



A Message from Commissioner Elaine Richardson

WHY ASK THE COMMISSIONER?



Just last month ADRE received over 46,600 telephone calls. With numbers like that, it's always interesting to try to improve service to our licensees. A "specialist" must handle many calls; however, many of the callers ask to speak to the Commissioner (me). Because of the tremendous volume, I am unable to answer each call individually, and, if it's a disciplinary issue, it's just not appropriate for the caller to reach me directly.

So... after discussing this problem with other learned colleagues to find a solution, it was suggested that we create an **ASK THE COMMISSIONER** link on the ADRE's webpage. You may e-mail a question and receive a response as promptly as possible. There will also be a link on the **CONTACT INFORMATION** page. If we receive similar questions numerous times, we will post the question (no names) and answer in a future Bulletin and on the webpage under **Frequently Asked Questions**.

So what else is new?

The Department's Online License Renewal System has been a great success and has played a huge part in allowing us to keep up as the number of licensees has exploded. Some brokers have commented, though, that it's too easy to use! Too easy, that is, for licensed employees (salespersons and associate brokers) to sever their employment without any prior notice to the broker. Concerns included that the salesperson (or associate broker) may be involved in transactions about which they've not told the broker, may not

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THE ADRE MISSION

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

NEWS & TIPS about Licensing & Education

Online License Services Now Available!

Currently available services using the Online License Renewal System accessed from the Department's webpage www.azre.gov :

- 1) Brokers and salespersons can update their home address, telephone number and email address online **free of charge**.
- 2) File for renewal of salesperson and broker licenses before license expiration.
- 3) A salesperson/associate broker may sever employment from an employing broker.
- 4) A salesperson/associate broker may request to be hired (licensees should be sure the broker knows the request was submitted so the broker can log on to the Online Services and approve the hire **before** the licensee starts to work for the broker!).
- 5) Broker approval or disapproval of requests to be hired and license renewals. (Salespersons & Associate Brokers should **Be Aware**: If the broker disapproves, their employment is severed and the license is renewed on *inactive* status. Licensees should follow-up and monitor the status of their license so they do not conduct unlawful license activity!)

Phase 2 of Online License Services is under development & is coming soon!

Designated Brokers will be able to:

- A. Renew the employing broker's license.
- B. Renew a branch office license.
- C. Open a new branch office.
- D. Close a branch office.
- E. View and print the renewal applications filed by licensed employees.
- F. Safeguard the company's license filings by use of a password (mandatory for employing brokers).
- G. Print a duplicate license certificate for the brokerage or any of its licensed employees.

Salespersons and Associate Brokers will be able to:

- A. Renew within their "grace year" -- the one year period following their license expiration date.¹

- B. Safeguard their personal information by use of a password (optional for individuals, PCs and PLLCs).
- C. View and print their license renewal application filed on-line.
- D. Print a duplicate license certificate.
- E. Utilize the services currently available on-line under Phase I.

¹. Certain conditions apply. Licensees making a disclosure pursuant to Rule R4-28-301 or R4-28-303 (criminal conviction, adverse judgment, discipline or denial of a professional or occupational license, etc.) or pursuant to R4-28-306 (conducting activities requiring licensure while license was inactive or expired or employing a salesperson or broker whose license was inactive or expired) are **NOT ELIGIBLE**

Check Your Expiration Date

IF YOUR LICENSE HAS EXPIRED, you are no longer licensed to conduct business.

As a general rule, the Department processes applications in the order received, whether filed by mail or in person. If you do not file a complete renewal application before your license expiration date, your license expires. You cannot be hired by a broker and licensed on "active status" until the Department has an opportunity to process your late-filed application. This may take several weeks due to the volume of applications being processed and the staff limitations.

If you continued working while your license was not current or was not active-status, the Department will **not** accept a hire form and fee **until** the unlawful license activity is resolved and your renewal application approved.

Late Renewal -- If filing within one year after license expiration, include the following forms, documents and fees:

- 1 Renewal Application, form LI-243
- 2 License Renewal & Reinstatement Questionnaire, form LI-244
- 3 Unlawful License Activity Statement, form LI-

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NEWS & TIPS about Licensing & Education

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555, and applicable supporting documents.
See R4-28-306.

- 1 Change form, LI-202, and \$20 hire/sever fee (accepted with renewal only if you did **NOT** continue working after your license expired)
- 2 Renewal fee
 - o Salesperson's license, \$60
 - o Associate Broker or Designated Broker license, \$125
- 3 Late fee
 - o Salesperson's license, an additional \$10 per month after expiration, not to exceed \$60
 - o Associate Broker or Designated Broker license, an additional \$20 per month after expiration, not to exceed \$120

If your license expired more than one year ago, you must apply again as if applying for an original li-

Protect Your License !

by Cindy Wilkinson, Director of Licensing & Professional Education

Would you give a co-worker permission to sign your name to legal documents that affect your license? Probably not if you depend on the license for your livelihood!

The Online Services System is easy and quick to use, and by doing it yourself you will know what changes are made and what information is provided to the Arizona Department of Real Estate about you and your license. Department staff hears too often that support staff in a broker's office has logged on for a salesperson and filed the application to renew the salesperson's license. This is a dangerous practice because they may provide wrong information or miss seeing an outdated residence or email address, and the Department recommends that you safeguard your personal information and do not authorize your broker or an employee to log in AS YOU and make changes on your behalf. The broker has a separate login to use to approve your hire or license renewal: You do not need to allow anyone else access to your license records!

When you give someone else the information they need to access your license records and allow them to make changes, it is the same as if YOU accessed the records and made those changes--except that if you had done it

yourself, you might have seen critical information, such as your license expiration date. You might have realized you still needed to provide the Department with your new home address, or you might find a mistake in your home address or telephone number. According to the Terms and Conditions of use for using the Online Services, you have agreed that the Department can rely on the information provided in your online transactions. That's like giving another person permission to sign your name to legal documents -- Do you really want someone else to have that much control over your license?

