



Commissioner's Corner

By Commissioner Elaine Richardson

THE Arizona Department of Real Estate BULLETIN

FEBRUARY 2006

"Traffic Tickets" in Real Estate?

The administration of the disciplinary process in the Arizona Department of Real Estate, much like the procedures in most other agencies of State government, is often confusing, time consuming, and complex. In addition, because all cases have to be processed in strict accordance with statutes and rules, even the most minor of infractions can appear on the surface to be more threatening, intimidating and more time-consuming than necessary.

To top it all off, it can easily take six or seven months to complete a case during which time the licensee or license applicant either doesn't have a license or has a license with a pending disciplinary proceeding.

In an effort to streamline the process, while continuing to uphold the Department's mission of protection of the public, the Department has recently instituted an Accelerated Settlement program. Internally, the Accelerated Settlement is referred to as the "traffic ticket." It consists of a single page outlining the infraction. The licensee acknowledges the infraction, submits a civil penalty and in return, the Department closes the case without any further action.

Participation in the Accelerated Settlement program is 100% voluntary – those not wishing to participate may enter the formal disciplinary process.

Early returns on the program indicate that the Accelerated Settlement program will be an outstanding success. To date, well over 75% of those offered the Accelerated Settlement prefer it to the longer and more formal legal process.

The success of our "traffic tickets" means more time and effort can be spent on more serious cases.

While I don't suggest that "minor" infractions are not serious, I do suggest that the Department is continually looking for means of making the Department more user friendly, even in sometimes unpleasant circumstances. However, let's hope you never receive a "traffic ticket" or any other disciplinary action in your career. ☐

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Our Mission

The mission of the Department is to protect the public interest through licensure and regulation of the real estate profession in the State of Arizona.

DO PUBLIC REPORTS EXPIRE?
By Roy Tanney
Director of Development Services

Public Reports have no expiration date. However, they may cease to be valid if the information in the report becomes incorrect or incomplete. New legislation or the discovery of new adjacent land disclosures are examples of causes for reports to become incomplete. In that event, the subdivider who obtained the report must amend it. (See A.R.S. §32-2184) Further, our file retention schedule is 20 years after which the file is destroyed. Therefore, a copy of the report will be unavailable from ADRE unless an electronic copy is in its database. The only other option to obtain a copy may be if the subdivider or one of the original lot purchasers still has a copy of the report. ☐

USE UP-TO-DATE ADRE FORMS
By Linda Bevins

DESIGNATED BROKERS: ADRE Auditors have been receiving some Broker Supervision & Control Audit Declarations submitted on out-of-date forms. Be aware that the date of the most recent edition of the Broker Declaration Form is "Rev. 2/06." There have been many changes in Statutes, Rules, and Substantive Policy Statements that are reflected in the newest edition of the form.

ALWAYS check the ADRE website for the most up-to-date edition of this or any form you may need to submit to the Department. The "download forms" link on the ADRE website always has the most current edition of all forms.

ALL LICENSEES: Be smart. Download the forms you will be sending to the Department, for any and all types of submissions from the ADRE website. You can be sure you are using the most recent edition. Submissions not on an up-to-date form risk being rejected and holding up the process being requested of ADRE. ☐

Editor's Note: Linda Bevins is an Auditor .

**SAVE TIME REVIEW YOUR
APPLICATION FOR LICENSING**
By Cindy Wilkinson
Director of Licensing and Professional
Education

Save time -- take a moment to review your application and make sure you have signed it where required and have attached supporting documents and the required fee *before* you submit it to the Department. If the Department receives an incomplete application, it will return the application to you *unprocessed*. And, although you will have an opportunity to complete the application, the date it is completed will determine the effective date of any license issued. This may have unexpected consequences for you including, without limitation: expiration of your license and a lapse in licensure; payment of late fees; unlawful license activity; and, if in your grace year, being unable to renew requiring you to apply as an original applicant, including passing the State license examination. ☐

IN MEMORIAM
The Honorable
Samuel Pearson Goddard, Jr.
1919 -- 2006
12th Governor of Arizona
(1965-1967)

Commissioner Richardson and the entire staff at ADRE mourn the passing of former Governor Sam Goddard. Our thoughts and prayers go out to his son, Attorney General Terry Goddard and his entire family.

He will be remembered as an inspiring example of how each of us can contribute to the civic good of Arizona.

Did you know that...

Did you know that it is important to send your license renewal application directly to the ADRE Licensing Division and NOT include it with any other paperwork submitted to other Divisions? When responding to a complaint, providing information to the auditors, submitting data for a Subdivision Public Report, or any other transactions, DO NOT include license renewal or other paperwork with the submittal. The employee in Investigations, Auditing, or Development Services will have a large caseload and may not open your information immediately. The employee handling your situation in the other divisions may be on vacation or out of town on an audit, investigation, or inspection, and the documents may go unnoticed for several days. This could result in the failure to renew your license timely. Be sure all transactions relating to the renewal or maintenance of your license are sent directly to the Licensing Division.

Likewise, information for other Divisions in the Department should be submitted directly to the appropriate Division and not sent to Licensing with your renewal application. If you receive a letter from the Investigations Division asking for a response to a complaint and giving you a deadline, submitting the response to Licensing with your license renewal application will almost certainly, due to the heavy volume of renewals, result in your response arriving late in Investigations. A late response to a request for information could result in additional penalties at the conclusion of the case.

The small amount of postage saved by including items for more than one Division of the Department in one envelope is not worth the difficulties that could arise from a failure to renew your license timely or the failure to respond timely to an investigation or audit or a request for more information on a subdivision application.

Each Division of the Department now has their own suite numbers:

| | |
|------------------------------|-----------|
| Administrative Offices: | Suite 110 |
| Development Services: | Suite 130 |
| Investigations and Auditing: | Suite 120 |
| Licensing and Education: | Suite 140 |

Be smart. Use separate envelopes!

REMINDER: CONVICTIONS MUST BE DISCLOSED!

