations which founded the Appraisal Foundation and promulgated the Uniform Appraisal Standards. The purpose of the meeting was to draft suggested amendments to Congressman Barnard's bill to protect states' rights and establish an acceptable system for the continuity of future appraisal standards to be enforceable by state regulators. The so-called "two-tier" system of appraiser licensing/certification was also studied.



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