Enhancements under Phase II of the Online Services, available in early 2007, will provide an option for salespersons and brokers to require a password to access their personal license re-

Proposed Education Fees

by Cindy Wilkinson, Director of Licensing & Professional Education

The Education Advisory Committee has developed recommendations for substantive criteria for accreditation of real estate schools. The recommendation for fees requires legislative change; there were numerous other recommendations that would require rule changes. A list of the items for consideration and discussion as rules will be posted soon.

Industry stakeholders -- school owners, operators and other educators -- will seek legislation to authorize the Department of Real Estate to charge fees for review of applications to operate a real estate school, and for schools to seek real estate course and instructor approval. The proposed fees are:

- 1 School certificate, issued for a 4 year period, \$500-\$800
- 2 Continuing education course \$25 to \$150, depending on course length and whether live classroom instruction or distance education (computer-based)
- 3 Prelicensure courses, which follow prescribed curricula, from \$100-\$300
- 4 Instructor fees, also a 4-year license period, from \$25 to \$100
- 5 Renewal applications for most of these would be half of the original fee.

No fees are currently authorized to cover the costs associated with the Department's review and processing of education applications. ☐

NEWS & TIPS from Licensing & Education

How to Renew On-Line

by Connie Johnson, Deputy Director of Licensing

Click on the ADRE web link <http://www.azre.gov/>

Near the top of the web page on the left is a link to [On-line Services](#) . Click on this link.

Half way down this web page is a link to [Online Licensing and Renewal System](#). Click on this link.

You will be on the "Services" page. In the left column the second link is a "Tutorial". We recommend you run through the On-line Tutorial. Otherwise, read the instructions and gather the information you will need (license number and credit card; real estate licensees will need continuing education certificates).

If you don't know your license number, click on the convenience link titled "Public Database" located in the center and near the beginning of the page. Enter your last name and first few letters of your first name. Use the side bar on the screen to scroll down and click "submit". You can look up any licensee's license information using this tool.

Further instructions are given with each page. It is fast and easy!

Ensure that you use the correct last four digits of your Social Security number.

Type your date of birth in the format shown, mm/dd/yyyy (two digits for month, two for day, and **four** for year) as instructed. If you make a mistake, delete all of the numbers in that field and type them again.

Scroll down using the side bar on the screen and click on "Login".

Follow the prompts to renew your license before

your license expiration date. You can also access the Online Services to change your personal information or request employment by a broker.

NOTE: To file for license renewal after your license expiration date; or to disclose a criminal conviction, adverse judgment, discipline against a professional or occupational license; or if you received a conditional waiver of continuing education hours **you** must file for renewal in paper format and **cannot renew using the online system.**



Did You Know ...

... under specific circumstances, a broker may pay a salesperson/associate broker a commission when that salesperson/associate broker worked on a transaction while licensed with the broker but who severed from the broker before close of escrow? The salesperson/associate broker cannot, however, continue to work on the transaction after having severed from the original broker, and payment is at the broker's discretion. The relevant statutes (ARS) and related Substantive Policy Statement (SPS) are:

ARS § 32-2153(A)(8) says a licensee cannot represent any broker other than the broker with whom his/her license is hung.

ARS § 32-2155(A) says a broker can only pay a licensee licensed to that broker and a licensee can only receive payment from the broker with whom the licensee's license is hung.

SPS 2005.08 says if a licensee earns a commission under a broker then leaves the broker's employee the broker MAY pay the licensee the commission legally earned.

ARS § 32-2152(B) provides that the Department of Real Estate does not have jurisdiction in commission disputes.

EXAMPLE: If the licensee leaves broker "A" and

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goes to work for broker "B" the licensee cannot continue to work on the transaction for "A" (32-2153.A.8). If "A" feels the licensee earned a commission on the transaction "A" MAY (but is not required to) pay the licensee the commission, even though the licensee no longer works for "A." (SPS 2005.08). If the licensee thinks "A" should pay a commission and "A" does not, the licensee can not come to the Department of Real Estate to resolve his issue, that is a commission dispute and the ADRE does not have any jurisdiction (32-2152.B). The licensee should seek legal counsel to consider legal/civil action. ☐

Recent Comments About ADRE Staff

This is a follow-up to my license renewal saga I first alerted you to last week.

After a week, Mr. Cates (who I think does a wonderful job) indeed located one of my three faxes I sent to him last week. He promised to have the problem cleared up by later on today. Though I still think there's a better "mouse-trap" for handling such problems when ADRE is short-staffed, though I'm still not renewed, all seems to be coming together.

I hope you accept my comments for what they are, and good willed opinion in making the process flow a little better.

Best Regards,

Fred A. Cleman, REALTOR®, CRS, GRI, ABR
Phoenix

As you know, most brokers and agents fear the Department in light of the fact that you are all there to protect the public. I take a different view...you educate us (if we choose to take it in), you are fair if and when a complaint is file, you hold those in violation to account, but most importantly you keep us all accountable for our actions...I welcome everything I hear of and learn and choose to take action.

Give the Commissioner my thanks, and please have her pass it to all at ADRE...I doubt that they hear the thanks that they so greatly deserve, particularly due to budget cuts, too many complaints and issues from buyers, sellers, agents, etc. that expect The Department to be the be all that ends all every day on "their" schedule!

Again, my thanks to all!

Karen Spencer, DB Karen Spencer & Associates
- GMAC Real Estate, Yuma

From A Fiscal Viewpoint

by Tory Anderson, M.P.A., ADRE C. F.O.

In ADRE's first quarter this year, we renewed 35% MORE licenses than we did in last year's first quarter. This shows that Arizona's real estate licensees want to stay in the business. We expect this number to remain high throughout the year. If your license is up for renewal, save yourself some time and renew online through ADRE's website: www.azre.gov

All divisions within the Department remain incredibly busy. By the end of the first quarter of this fiscal year:

- Administrative Actions opened 183 cases,
- Auditing completed 80 field audits,
- Education received over 1,000 applications,
- Investigations opened 381 new cases,
- Licensing received over 2,600 new applications, and
- Subdivisions and Development Services issued 508 Public Reports.