Licensees are reminded that Commissioner's Rule R4-28-301(F) requires that any licensee who is convicted of any misdemeanor or felony offense must disclose that conviction to the Department within TEN (10) DAYS of the date of the conviction. The date of the conviction occurs when the Defendant pleads guilty to the offense or is found guilty of the offense. The Department takes any violation of this disclosure Rule very seriously.



Mexico's Real Estate Educational Program

By Raul P. O'Farrill
[Www.ofarrill.tv](http://www.ofarrill.tv)

In the last decade only a guru could handle a Mexico Real Estate transaction, a hidden science with floating myths. It was a scary proposition unless you were motivated by the beauty of the country and not intimidated by the possibility of losing your money in a nonsensical financial adventure!

Myths flourished even up until last year despite investing in Mexican real estate being profitable (100% protected) with huge returns in a safe economy. Past seminars on "How to Buy Real Estate In Mexico" seemed to promise a magical formula:

Notario + Bank+ Title Insurance= A Beach Condo!
However, I feel these seminars did little to provide the appropriate information for individuals seeking to get educated on real estate transactions in Mexico.

There have been many visionaries who have made inroads into investments and real estate transactions in Mexico. Some of those visionaries are: Jonni Francis, Bruce Greenberg, Tom Woods, Debra Callicutt as well as attorney such as Carol Colombo and Jose Cardenas. Ms Colombo and Mr. Cardenas are also past-presidents of the Arizona-Mexico Commission. Other attorneys who were pioneers in this highly specialized practice are Vern Penner, James Fisher, Ben Aguilera, Buzz Alston, Ed Ranger and Phil Robbins, to name just a few.

In the late 90's my Mexican law firm of O'Farrill & Associates opened a U.S. office in Phoenix and subsequently moved its headquarters from Mexico City to Phoenix.

In 2000, a new generation of Mexican and U.S. attorneys (educated in Mexico) arrived in Phoenix. Their knowledge and experience built Phoenix into a portal for foreign investment into the real estate market in Mexico.

Many things have improved regarding real estate transactions in Mexico that were the result of the efforts of Arizona developers, attorneys and U.S. Title Insurance companies. They created a special market throughout the country.

With the renewed interest in real estate in Mexico, there has also been a flood of individuals from the U.S. seeking to act as real estate agents in Mexico (few of them licensed real estate professionals) targeting the consumers in the United States. Unfortunately many of these individuals are not knowledgeable about this particular market that has lead to many costly problems.

Through the efforts of Governor Janet Napolitano and Governor Eduardo Bours of Sonora, the Arizona-Mexico Commission and the Comision Sonora-Arizona, tremendous advances have been made. Others who have worked tirelessly have been Commissioner Elaine Richardson, Ricardo Platt, Rodolfo Elias Calles and other groups such as AMPI, PPAREA as well as the AMC Real Estate Ad Hoc Committee members. They have promoted action in the areas of education and a Public Registry for agents and brokers where 100 hours education is mandatory. Currently AMPI is conducting training for all agents and brokers in Rocky Point. The Sonora government implemented a program whereby the agent, after completing the required course, becomes a "Diplomado" for the Mexican real estate market. Sonora is the first Mexican State providing such a program!

At an AMC Real Estate Ad Hoc Committee meeting, there was discussion of providing a series of formal workshops where the participants could learn about real estate transactions in Mexico from experts.

Mexico's Real Estate Educational Program

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On October 27, 2005, in conjunction with the Arizona Department of Real Estate, the first workshop titled "Introduction to Mexican Real Estate Law and Practice" was held at the Thunderbird School of International Management. The AMC Real Estate Ad Hoc Committee, Thunderbird School of International Management, O'Farrill & Associates, Tri-Vista Partners, IMI Bank and Spanish Media Services (who also provides translation services) have sponsored these workshops.

To date the workshops have been well received and will continue throughout the following months. A variety of topics have been addressed. Those areas have been history, culture, contracts, bank trusts, Notario Publico, title insurance and escrow, to name a few. ADRE is giving continuing education credit for most of these workshops.

As a result of these efforts to educate and ensure the interests of consumers, Arizona has become the "main gate" for U.S., Canadian and European investors who are seeking to invest in real estate in Mexico. We look forward to sharing this experience with other States both in the U.S. and Mexico and provide better business opportunities for our highly trained, experienced and successful real estate industry. ☐

Editor's Note: Raul O'Farrill is a long-standing member of the AMC Real Estate Ad Hoc Committee.

A NOTE ABOUT GUEST COLUMN ARTICLES

Guest column articles do not reflect the policies or interpretations of law by the Arizona Department of Real Estate. They are meant to inform the public and provide variety to ADRE's Bulletin. All articles are edited for space limitations.

A SUBSEQUENT OWNER EXEMPTION CAN BE A SLIPPERY SLOPE By William E. Day, CFE (Certified Fraud Examiner)



A.R.S. 32-2181.02(B)(2), more commonly referred to as the Subsequent Owner Exemption, when misunderstood can cause aggravation for the subdivider and can result in a disciplinary action taken by the Department. The terms of A.R.S. § 32-2181.02(B)(2) are as follows:

B. The following are exempt from section 32-2181, subsection A and section 32-2183, subsection A:

2. The sale or lease of lots or parcels located in a single platted subdivision by a subdivider if:

(a) A Public Report has been issued within the past two years pursuant to this article on the subdivision lots or parcels.

(b) The subdivision meets all current requirements otherwise required of a subdivision under this article.

(c) The method of sale or lease of lots or parcels meets all current requirements under this article.

(d) The lots or parcels are included on a recorded subdivision plat that is approved by a municipal or county government.

A SUBSEQUENT OWNER EXEMPTION CAN BE A SLIPPERY SLOPE

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(e) All roads within the subdivision, all utilities to the lots or parcels being offered for sale or lease and all other required improvements within the subdivision, other than a residence to be built, are complete, paid for and free of any blanket encumbrances.

(f) The roads, utilities or other improvements are not complete, but the completion of all improvements is assured pursuant to section 32-2183, subsection D.

(g) Except for matters relating to ownership, there have been no material changes to the information set forth in the most recent Public Report issued for the subdivision lots that would require an amendment to the Public Report.

(h) No owner of a ten per cent or greater interest, subdivider, director, partner, agent, officer or developer of the subdivision has:

[i] Been convicted of a felony or any crime involving theft, dishonesty, violence against another person, fraud or real estate, regardless of whether the convictions were subsequently expunged.

[ii] Had a civil judgment entered against the person in a case involving allegations of misrepresentation, fraud, breach of fiduciary duty, misappropriation, dishonesty or, if the subject matter involved real property, securities or investments.

[iii] Had a business or professional license, including a real estate license, denied, suspended or revoked or voluntarily surrendered a business or professional license during the course of an investigative or disciplinary proceeding or other disciplinary action taken in this state or any other state.

(i) The sale of the subdivided lands violates no laws or ordinances of any governmental authority.

(j) Before the buyer's or lessee's execution of a purchase contract or lease, the subdivider has provided the buyer or lessee with a copy of the most recent Public Report on the lot and has taken a receipt from the buyer for the copy.

(k) The subdivider has provided to the buyer or lessee, along with the Public Report, a signed statement that the subdivider has reviewed and is in compliance with the terms of the exemption provided in this paragraph.

(l) Before sale or lease, the subdivider has notified the commissioner, on a form provided by the department, of the subdivider's intent to sell or lease lots or parcels pursuant to this paragraph. The notice shall include:

[i] The name, address and telephone number of the subdivider .

[ii] The name, address and telephone number of any real estate broker retained by the subdivider to make sales or leases of the lots.

[iii] The name and location of the subdivision.

[iv] The most recent subdivision Public Report reference number on the lots.

[v] The completion status of subdivision improvements.

Important things to remember:

§ All of subsections (a-g) must apply, if not, this exemption cannot be used which means the subdivider must apply for their own Public Report.

§ If there is a "yes" answer to any item under subsection (h) or (i), the subdivider does not qualify to use the Subsequent Owner Exemption.

A SUBSEQUENT OWNER EXEMPTION CAN BE A SLIPPERY SLOPE

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- § Under subsection (j) the subdivider must give the purchaser a copy of the most recent Public Report on the lot and have the buyer sign a receipt as required under A.A.C. R4-28-805.
- § Subsection (k) is a requirement. A copy of the Notice of Intent to Sell filed with the Department complies with this requirement.
- § Subsection (l) is the requirement that the subdivider must file a Notice of Intent to Sell with the Department prior to the offering lots for sale. This Notice must be filed with the Department using the approved form.
- § To qualify for the Subsequent Owner Exemption the subdivider must comply with all the provisions of A.R.S. 32-2181.02(B)(2). If the subdivider cannot qualify with all the provisions, the subdivider does not qualify for a Subsequent Owner Exemption.

Most common situations that can cause you problems with the Department:

- § Using a Subsequent Owner Exemption for sale of improved lots using a Public Report that was issued for the sale of unimproved lots, or offering for sale unimproved lots with a Public Report that was issued for the sale of improved lots, means your Subsequent Owner Exemption is not valid and is in violation.
- § Using a purchase contract that does not contain the required disclosures as required pursuant to Commissioner's Rules A.A.C. R4-28-803 and R4-28-804.
- § If a material change occurs, the Public Report is no longer valid. The Public Report must be amended by the subdivider to whom the Public Report was issued. You, the subsequent owner, have the obligation to make sure you are using the correct Public Report for the subdivisions.
- § Not obtaining a proper Public Report receipt.
- § Not complying with subsection (k) in its entirety.

- § If your water provider is not designated as having an assured water supply by ADWR, you, the subsequent owner, must have a Certificate of Assured Water Supply issued in your name and covering your lots. Certificates issued to the original subdivider are not transferable to the subsequent owner.
- § If a subdivider uses a Subsequent Owner Exemption for which they are not qualified, they will be charged in violation of A.R.S. 32-2181(A), 32-2183(F) and any other violation of statute or rule that may apply.
- § In addition, if a licensee is involved in the transactions they will also be charged with A.R.S. 32-2181(A), 32-2183(F) along with A.R.S.32-2164, 32-2153(A)(3)(22) and any other violation of statute or rule that may apply.
- § Even though the Subsequent Owner Exemption is convenient, it can be dangerous and violations are vigorously pursued. ☐

Editor's Note: Bill Day is the Deputy Director of the Investigation Division

| NOTICE OF INTENT TO SELL (SUBSEQUENT OWNER EXEMPTION) | |
|---|---------------------|
| In accordance with A.R.S. § 32-2181.02 (B)(2), the undersigned subsequent owner hereby gives notice of owner's intent to sell lots and affirms that owner has reviewed and is in compliance with the terms of the exemption provided in referenced statute (use additional pages if necessary). | |
| Subdivision Name (Recorded name and marketing name, if any): | Lot Nos.: |
| Subdivision Location: | |
| Public Report Registration No.: | Date issued/amended |
| Subsequent Owner's Name: | |
| Address: | |
| Telephone Number: | Fax Number: |
| Broker's Name: | |
| Address: | |
| Telephone Number: | Fax Number: |
| Are all <i>subdivision</i> improvements complete? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, using a separate sheet, please describe completion status and provide documentation for assurance of completion. | |
| Date: | |
| Subdivider: | |
| By: | |
| FOR USE BY THE DEPARTMENT OF REAL ESTATE | |
| Received by: | Date: |
| Revised 9/25/02, RT | |

You Can Do More Than Renew On-Line!

By Cindy Wilkinson
Director of Licensing and Professional
Education

ADRE's OnLine License System

- You can change your personal residence or residential mailing address, change your telephone number and add or change an email address -- free of charge!
- You can file for renewal of your license (up to the expiration date, for now).
- You can request an employing broker to hire you, or switch office locations working for the same broker.

February 14, 2006 marked the 1st Anniversary of ADRE's OnLine Licensing System! We encourage Arizona real estate licensees to take full advantage of it.

Have you tried it yet?

How does it work?

To get started you must "register" to use the system. . .

This is easy - it means you log in with your license number, date of birth and the last four digits of your social security number, review and "accept" the terms and conditions of using the OnLine Renewal System ("OnLine system"). That's all there is to it!

To go to work for an employing broker. . .