ADRE needs more staff to meet the increasing demands of the Real Estate industry. Per statute, the Department has to ask the Legislature for additional staff hiring authority, plus the money to pay that staff. This year, we requested 21 new positions. If we are granted those positions, the Department could reduce the time it takes to process applications, investigate cases, and discipline rule/statute violators. Currently, all fees are deposited into the General Fund and the Department is appropriated a portion of money from the General Fund for budgetary purposes. Last year we were appropriated \$3.7 million, but the Department generated over \$6 million in revenue. Decisions aren't made in vacuums. If you support ADRE's staff request, let your local Legislators know about it. If you belong to any professional associations, let them know as well. Your opinion matters – and it can make a difference!

More ADRE staff = BETTER SERVICE FOR YOU!

☐

A Message from Commissioner Elaine Richardson

(Continued from page 1)

have turned over listing agreements, offers, contracts, earnest deposits, etc., and may have keys, manuals, or other items that should be returned to the broker. Although salespersons and associate brokers can sever by filing the notice in paper form as well as on-line, it is the on-line severance that has drawn the most fire.

A group of stakeholders recently volunteered to meet with Department representatives to look for an acceptable alternative, and I am very excited to report a solution that will address the brokers' concerns without putting licensed employees at a disadvantage, and without placing an undue burden on the Department. The solution is to allow the employee to sever employment immediately, but only upon stating they have complied with requirements already in place in statute and rule.

If the employee incorrectly states compliance when he or she has not complied, the broker may file a complaint against the salesperson or broker, and the former employee may be subject to disciplinary action against his or her license. The Department will implement this change in the near future.

And...if you have not yet seen the ADRE Special Edition of the Bulletin called **A THREE-YEAR REVIEW**, please go to the website and peruse it. I promise it will not put you to sleep. I bring this up specifically as we are always looking for your input. You would be amazed at how many times we have been made aware of a problem or potential problem by listening to you. I'm not talking about the squeaky wheel who wants to circumvent statutes and rules and thinks by complaining a lot the law won't apply to them, but I am talking about you (who would not be reading this if you did not care about our industry) who have legitimate issues and take the time to bring them to the Department. Please keep talking as, in the words of Frasier Crane, "I'm listening". ☐

DID YOU KNOW when you submit any application with ADRE, if only one document or signature is missing from your application, it requires staff to work on the application at least twice and doubles the workload? **This means the processing time increases, and it takes longer for your license to be issued.** Department staff members are

glad to offer assistance for those inquiries that are not referenced in the instructions or on the web. Please don't take offense if you are referred to information on our Website or the instructions for a particular form. We are not always able to offer the one-on-one service that some of us remember, but we will do our best to help you.

DID YOU KNOW you are required to disclose criminal convictions, adverse judgments, disciplinary actions or the denial of professional or occupational license to the Department in writing within ten (10) days of occurrence? For a complete listing of 'events' that must be disclosed, please refer to R4-28-301. If your disclosure is late, you can expect to pay a civil penalty.

DID YOU KNOW you can send an e-mail directly to Commissioner Richardson to ask a question, give feedback, etc.? From the ADRE homepage (<http://www.azre.gov>), click on Commissioner's Homepage, select "Email the Commissioner" from the menu on the left side of the screen. Commissioner Richardson will review each message and either respond to it directly or forward it to the appropriate staff member for response.

DID YOU KNOW, under specific circumstances, a broker may pay a salesperson/associate broker a commission when that salesperson/associate broker worked on a transaction while licensed with the broker but who severed from the broker before close of escrow? The salesperson/associate broker cannot, however, continue to work on the transaction after having severed from the original broker, and payment is at the broker's discretion. The relevant statutes and related Substantive Policy Statement are: ► ARS § 32-2152 (B) provides that the Department of Real Estate does not have jurisdiction in commission disputes.

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EXAMPLE: If the licensee leaves broker "A" and goes to work for broker "B" the licensee cannot continue to work on the transaction for "A" (32-2153.A.8). If "A" feels the licensee earned a commission on the transaction "A" MAY (but is not required to) pay the licensee the commission, even though the licensee no longer works for "A." (SPS 2005.08). If the licensee thinks "A" should pay a commission and "A" does not, the licensee can not come to the Department of Real Estate to resolve his issue, that is a commission dispute and the ADRE does not have any jurisdiction (32-2152.B). The licensee should seek legal counsel to consider legal/civil action. ☐

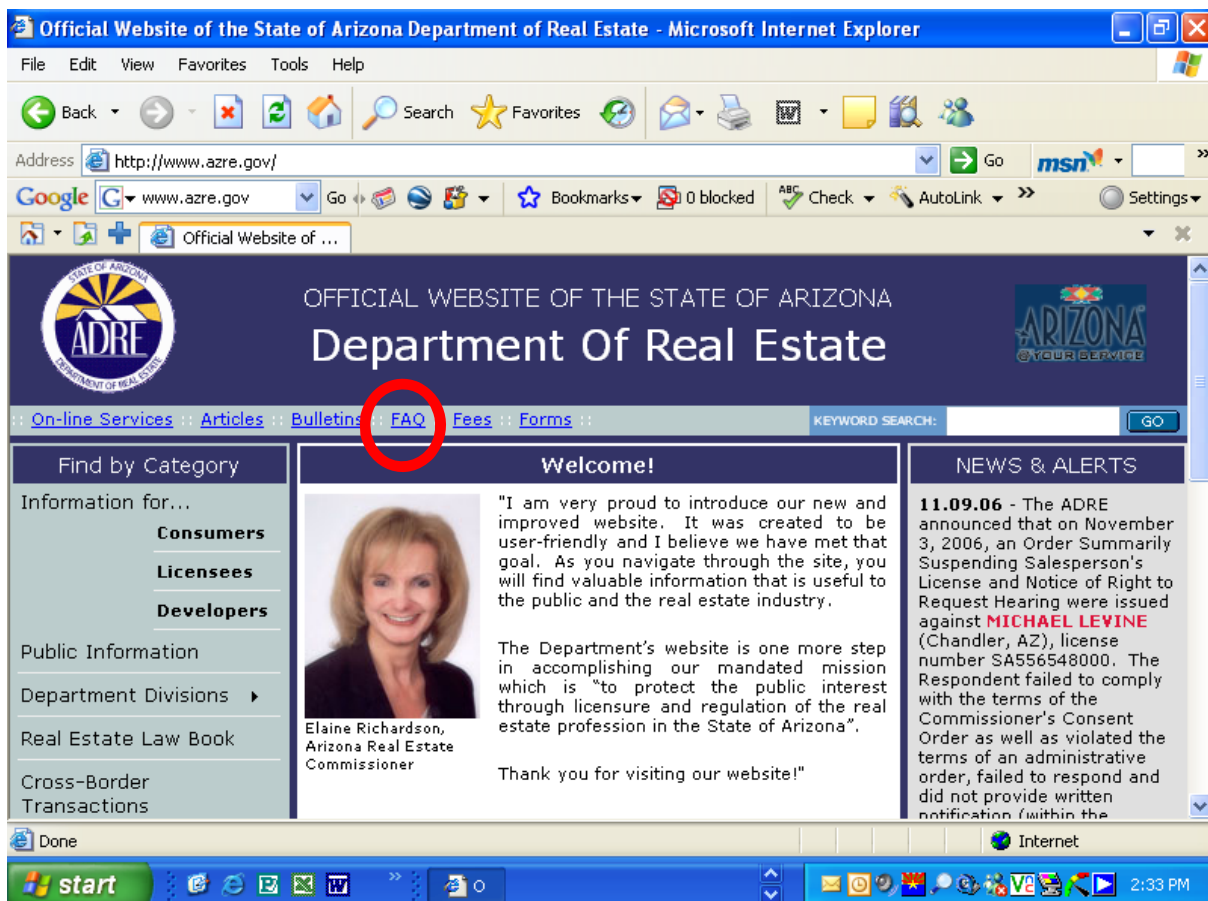
ADRE's New Look on the World Wide Web

ADRE's website has a new look and has been updated and made easier to navigate. Take a minute to visit it, if you haven't already. We hope you will let us know about any aspects of the new design, and organization that may not be as helpful as we have tried to make them.

One new feature is the FAQ (Frequently Asked Questions) link in the navigation bar at the top of the ADRE Home Page. We encourage you to click on that link before you phone the Department, because many of your questions have been asked

before and answers to those "frequently asked questions" are answered on this page. Many of the answers there are written to cover the related information in depth.

This page is constantly a work in progress, as staff fields more questions. If a topic isn't there that you think ought to be, please let us know using the "Contact Us" option on the web page, or by sending an e-mail message to: info@azre.gov.



Kevin Goode

This re-vamped web site was made possible by the diligent work by ADRE's "behind the scenes" Information Technology (I.T.) Staff of 2 — Kevin Goode and Jim DeSilva. Their professional knowledge, technological skills, and dedication to Team ADRE works like magic in the background, making our work much more efficient and our service to ADRE licensees and to the general public better.



Jim DeSilva

DISCLOSURE ASSISTANCE FROM ADRE

by Roy Tanney, Director of Subdivisions & Land Development Services

Arizona law requires disclosures in many areas covered by Subdivision Public Reports. The ADRE website, www.azre.gov, can help satisfy some of the disclosure requirements. The following includes questions from the Application for Subdivision Public Report and types of information available from the Department.

Military Airports

- 1 Is all or any portion of the subdivision located in territory in the vicinity of a military airport?
- 2 Is all or any portion of the subdivision located in territory in the vicinity of an ancillary military facility?
- 3 Is all or any portion of the subdivision located under a military training route?
- 4 Is all or any portion of the subdivision located in a high noise or accident potential zone?
- 5 Is all or any portion of the subdivision located under restricted air space? (This question is a result of recent legislation and has not yet been added to the application.)

Many of these questions may be answered by researching the Department's website. Under the 'Public Information' link, click on the 'Airport Maps' link, which connects to the Military Airport page. The Military Airport page provides the statutory definitions for 'territory in the vicinity', ancillary military facility, and 'military training route'. Also contained on this page are all of the military airport, auxiliary airfield, restricted airspace and military training route maps to help your answer the questions and to help you make the proper disclosure in the Application for Public Report.

Public Airports

- 1 Is all or any portion of the subdivision located in territory in the vicinity of a public airport?

Many of the public airport maps are posted on the Department's website. To answer this question and make the proper disclosure in your application and

Public Report, under the 'Public Information' link, click on the 'Airport Maps' link, which connects to the Public Airport page. This page only displays those maps provided by public airports.

Earth Fissures

- 2 Describe any known geological conditions such as fissures, sinkholes or other, within or lying close to the subdivision, which would or may be detrimental to a purchaser's health, safety or welfare.

Under the 'Public Information' link, click on the 'Earth Fissures' link. This provides three options:

- 3 **Earth Fissures in Arizona** – which links to the Arizona Department of Water Resources website of frequently asked questions concerning earth fissures.
- 4 **Earth Fissures Index Maps** – which links to the Arizona Geological Survey website. The map on this website shows the areas in four Arizona counties where earth fissures have been mapped or identified by the Arizona Geological Survey. Individual maps of counties can be viewed by clicking on a county.
- 5 **Soil Properties: Shrink/Swell Potential** – which links to the United States Department of Agriculture/Natural Resources Conservation Service website. This website shows maps of soil shrink/swell potential in the Greater Phoenix area and Greater Tucson area. It also provide answers to frequently asked questions.

The 'Related Links' page also includes a link to the Arizona Department of Environmental Quality, which retains information about Superfund sites.