A salesperson or associate broker logs on to the OnLine system and enters the license number of the employing broker (licensed entity or sole proprietorship) where the person wishes to go to work, and alerts the broker he or she has done so.

The designated broker of the entity or sole proprietorship logs onto the system and selects "Review Pending Approvals" and approves or disapproves the hire.

- If the DB approves it, the broker has the opportunity to print the license.
- If the DB declines to approve it, OR if the DB doesn't log onto the system and approve/decline the hire (i.e., "complete" the form) within the approval pending period, then the hire request is **closed** as incomplete (the request was never approved). Licensees should monitor the system to ensure the broker acts on the application and not assume their license is active.

To renew an active-status license . . .

The licensee logs on to the OnLine System and chooses "Renew License." A series of screens are presented, prompting the licensee to:

1. Review and update residential address, telephone number or email address;
2. Answer questions about events since original licensure or last renewal (whichever is LATER);
3. Key in the course numbers and dates of the continuing education courses required for license renewal. If there are discrepancies, the System displays an error message describing the problem. If not a typing error, the licensee should contact the **issuing school** to resolve the discrepancy.
4. Pay the renewal fee (and nominal convenience fee) and print the confirmation page.

Once completed, you can advise the designated broker that your renewal is pending. The broker should routinely check for applications that are Pending Approval, as outlined above under To go to work for an employing broker.

Note, if the designated broker does not log on and approve the renewal under the employing broker's license **within the License Timeframe**, the license is renewed on **inactive status**, effective the date the prior license expired. Licensees should monitor the system to ensure the broker acts on the application and not assume their license is active.

To renew an inactive-status license . . .

The same steps apply as for renewing an active status license, but no broker approval is required; the renewal is complete upon confirmation of payment of the fees. The licensee's records will be instantly updated and available for viewing on the Department's Public Database.

ADRE's ONLINE LICENSE SYSTEM

You Can Do More Than Renew OnLine

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To sever employment . . .

A salesperson or associate broker logs into the system and chooses Sever Employment. Notice is sent to the designated broker and the license is severed from the employing broker immediately. ☐

Do you really prefer to wait in line and deal with all of the paperwork????!!

DISCIPLINARY ACTIONS

COMMISSIONER'S FINAL ORDERS

James C. Hostetler (Bullhead City)
 File # 05F-LI-436, Final Order 10/28/05
 After a hearing, the Department denied Hostetler's application for a real estate salesperson's license, under A.R.S. §32-2153 (B)(2) and (B)(7), because he was convicted of two Extreme DUI's, in 3/99 and 11/01. Based on Hostetler's having the burden of proof for the appeal of that denial, the appeal was dismissed for his failure to appear, per ARS §41-1092.07(G)(1).

Deepak Basandrai (Tucson)
 File # 05F-LI-393, Final Order 10/28/05
 After a hearing, the Department denied Basandrai's application for real estate salesperson's license under A.R.S. § 32-2153 (B)(2)(7)(9) and (B)(10) based on two misdemeanor convictions for Petty Theft and Commercial Burglary, which indicates that Basandrai was not a person of honesty, truthfulness and lacked sufficient good character.

Anthony J. DeSantis (Scottsdale)
 File # 06F-LI-043, Final Order 10/28/05
 After a hearing, the Department denied DeSantis' application for real estate salesperson's license under A.R.S. § 32-2153 (B)(2) and (7) based on one felony conviction for Possession with Intent to Deliver a Controlled Substance (LSD), which indicates that DeSantis lacked sufficient good character.

Michael L. Sherwood (Mesa)
 File # 05F-LI-432, Final Order 10/28/05
 After a hearing, the Department denied Sherwood's application for a real estate salesperson's license, under A.R.S. § 32-2153 (B)(2) and (B)(7), because he was convicted of two Extreme DUI's, in 7/02 and 11/03, which indicates that Sherwood lacked sufficient good character.

Steven J. Williamson (Casa Grande)
 File # 05F-LI-391, Final Order 10/28/05
 After a hearing, the Department denied Williamson's application for a real estate salesperson's license, under A.R.S. § 32-2153 (B)(2) and (B)(7), because he was convicted of two DUI's, in 9/00 and 5/03, which indicates that Williamson lacked sufficient good character.

DISCIPLINARY ACTIONS

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Joe H. Pereyra-Alcarrera (Mesa)

File # 05F-LI-431, Final Order 10/28/05

The Department denied Pereyra-Alcarrera's application for a real estate salesperson's license under A.R.S § 32-2153 (B)(2) and (7) based on a misdemeanor conviction for Assault-Bodily Injury. One year after pleading No Contest to the charge, the court dismissed the charges. After hearing, Pereyra-Alcarrera is granted a 2-year Provisional License, subject to specified terms and conditions.

Michael Cruickshank (Phoenix)

File # 05F-LI-399, Final Order 10/28/05

After a hearing, in opposition to the Administrative Law Judges' decision recommending granting a license, the Commissioner denied Cruickshank's application for a real estate salesperson's license under A.R.S § 32-2153 (B)(2) (7) and (10). This decision was based on Cruickshank's felony convictions for Armed Robbery and Robbery in the Second Degree on 7/23/90, and a misdemeanor conviction for Extreme DUI in 10/03. The Commissioner declined to grant Cruickshank licensure, as she determined that the criminal acts of robbery are furthest out of bounds of acceptable behavior. The Commissioner concluded that the robbery convictions were for crimes of theft and moral turpitude and evidence of poor character, which make Cruickshank ineligible for licensure. The Commissioner further concluded that Cruickshank's conviction for Extreme DUI, a crime of moral turpitude, also adversely reflects on his honesty and integrity, sufficiently to demonstrate that Cruickshank is unqualified to hold a salesperson's license.

Hector M. Ortega (Phoenix)

File # 05F-LI-400, Final Order 11/08/05

After a hearing, the Department denied Ortega's application for a real estate salesperson's license, under A.R.S § 32-2153 (B)(2) and (B)(7), because he was convicted of two DUI's, in 11/00 and 11/01, which indicates that Ortega lacked sufficient good character.