These are just some of the disclosures required of developers/subdividers and the information available from/through the ADRE to meet them. The Department is pleased to provide these disclosure aids/links as a ser-

ADRE Investigations: News & Insights

Subdivisions Within a Subdivision

by Bill Day, Deputy Director
of Subdivision Investigations

If a person purchases lots in an approved subdivision, at what point does the purchaser become a subdivider and need to obtain a public report before offering any of the lots for sale?

A.R.S. § 32-2101(54) defines a subdivider as “any person who offers for sale or lease six or more lots, parcels or fractional interest in a subdivision or who causes land to be subdivided into a subdivision for the subdivider or others, or who undertakes to develop a subdivision”.

A.R.S. § 32-2101(14) “Common Promotional Plan” means a plan, undertaken by a person or group of persons acting in concert, to offer lots for sale or lease. If the land is offered for sale by a person or group of persons acting in concert, and the land is contiguous or is known, designated or advertised as a common unit or by a common name, the land is presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan.”

A.R.S. § 32-2181(A) states in part “Before offering subdivided lands for sale or lease, the subdivider shall notify the commissioner in writing of the subdividers intention”. (This means submitting an application for public report.)

A.R.S. § 32-2183(F) states in part “ A subdivider shall not sell or lease or offer for sale or lease in this state any lots, parcels or fractional interest in a subdivision without first obtaining a public report from the commissioner except as provided in section 32-2181.01 or 32-2181.02”.

Scenario 1

If a person owns or has an ownership interest in six or more lots in an approved subdivision, that person must obtain a public report. before offering for sale or selling any of the lots

Scenario 2

If a person purchases three lots in a subdivision in 2004 and sells these lots, and then purchases 2 more lots in this subdivision in 2005 and sells these lots, a public report is not required. But if the person purchases one or more lots in this subdivision after the first 5 lots have been sold, the person is required to obtain a public report for the subsequent lots. There is no time limit over which the purchases occurred. If the person purchases 3 lots in 1979 and sells them and then in 2006 purchases three or more lots, the person is required to obtain a public report before offering any of the lots for sale.

Scenario 3

A subdivision was platted in 1926 and no improvements have been made. In 2006 a person purchases six or more lots. That person is required to obtain a public report before offering any of the lots for sale.

Scenario 4

Mr. X purchases four lots in a subdivision. Mr. X owns company Y, which purchases four lots in the same subdivision. Mr. X and company Y are required to obtain a public report prior to offering the lots for sale.

For subdivision purposes ownership interest includes but not limited to deeds, option agreements, executed purchase contracts, trust agreements and agreements of sale. ☐

Earth Fissures in Arizona

by Ray Harris, Arizona Geological Survey

EDITOR'S NOTE: The 2006 Legislature passed House Bill 2639, and Governor Napolitano signed it into law. This Bill required earth fissure maps be made available to the public as an information source in the due diligence exercise prior to real estate purchase transactions. ADRE is working closely with the Arizona Geological Survey (AZGS) and the Arizona State Land Department to make these maps available as soon as they have been prepared and published by the AZGS. The following article provides some useful background information from a recognized expert in the field.



In recent years, with the population expanding into areas known to have earth fissures, the potential for damage to property has increased. The issue today is not so much earth fissures forming where people have built houses - the larger problem is people building houses on or adjacent to known fissures.

Until recently, land owners, developers and real estate agents were not required to specifically disclose the presence of earth fissures on property being sold. With the recent increased awareness of the problem the legislature passed a new state law that requires the seller to disclose whether fissures are known to exist on or near a parcel of land. The disclosure of fissures is similar to that for more familiar things such as proximity to airports and hazardous waste sites, and known soil or radon problems. Real estate agents now must be more familiar with what earth fissures are and where they occur.

The southern and western part of Arizona lies within the Basin and Range province, which contains deep sediment-filled basins separated by long, narrow mountain ranges. Bedrock under the basins is commonly thousands of feet below the surface.

These deep basins hold large quantities of groundwater, but the water is being pumped out much faster than it can be replenished by nature. Where agriculture or municipalities rely extensively or completely on groundwater, the groundwater tables have dropped. By the 1980s, groundwater levels in several basins had declined 300 feet or more.

As groundwater tables lower, aquifer sediments compact and the ground surface subsides. In the Luke basin, immediately west of Phoenix, the land had subsided about 18 feet by 1992. In the Pichacho basin near Eloy, subsidence was more than 15 feet by the early 1980s. Around the margins of subsiding areas the aquifer sediments are under tension. When the tension becomes great enough, cracks, known as earth fissures, will form.

Although earth fissures seem to appear "overnight" following intense rainfall, the precursor fissure may have been forming for years or even decades at depth. In the earliest stages of development, a fissure may first appear at the surface as a series of small depressions or small cracks only a few inches wide and tens of yards long. Water running into the fissure erodes the sides and washes the material deep down into the fissure system, enlarging the original small crack into an impressive chasm.



The Rogers Fissure opened in 1997 in the Harquahala plain about 60 miles west of Phoenix following heavy rain from Hurricane Nora. This fissure is about 4,500 feet long.

When active and growing, the surface expression of a typical earth fissure is 3 to 10 feet wide and 5 to 20 feet in apparent depth. The underlying fissure

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Guest Columns

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system is much deeper than that. Individual fissures can extend along the surface for thousands of feet and zones of fissures can extend many miles.

Earth fissures can cause significant damage to infrastructure such as roads, canals, railroads and pipelines. Buildings and houses have been damaged by fissures that opened up beneath them. The presence of cracks in foundations and walls, however, does not necessarily indicate that subsidence or earth fissures are to blame.



This fissure is along the Hunt Highway near Thompson Road. It is one of the few fissures in Arizona that has vertical offset.

Expansive soil, collapsing soil, and normal settling of fill material can also produce cracks in structures.



This fissure is the segment of an old fissure that opened up last summer south of Queen Creek (Chandler Heights area) at Happy Road & 195th. This fissure, known as the “Y-Crack”, formed in the early 1960s.

The Arizona Geological Survey (AZGS) is the lead agency in the state for earth fissure mapping. Decreased funding over the past decade, however, hampered efforts to keep fissure mapping up to date.