James K. McKinney (Gilbert)

File # 06F-LI-030, Final Order 11/08/05

After a hearing, in opposition to the Administrative Law Judges' decision recommending granting a license, the

Commissioner denied McKinney's application for a real estate salesperson's license under A.R.S § 32-2153 (B) (2)(5)(7)(9) and (10). This decision was based on McKinney's misdemeanor convictions for DUI in 10/96, Shoplifting in 02/00, Assault in 02/00, Theft, and Attempted Theft of a Credit card in 05/00. In an attempt to avoid prosecution for these crimes, McKinney moved to Florida. The different courts issued various warrants for McKinney. McKinney was eventually arrested in New York on one of the warrants and extradited to Arizona to face these charges. The Commissioner declined to grant McKinney licensure, as she determined that the rehabilitation cited by him as proof of his qualifications to become licensed, were only begun after being forcibly returned to Arizona to face the charges. The Commissioner concluded that the criminal convictions for DUI, Shoplifting, Assault, Theft and Attempted Theft are crimes, which establish that McKinney is not a person of honesty, truthfulness or good character and that this behavior and resulting convictions of moral turpitude are evidence of the poor character, which make McKinney ineligible for licensure.

Corey M. Lunn (Scottsdale)

File # 05F-LI-433, Final Order 11/08/05

After a hearing, the Commissioner denied Lunn's application for a real estate salesperson's license, under A.R.S § 32-2153 (B)(2) and (B)(7), because he was convicted of two misdemeanors, a DUI, in 03/04, and Trespass in the 2nd Degree in 6/04, which indicates that Lunn lacked sufficient good character for licensure.

Dawford R. Combs (Tucson)

File # 06F-LI-052, Final Order 11/30/05

After a hearing, the Department denied Combs' application for a real estate salesperson's license, under A.R.S § 32-2153 (B)(2)(7) and (B)(10), because he was convicted of Solicitation to Commit a Forgery, a misdemeanor, in 04/04. Based on Combs' having the burden of proof for the appeal of that denial, the appeal was dismissed for his failure to appear, per ARS 41-1092.07 (G)(1).

DISCIPLINARY ACTIONS

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Phillip Deasy (Flagstaff)

File # 06F-LI-062, Final Order 11/30/05

After a hearing, the Department denied Deasy's application for a real estate salesperson's license, under A.R.S § 32-2153 (B)(2)(7)(9) and (10), because he was convicted of two misdemeanors, Disorderly Conduct/Domestic Violence in 2004, and Possession of Drug Paraphernalia, in 2005. Based on Deasy's having the burden of proof for the appeal of that denial, the appeal was dismissed for his failure to appear, per ARS §41-1092.07(G)(1).

Robert J. Hill (Phoenix)

File # 06F-LI-044, Final Order 11/30/05

After a hearing, the Department denied Hill's application for a real estate salesperson's license, under A.R.S § 32-2153 (B)(2) and (B)(7), because Hill was convicted of a felony, Controlled Substance-Possession Narcotic/Cocaine, in 01/03, which indicates that Hill lacked sufficient good character for licensure.

Manuel Negrete (Bullhead City)

File # 06F-LI-032, Final Order 11/25/05

The Department denied Negrete's application for a real estate salesperson's license under A.R.S § 32-2153 (B)(2) and (7) based on a felony conviction in 07/97 for Conspiracy to Commit Grand Larceny and a misdemeanor conviction for Possession of Marijuana in 01/97. After hearing, Negrete is granted a 2-year provisional license, subject to specified terms and conditions, including a \$10,000 Surety Bond, Bodily Fluid Testing and a Sobriety Monitor.

Daniel E. Popson (Tucson)

File # 05F-LI-378, Final Order 12/21/05

The Department denied Popson's application for a real estate salesperson's license under A.R.S § 32-2153 (B)(2) and (7) based on a misdemeanor conviction for Negligent Child Abuse, Non-Death or Serious Physical Injury. After hearing, Popson is granted a 2-year provisional license, subject to specified terms and conditions.

Michael Sean McCall (Apache Junction)

File # 06F-LI-077, Final Order 12/20/05

After a hearing, the Department denied McCall's application for real estate salesperson's license under A.R.S § 32-2153 (B)(2) and (7) based on two-felony convictions for Aggravated Assault, which indicates that McCall lacked sufficient good character for licensure.

Deborah A. Kendrick (Phoenix)

File # 06F-LI-064, Final Order 12/5/05

After a hearing, the Department denied Kendrick's application for real estate salesperson's license under A.R.S § 32-2153 (B)(2)(7) and (10) based on a felony conviction for Theft, which indicates that Kendrick lacked sufficient good character for licensure.

Sean Sutton (Phoenix)

File # 05F-LI-368, Final Order 12/5/05

After a hearing, the Department denied Sutton's application for real estate salesperson's license under A.R.S § 32-2153 (B)(2)(7) and (9), based on a misdemeanor conviction for DUI in 1998 and a felony conviction for Aggravated DUI in 2001. Sutton had other undisclosed violations, such as, a conviction for a Minor in Possession of Alcohol, in 1996, a misdemeanor DUI conviction in 12/98, a misdemeanor DUI conviction in 9/98, misdemeanor Driving While Revoked in 9/99, a misdemeanor Disorderly Conduct in 6/00, all of which indicate that Sutton lacked sufficient good character for licensure.



CONSENT ORDERS (APPEALABLE AGENCY ACTION)

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Gary Hall (Glendale)

File # 06F-LI-004-REL, Consent Order 11/28/05

On 5/15/95, the Department issued Hall an original broker's license. That license was to expire on 5/31/05. On 5/17/05, Hall submitted an application for renewal of his broker's license. The Department denied Hall's application because he admitted on his application that the Arizona Registrar of Contractors had revoked several of the license's of Tatum Properties, L.L.C.'S, dba Tatum Custom Doors & Hardware for which he was the Qualifying Party, in violation of A.R.S §32-2153 (A)(3)(22) and A.A.C. R4-28-301 (F). Hall admitted that the Residential Contractors' Recovery Fund on behalf of Tatum had made payouts. Hall did not timely notify the Department of the revocations or recovery fund payouts. Hall timely filed a Notice of Appeal. Hall's application for renewal of his broker license is approved and Hall is assessed a civil penalty of \$1,000.00. Hall must post a Surety Bond in the amount of \$7500.00.