Another piece of legislation passed in 2006, HB-2639, gives AZGS funding to comprehensively map fissures and produce digital maps. As areas are mapped in detail the digital fissure mapping will be available to the public on the Arizona State Land Department’s interactive website that will allow users to create their own custom maps. Up to date maps of fissure areas and educational publications will also be posted on the AZGS and State Department of Real Estate websites.

With these services, REALTORS® eventually will be able to find fissure maps for any location. **However, the first round of statewide mapping will take several years to complete.** In the meantime, information about earth fissures and other geologic hazards of interest to real estate agents is available on the AZGS website, www.azgs.az.gov. ☐

Raymond C. Harris, Research Geologist, AzGS: B.S., Oregon State University; M.S., University of Arizona.

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. ☐

The Builder, The Buyer & The Bucks

An opinion of Cec Daniels, ePRO, GRI



First, I want to make it clear that this opinion is not intended to be an attack on builders. In-fact, I have great empathy with the builder who is paying huge holding costs, permit fees and impact fees. Add to these fees, the cost of engineering, zoning, required infrastructure you would find thousands of dollars in costs that can only be recovered through sales of the property.

Having said that, I feel that there is a significant lack of balance between the agendas of the buyer and the builder. In recent times, some builders have failed for any number of reasons. As a result of the failures, the buyer has suffered the loss of substantial earnest money. How can that be? It is not uncommon to find a builder contract to include a provision that reads something like this: ...In the event the builder is unable or unwilling to complete the transaction the earnest money shall be forfeited in favor of the builder. I am not an attorney and am not trying to offer a legal opinion or interpretation of any portion of this type of language in a contract. I only know that there are several examples of buyers losing earnest money when in-fact the circumstances suggest that it was the builder in default and not the buyer.

So, is there a reasonable compromise? I believe so and I would like to suggest that buyers be allowed to record their contract with the builder and perhaps even create a statute wherein the builder would be required to establish and “equitable interest” for the buyer. I am aware of some instances where the builder declared bankruptcy and as a result, the buyer, absent having an equitable interest in the property the buyer is often classed as an unsecured creditor and could lose a majority of their earnest money.

If this suggestion is not the answer, I feel there has to be a greater balance between the competing agendas of the buyer and the builder.

In closing, I want to make it very clear that none of the organizations of which I am a member or support have been a part of this opinion. I am acting independently in writing this article and seek nothing more than some action be taken that protects the American Dream and does so without damaging anyone in the transaction. ☐

Cec Daniels holds real estate licenses in three states, is a member of the National, the Arizona, and the Phoenix Associations of Realtors®. He is a former member and past president of the Arizona Chapter of the Real Estate Educators Association. Cec was named the 1996 Educator of the Year by the National Association of Realtors®. ☐

Selecting the REALTOR® Word

by Diane Scherer, CEO
Phoenix Association of REALTORS®

Words, even a single word, can create an image or give us ideas. Corporations and trade organizations go to untold lengths and spend millions to give you a particular image when you use “their” word. What word do you use for a cola drink, a copy machine, tissue or a light beer?

When did you become a REALTOR®? When you were born? When you passed your state exam for a real estate license? When you were hired by a real estate firm? Nope, nope and nope. If you are a REALTOR®, you became a REALTOR® when you applied for and completed the membership requirements of a local association of REALTORS®.

“REALTOR®” is a collective membership mark owned by the National Association of REALTORS® (NAR). The REALTOR® organization is unique in that when a real estate licensee joins a local association, completes their orientation and Code of Ethics requirement and becomes a REALTOR® member they are a member at all three levels of the REALTOR® family – local, state and national. REALTOR® members not only take Code of Ethics training but are held to that higher standard by

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Guest Columns

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both their peers and the public. For licensees that are not REALTORS® they are not accountable to the REALTOR® organization.

REALTOR® membership is a voluntary individual membership. For that reason there is limited usage of the word REALTOR® in a firm name. It is not allowed to be contained in the firm's actual name, including either the corporate or fictitious name. The word REALTOR® can only be used "with" the name, not as a part of a name AND some form of punctuation must be used to separate the term REALTORS® from the company name.

REALTOR® members may use the term REALTOR® as part of an email address or domain name to distinguish themselves; however, rules governing the proper use of the REALTOR® mark must be adhered to at all times regardless of the media used. An individual may use their name and the word REALTOR® such as JohnDoeREALTOR@xyz.com or JDo-eREALTOR@abc.net or john@jdoerealtor.com. Descriptive words used in combination with the word REALTOR® are never allowed, for example, PhoenixREALTOR@webnetservices.com, GreatREALTOR@johndoe.com, TheBestREALTOR@bestrealtor.com.

The preferred way for the word REALTOR® or REALTORS® is always in all capital letters with a registration mark. When that is not possible, the term REATOR may appear in all upper case letters without the registration or with only initial upper case "R" and the registration symbol. There are two exceptions (1) on the internet, which has adopted the use of lower case only letters without symbols and (2) when in newspapers and print media. In news media it is permissible (not preferable) for Realtor® to appear in upper and lower case without the registration mark.

The REALTOR® trademark distinguishes REALTORS® from all other real estate licensees in the real estate profession. A group of real estate licensees should never be called REALTORS® unless you intend to identify them as Members of a REALTOR® Association and every member of the group is indeed a REALTOR®. Firm's marketing their products and services to real estate agents should not use the term REALTOR® unless it is in reference to a particular member. Generally speaking, it is inappropriate for firms soliciting real estate agents to use the word REALTOR® in their advertising campaigns. If a private firm, such as an insurance company or carpet firm, is having a networking breakfast, it can not be entitled "REALTOR® Breakfast" just as any organization outside the REALTOR® organization is prohibited from giving an award named "REALTOR® of the Year". The "REALTOR® of the Year" award is one of the most prestigious and highly sought after awards in any REALTOR® Association.