Phyllis Hall (Glendale)

File # 06F-LI-005-REL, Consent Order 11/28/05

On 5/30/95, the Department issued Hall an original broker's license. That license was to expire on 5/31/05. On 5/17/05, Hall submitted an application for renewal of her broker's license. The Department denied Hall's application because she denied on her application that the Arizona Registrar of Contractors had revoked several of the license's of Tatum Properties, L.L.C.'S, dba Tatum Custom Doors & Hardware, for which Gary Hall admitted being the qualifying party, but admitted that she was a Member of Tatum, in violation of A.R.S § 32-2153 (A)(3)(22) and A.A.C. R4-28-301 (F). Hall denied that the Residential Contractors' Recovery Fund on behalf of Tatum had made payouts as the qualifying party, but admitted that she was a Member of Tatum. Hall did not timely notify the Department of the revocations or recovery fund payouts. Hall timely filed a Notice of Appeal. Hall's application for renewal of her broker license is approved and Hall must post a Surety Bond in the amount of \$7500.00.

Darell K. Bervin (Phoenix)

File # 06F-LI-075-REL, Consent Order 11/25/05

On June 10, 2005, Bervin applied for a renewal of a salesperson's license. On 5/19/05, the Department denied that renewal. Bervin timely appealed. Bervin admitted on his application that he had been convicted in 1/05, of the

misdemeanors of Possession of Fireworks and Possession of Alcohol, in violation of A.R.S § 32-2153 (B)(2) and (7). Bervin is issued a 2-year provisional license, subject to specified terms and conditions.

Gail Russell (Fountain Hills)

File # 06F-LI-085, Consent Order 11/15/05

Russell was granted a real estate salesperson's license on or about 4/13/93. That license expired on 4/30/03. Russell submitted an original application for a real estate salesperson's license on 7/12/05. Russell continued to operate as a salesperson after her license expired and after she failed to timely renew her license in 4/03. Russell executed 35 transactions while her license was expired, in violation of A.R.S § 32-2122 (B), and 32-2153 (A)(10) and (B)(6). Russell's application for renewal of her real estate salesperson's license is granted and she is assessed a civil penalty of \$10,000.00, with \$2,000.00 to ADRE and \$8,000.00 to Education Revolving Fund.

Baron Hart Campbell (Scottsdale)

File # 06F-LI-081, Consent Order 12/12/05

On 7/21/05, Campbell applied for a real estate salesperson's license. On 9/21/05, the Department denied that application. Campbell timely appealed. Campbell admitted on his application that he had been denied a real estate license within the last 10 years, by Commissioners Final Order No. 03A-014, due to a 1999 misdemeanor conviction for Attempted Theft of a Credit Card, or Attempting to Obtain a Credit Card by Fraudulent Means, in violation of A.R.S § 32-2153 (B)(2), (7), and (10). Campbell is issued a 2-year provisional license, subject to specified terms and conditions.

Gary Steinback (Phoenix)

File # 06F-LI-244, Consent Order 12/09/05

Steinback was granted a real estate broker's license on or about 10/25/85. That license expired on 8/31/05. Steinback was the Designated Broker for DBSI Real Estate, LLC. Steinback continued to conduct real estate activities that required an active license after his license expired, in violation of A.R.S § 32-2153 (A)(21). Steinback's application for renewal of his real estate broker's license is granted, his license is suspended 30 days retroactive to November 11, 2005, the day he ceased unlicensed activity. He is assessed a civil penalty

CONSENT ORDERS (APPEALABLE AGENCY ACTION)

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of \$1,000.00.

Robert A. Schneiter (Phoenix)

File # 06F-LI-229, Consent Order 12/2/05

On 10/19/05, Schneiter applied for a renewal of a salesperson's license. Schneiter admitted on his application that he had been convicted in 11/04, of Extreme DUI, a misdemeanor, in violation of A.R.S § 32-2153 (B)(2)(7) and A.A.C. R4-28-301(F). Schneiter is issued a 2-year provisional license, subject to specified terms and conditions. Schneiter is assessed a civil penalty of \$2,000.00.

Edmund J. Gorny (Peoria)

File # 06F-LI-040, Consent Order 12/6/05

On 4/26/05, Gorny applied for a renewal of a broker's license. Gorny admitted on his application that he had been convicted in 3/04 of Reckless Driving, a misdemeanor in violation of A.R.S § 32-2160.01 and A.A.C. R4-28-301(F). Gorny is assessed a civil penalty of \$1,000.00.

Norman L. Gifford (Tempe)

File # 06F-LI-190, Consent Order 12/6/05

Gifford was granted a real estate broker's license on or about 6/14/99. That license expired on 6/30/05. On or about 3/21/02, Gifford became a self employed broker dba AZ Streets Realty. Gifford continued to conduct real estate activities that required an active license after his license expired, in violation of A.R.S § 32-2153 (A)(21). Gifford's application for renewal of his real estate broker's license is granted, and his license is suspended 45 days retroactive to 10/11/05, the day he ceased unlicensed activity. He is assessed a civil penalty of \$1,000.00.

Debra A. Garcia (Mesa)

File # 06F-LI-189, Consent Order 12/7/05

On or about 3/12/03, the Department issued a real estate salesperson license to Garcia. That license expired 3/31/05. Garcia attempted to renew by mail but she forgot to include payment and the Department issued a Deficiency Letter, which was returned by the post office as Garcia failed to update her address with the Department. Joshua Call, and Call Realty, allowed Garcia to continue to be employed by Call Realty and to operate as a salesperson after her license expired and after she failed to timely renew her license, in violation of A.R.S § 32-2122 (B), and

for renewal of her real estate salesperson's license is granted and her license is suspended for sixty (60) days retroactive to 9/8/05. She is assessed a civil penalty of \$1,000.00.