Oh and by the way, did you know that when you hear the term REALTOR® it could be someone other than a real estate licensee? For example, a principal, partner or corporate officer of a real estate firm or a licensed or certified appraiser?

So, have I changed your view of the word REALTOR®? ☐

Reverse Mortgages & Older Americans

reprinted with permission from The Brodsky School of Real Estate October 2006 Newsletter

Many senior citizens who own their homes free and clear or have very high equity in their homes, find themselves "house-rich" but "cash-poor". Their standard of living is steadily decreasing because they are living on fixed incomes but face increasing expenses. For those who are older than 62, have a strong desire to remain in their existing homes, do not want to pass the house on to their heirs, and could use some extra monthly cash, a reverse mortgage may be a solution in their waning years. In a reverse mortgage, a lender makes a lump-sum payment, a monthly payment, or any combination of the above to the borrower. It should be understood by the borrower that she is, in essence, giving the house to the lender. If the borrower lives a very long life, the monthly payments will keep on coming and the lender's only recourse is the house itself and cannot go after any other assets. Consider the following:

- The payments received are considered a loan and not income and will therefore not affect Social Security or Medicare benefits
- The age 65+ population is increasing by 300,000 people per year
- About 1 in 8 Americans is over 65 now and by 2030 this population will more than double to 71 million
- Persons reaching age 65 have an average life expectancy of another 18.2 years
- In 2003 of older persons who reported income, 51% reported less than \$15,000
- For one-third of Americans over 65, Social Security benefits constitute 90% of their income
- Over 400,000 grandparents aged 65+ have a primary responsibility for their grandchildren who live with them
- One-third of all older people live alone
- There are five times as many older women living alone in poverty than men
- Almost 50% of those aged 85 and over live alone *

It has been estimated that increased use of reverse mortgages could significantly reduce poverty among the elderly. ...

* Statistics from "A Profile of Older Americans: 2004 Compiled by the Administration on Aging and the U.S. Department of Health and Human Services"



Commissioner Richardson Hard at Work

Buying & Selling Mexican Real Estate

The Arizona Department of Real Estate (ADRE) recently unveiled its newly designed website. One of the many additions to the ADRE website is a section devoted to Cross-Border transactions. This new section was developed by the Cross-Border Transactions Committee, co-chaired by ADRE Commissioner Elaine Richardson and Arizona Association of REALTORS® General Counsel, Michelle Lind.

Committee members included: Cindy Ferrin, Doug Groppenbacher, John Gerard, John Slattery, Jose Padilla, Juan Moreno, Judy Lowe, Mary Utley, Michael McCalley, Michael Patterson, Roger Breckenridge, Thomas DeSollar, Jeff Peterson, Steve Barger and Ed Ricketts, Coordinator.

The committee recognized that there was a wealth of information on Mexican real estate transactions from a variety of sources, but the information was not organized in a user-friendly format that encouraged education. Thus, the committee identified and compiled the available information, associations and professionals that could assist in an Arizona-Mexico real estate transaction to include on the website. The website was designed as a “first-stop” to give the unfamiliar consumer an opportunity to learn some basic rules on purchasing and selling real estate in Mexico, as well as to provide the reader with contacts that might assist in such a transaction.

The website contains articles and references to help locate attorneys, real estate brokers, translators/interpreters, appraisers, escrow/title insurance companies, and finance/mortgage companies. Consumers will also find information and website links to: Mexico real estate resources for Arizonans, types of Mexico real estate transactions, and facts and myths about Mexico real estate transactions. There is also a section for foreign nationals to obtain information on buying real estate in Arizona.

The committee hopes that this website will prove to be an important and useful tool to consumers in the process of purchasing land in Mexico. The ADRE website is located at www.azre.gov ☐

At the ARELLO Conference

by Mary Utley, Communications Director

On September 24, 2006, the Commissioner, Cindy Wilkinson and I traveled to San Antonio, Texas to attend the yearly ARELLO (Association of Real Estate License Law Officials) conference. I submitted a proposal to ARELLO last year on facilitating a panel discussion/workshop on real estate in Mexico.

Although the proposal was not selected for the Toronto Conference in 2005, it was chosen this year. The title of the workshop was “Languages, Cultures and Treaties: Immigration and Cross-Border Transactions and the Regulator”. Members of the panel were: Commissioner Elaine Richardson (Arizona Department of Real Estate and Co-Chair of the Arizona-Mexico Commissioner/Real Estate Ad Hoc Committee), Benjamin Torres-Barron (Attorney with Baker & McKenzie, El Paso, Texas), Kevin O’Shea and Mariana Silveira (National Law Center for Inter-American Free Trade, Tucson, Arizona).

Each participant shared their expertise and knowledge on real estate transactions in Mexico. Kevin O’Shea and Mariana Silveira presented information on NAFTA and the Securitization Project that the National Law Center is spearheading. Commissioner Richardson discussed on the Real Estate Ad Hoc Committee as well as the various activities and accomplishment of the group. Benjamin Torres-Barron made a Power Point® presentation on “Introduction to Real Estate Transactions”.

The workshop was well attended and received and is anticipated to result in future presentations. ☐



The three other panelists who joined Commissioner Richardson on the dais, left to right: Benjamin Torres-Barron, Mariana Silveira, & Kevin O’Shea.



As many of you may know, the Arizona Department of Real Estate and the Arizona-Mexico Commission (AMC)- Real Estate Ad Hoc Committee have been facilitating educational workshops on real estate transactions in Mexico, specifically Sonora. The first workshop was held on October 27, 2005 with the last being held on September 28, 2006. All of the workshops were held at the Thunderbird School of International Management (who was one of the sponsors) under the direction of Raul O'Farrill, committee member. Other sponsors were IMI Group, O'Farrill & Associates, P.A., and Spanish Media services.

Participants in these workshops were able to listen to experts from both Arizona and Sonora on the intricacies of conducting real estate transactions in Mexico. The Department issued continuing education credit to licensees for some of the programs.