Susan L. Geren (Laughlin, NV)

File # 06F-LI-404, Consent Order 12/7/05

On 7/6/05, Geren applied for a renewal of a broker's license. Geren admitted on her application that she had been disciplined in 4/04 by the Nevada Real Estate Commission, in violation of A.R.S § 32-2153 (A)(3), (B)(2), (10), and A.A.C. R4-28-301(F). Geren is assessed a civil penalty of \$1,000.00. Geren is issued a 2-year provisional license, subject to specified terms and conditions. Geren is required to complete 6 hours of Continuing Education regarding the Commissioners Rules and is required to post a Surety Bond in the amount of \$10,000.00.

Perry Skinner (Glendale)

File # 06F-LI-238, Consent Order 12/8/05

On 9/21/05, Skinner applied for a renewal of a salesperson's license. Skinner admitted on his application that he had been convicted in 7/04 of DUI a misdemeanor in violation of A.R.S §32-2153 (A)(3), (B)(2) and (7) and A.A.C. R4-28-301(F). Skinner is assessed a civil penalty of \$2,000.00.

Melissa Lopez Miranda (Phoenix)

File # 06F-LI-228, Consent Order 12/8/05

On or about 9/19/05, Miranda applied for an original salesperson's license. Miranda admitted on her application that she had been convicted in 3/01 of a felony, Facilitation to Possess Marijuana For Sale, in violation of A.R.S § 32-2153 (A)(3), (B)(2) and (7). Miranda is issued a 2-year provisional license, subject to specified terms and conditions.

Stacy Hester (Phoenix)

File # 06F-LI-237, Consent Order 12/9/05

On or about 8/1/05, Hester applied for renewal of her salesperson's license. Hester admitted on her application that she had been convicted in 3/05, of a misdemeanor, Littering From a Vehicle, in violation of A.R.S § 32-2153 (A)(3), (B)(2) and A.A.C. R4-28-301(F). Hester is assessed a civil penalty of \$1,000.00.

Thomas Eldredge Fow Strong (Mesa) File # 06F-LI-212, Consent Order 12/16/05. On or about 9/26/05, Strong applied for

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an original salesperson's license. Strong admitted on his application that he had been convicted in 12/03 of a misdemeanor, Disorderly Conduct, and in 01/02 he was convicted of the misdemeanor offense of Underage Consumption of Alcohol, in violation of A.R.S § 32-2153 (A)(3), and (B)(7). Strong is issued a 2-year provisional license, subject to specified terms and conditions, including a Sobriety Monitor and Bodily Fluid Testing.

Dwight Hawkins (Chandler)

File # 06F-LI-187, Consent Order 12/20/05

On or about 8/8/03, the Department issued a real estate salesperson license to Hawkins. That license expired 8/31/05. Joshua Call, and Call Realty, allowed Hawkins to continue to be employed by Call Realty, to operate as a salesperson after his license expired and after he failed to timely renew his license, in violation of A.R.S § 32-2122 (B), and 32-2153 (A)(22), and (B)(6). Hawkins' application for renewal of his real estate salesperson's license is granted. His license is suspended for 30 days retroactive to 10/13/05. He is assessed a civil penalty of \$500.00.

Aaron Sanchez (Surprise)

File # 06F-LI-226, Consent Order 12/22/05

On 9/16/05, Skinner applied for a renewal of a salesperson's license. Skinner admitted on his application that he had been convicted in 2/05, for Violation of a Court Order, a misdemeanor, in violation of A.R.S § 32-2153 (A)(3), (B)(2) and (7). Skinner is assessed a civil penalty of \$2,000.00. Sanchez is issued a 2-year provisional license, subject to specified terms and conditions.

Tamera Meisenheimer (Scottsdale)

File # 06F-LI-262, Consent Order 1/3/06

On or about 9/23/05, Meisenheimer applied for renewal of her salesperson's license. Meisenheimer admitted on her application that she had been convicted in 6/04, of a misdemeanor, Extreme DUI, in violation of A.R.S § 32-2153 (A)(3), (B)(2), (B)(7) and A.A.C. R4-28-301(F). Meisenheimer is assessed a civil penalty of \$1,500.00 and is required to complete 6 hours of approved Continuing Education.

John Martin, broker/James Martin, salesperson (Safford)

File # 06F-DI-172, Consent Order 11/16/05

On or about 2/28/00, the Department issued a real estate broker's license to John Martin. That license expires on 2/28/06. At all times material to this matter, John Martin was a self-employed broker, doing business as Quail Ridge Realty. On or about 1/17/03, the Department issued a real

estate salesperson's license to James Martin. That license expired on 1/31/05. At all times material to this matter, John Martin was the designated broker for James Martin. From 1/31/05 through 7/22/05, James Martin continued to conduct activity that required a real estate license even though James Martin's license had expired, in violation of A.R.S § 32-2122 (B) and (D) and 32-2153 (A)(6)(10) and (B)(6)(10), and 32-2155(A). James Martin renewal application for salesperson license's is granted and is subject to a sixty (60) day suspension retroactive to 7/22/05, the day he stopped conducting business. James Martin is assessed a civil penalty of \$3000.00. John Martin is assessed a civil penalty of \$1000.00, and will develop and implement procedures to prevent reoccurrence of such unlicensed activity.

Joseph Fisher (Phoenix)

File # 05F-DI-244, Consent Order 12/02/05

On 11/19/03, Fisher applied for and was granted a real estate salesperson's license, on the basis of the submitted application. That license expired on 11/30/05. The Department granted a timely renewal of that license based on a consent order. Fisher answered "no" to the question whether he had ever been convicted of a felony, when in fact he had been convicted of Battery, a felony, and misdemeanor DUI on 12/24/90. Fisher believed that those convictions had been erased from his record. Fisher has not been in trouble since those convictions and completed his college education. Fisher failed to disclose these convictions, which he now admits he should have. The felony was designated a misdemeanor on 4/6/04. These acts are in violation of A.R.S § 32-2153 (B)(1) and (2). Fisher's license is suspended for 120 days, 90 days of which shall be retroactive, and the remaining 30 days to begin upon entry of the consent order. Fisher is issued a 2-year provisional license, subject to specified terms and conditions. Fisher is assessed a civil penalty of \$3,000.00.

Richard Anthony Haskins (Litchfield Park)

File # 04F-DI-160, Consent Order 12/02/05

On 10/10/03, Haskins applied for a real estate salesperson's license, and that license was granted by the Department on 10/24/03. That license expired on 10/31/05. Haskins answered "no" to the question whether he had ever been convicted of a felony, when in fact he had been convicted of Arson, a felony, on 11/2/95. Haskins believed that that conviction had been erased from his record, as his attorney assured him that an application to set aside the conviction would be filed upon his release from probation. Haskins believed that the conviction was off his record, as the Office of Manufactured Housing issued him a license and no convictions were found resulting

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from that application. Haskins has not been in trouble since those convictions. Haskins failed to disclose that conviction, which he now admits he should have. These acts are in violation of A.R.S § 32-2153 (B)(1)(2) and (7). Haskins's license is suspended for 120 days, to begin upon entry of the consent order. Haskins is issued a 2-year provisional license, subject to specified terms and conditions. Haskins is assessed a civil penalty of \$2,500.00.

Robert K. Zbacnik (Mesa)

File # 06F-DI-038, Consent Order 12/5/05

On 6/28/04, Zbacnik applied for and was issued a real estate salesperson's license. That license expires 7/31/06. On 4/14/05, Zbacnik filed a 10-Day Notice of his Plea Agreement, Judgment and Order Suspending Sentence and Imposing Conditions of Probation. This order was for a 3/30/05 conviction for Endangerment, a Class Six Felony, and a misdemeanor conviction for DUI.

Zbacnik was placed on two years supervised probation beginning 3/30/05. These acts are in violation of A.R.S § 32-2153 (B)(1)(9) and 32-2157(C). Zbacnik's real estate salesperson's license is revoked. Zbacnik is not assessed a civil penalty.

Michael Knipp (Scottsdale)

File # 06F-DI-093-REL, Consent Order 11/10/05

George Milos, the designated broker for Knipp, allowed Knipp to continue to be employed by Leo Enterprise, LLC dba Metro North Realty, to operate as a salesperson after his license expired and after he failed to timely renew his license in January, 2005, in violation of A.R.S § 32-2122 (B), and 32-2153 (A)(10)(22), (B)(6).

Knipp's application for renewal of his real estate salesperson's license is granted and his license is suspended for sixty (60) days retroactive to August 18, 2005 and he is assessed a civil penalty of three thousand dollars (\$3,000.00).

G&G Wilson, Inc., dba Gail Wilson Realty & Investments and Wendall Gail Wilson (Carefree) File # 06F-DI-188, Consent Order 1/10/06

On or about 4/14/95, the Department issued a real estate broker's license to G&G. That license expired 4/30/05. On or about 10/3/78, the Department issued a real estate broker's license to Wilson. That license expires 2/28/07. Wilson became designated broker for G&G on 4/14/95. From 4/30/05 through 10/6/05, G&G, by and through Wilson, continued to employ real estate salesperson's after G&G's license had expired, in violation of A.R.S § 32-2155 (A), and 32-2153 (A)(10), (21) and (B)(6). G&G's application for renewal of its real estate broker's license is granted. G&G's license is suspended for 60 days retroactive to 10/6/05, the day G&G's application for renewal was filed with the Department and the day that unlicensed real estate activity ceased. G&G is assessed a civil penalty of \$3,000.00, \$1,500.00 of which is payable

to the Department and \$1,500.00 of which is payable to the Real Estate Education Fund.

William Pickron (Gilbert)

File # 05F-DI-294-001, Final Order 11/15/05

After a hearing, the Department Revoked Pickron's real estate salesperson's license, and assessed a civil penalty of \$2000.00. Pickron applied for and was issued a real estate salesperson's license on 10/15/02. Pickron is the managing member of Home Investment and Acquisitions., LLC ("HIA"). The Department does not license HIA. Pickron was employed as a salesperson by Kenneth D. Perkins, dba Virtual Realty, until 7/14/05, when Pickron's salesperson's license was suspended.

Ms. Ramona Randolph, Tucson, signed a paper by which she deeded her home to HIA, without knowing that was what she was doing. She thought that she was signing loan papers. Ms. Randolph fell behind on her payments and the mortgage holder began foreclosure proceedings. After responding to a newspaper advertisement for assistance to those behind on their mortgages, Randolph met James Busche, who worked for HIA.

At a later meeting Randolph was presented and signed a receipt from Busche that stated she was given sufficient time to have an attorney review the contract she was given, but in fact she had never previously received that contract. A few days later Busche returned with two documents, the Agreement and a Lease, for her to sign. The Agreement and the Lease were dated 12/30/03 and signed by Pickron. The Agreement provides that Randolph is deeding her home to HIA, HIA will pay the mortgage holder \$2,964.32, and Randolph will pay HIA a \$2,500.00 processing fee and Randolph also signed a Promissary Note, for \$6,425.30. Randolph thought that she only had to repay \$2,964.32. If Randolph complied with all three agreements, then HIA would reconvey her home to her. The lease agreement between HIA and Randolph, would lease back her house to her for \$960.87 a month, and provided no grace period for a late payment, although Busche told Randolph that there was a grace period. Randolph admitted signing, and not completely reading the documents. Randolph was not told that she could be evicted from her home for failing to live up to the terms of the agreements.

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Randolph and Busche were the only persons present when she signed the Agreement, and Pickron signed the Agreement prior to her doing so. Pickron also signed the Lease Agreement prior to her signing it. The Promissary Note and the Quit Claim Deed were not notarized in her presence, and she did not sign a Notary Book. Randolph contacted Busche about the grace period because she did not get paid until after the 1st of each month, and the payment was due on the 1st. Busche told her not to worry about it. Soon after Randolph made the February payment, she received a letter that she was in default. The letter was from Mr. Dobbins, an attorney for HIA. Randolph was sued civilly for the full amount owed, and forced to move out of her house. Pickron violated A.R.S § 32-2153 (A)(1)(3), and (B) (3)(7), and A.A.C. R4-28-1101(A), (E), and (B)(3). Pickron's salesperson's license is revoked. He is assessed a civil penalty of \$2,000.00. ☐



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