Feedback was very positive regarding the workshops. Much of the content of the workshops will be incorporated into continuing education for real estate professionals in Sonora. The Committee and ADRE were appreciative of the AMC and ADRE staff that assisted in the success of these workshops. ☐

Commissioner Richardson Out-&-About in the Real Estate Community



At "Leadership Class X"
Scottsdale Area Association of REALTORS®



Vicki Ray, President, Women's Council of REALTORS® White Mountain Chapter (Center) with Cindy Wilkinson (left) and Commissioner Richardson (right).



At "The NE Economic Summit" in Payson



By Consent Order

Name Joshua Allen Ahern
Location: Phoenix, AZ
License Number SA549916000
Summary January 2005 conviction for DUI, failed to notify the Department of the conviction in a timely manner. Failed to respond to repeated requests from Department. Summary Suspension issued on July 5, 2006.

Order Date August 30, 2006
Action Vacate Summary Suspension, 2 year Provisional License with Broker Acknowledgment, \$2,000 Civil Penalty, 6 hr CE in Commissioner's Standards

Name Debra J. Baker
Location: Phoenix, AZ
License Number SA031579000
Summary Respondent listed a property with ensuring that the SPDS was accurate.

Order Date August 4, 2006
Action \$1,000 Civil Penalty

Name Kenneth V. Bates
Location: Scottsdale, AZ
License Number BR007291000
Summary Respondent failed to disclose being an involved principal in a sales transaction.

Order Date September 7, 2006
Action \$1,000 Civil Penalty

Name Perry Alexander Bergalt
Location: Phoenix, AZ
License Number SA520340000
Summary Respondent convicted of DUI in December of 2005.

Order Date August 4, 2006
Action 1 year license suspension, \$2,000 Civil Penalty

Name Gretchen G. Beyers
Location: Wickenburg, AZ
License Number BR112722000
Summary Respondent listed subdivided properties for sale that did not have a Public Report.

Order Date August 4, 2006
Action 2 year Provisional License with Broker Acknowledgment, Cease and Desist sales, \$1,000 Civil Penalty, 6 hr CE in Commissioner's Standards

Name Caliber Holdings, L.L.C.
Location: South Jordan, UT
License Number Unlicensed Entity
Summary Respondent failed to disclose an action taken by the AZ Registrar of Contractors when applying for a Public Report.

Order Date August 22, 2006
Action \$5,000 Civil Penalty (jointly and severally), amend Public Report

Name Douglas Barron Calvet
Location: Yuma, AZ
License Number BR524652000
Summary Respondent offered education courses and operated a real estate school without appropriate Department approval

Order Date September 15, 2006

Action 2 year Provisional License, \$2,000 Civil Penalty,

Name James L. Corbet
Location: Wickenburg, AZ
License Number BR013429000
Summary Multiple violations, including failure to disclose license status while acting as a principal in a transaction; failing to properly disclose a referral fee paid to an individual; failed to review, initial and date agreements; failed to immediately place client funds in a neutral escrow account; failed to supervise.

Order Date September 7, 2006
Action 2 year Provisional License, \$3,000 Civil Penalty, 12 hr CE (3 hr CE in General Real Estate, 6 hr CE in Commissioner's Standards, 3 hr Broker Management Clinic), develop an acceptable Broker Procedure Manual

Name Karen "KC" A. Cyga
Location: Phoenix, AZ
License Number BR111796000
Summary Respondent employed unlicensed individuals.
Order Date August 30, 2006
Action \$3,000 Civil Penalty, 2 year Provisional License, 3 hr CE in Commissioner's Standards, 3 hr Broker Management Clinic, develop written procedures to prevent unlicensed activity.

Name Dennis Brian Deliman
Location: Prescott, AZ
License Number SA560340000
Summary 2005 conviction for Theft.
Order Date August 25, 2006
Action 2 year Provisional License with Practice Monitor, \$25,000 Surety Bond

Name Danilo Djordjevic
Location: Scottsdale, AZ
License Number SA522626000
Summary January 2005 misdemeanor convictions for DUI and Possession of Drug Paraphernalia. Failed to report the convictions to the Department in a timely manner.
Order Date August 22, 2006
Action \$2,000 Civil Penalty, 2 year Provisional License with Practice Monitor, 2 year Body Fluid Testing

Name Aaron M. Drye et al
Location: Flagstaff, AZ
License Number Unlicensed Individuals
Summary Respondents acted in concert to sell subdivided lots without complying with applicable subdivisions statutes and rules.
Order Date September 7, 2006
Action Comply with all applicable statutes and rules regarding sales of subdivided properties.

Name Tiana Duvauchelle
Location: Anthem, AZ
License Number SA564572000
Summary Failed to disclose, within 10 days, August 2005 misdemeanor convictions for sale of alcoholic beverages to an minor and failure to check identification.

Order Date September 26, 2006
Action \$1,000 Civil Penalty



Name Flannery & Allen, LLC
Location: Las Vegas, NV
License Number Unlicensed Entity
Summary Respondent sold multiple subdivided lots without complying with applicable subdivision statutes and rules.
Order Date August 22, 2006
Action Cease & Desist, \$45,000 Civil Penalty & \$30,000 Grant to Education Fund (joint & several), Rescission, apply for Public Report

Name Mary Lou Foster
Location: Scottsdale, AZ
License Number SA045063000
Summary Respondent disclosed an August 2004 DUI conviction when submitting a late renewal application in July of 2006. Respondent conducted unlicensed activity.
Order Date September 29, 2006
Action License granted, 2 year Provisional License with Broker Acknowledgment, \$2,000 Civil Penalty

Name Matthew Bryant Gardner
Location: Phoenix, AZ
License Number SA557469000
Summary June 2005 conviction for Extreme DUI and DUI.
Order Date August 25, 2006
Action 2 year Provisional License with Broker Acknowledgment, \$1,000 Civil Penalty, 2 year Body Fluid Testing

Name Gateway Lots, LLC
Location: Las Vegas, NV
License Number Unlicensed Entity
Summary Respondent sold multiple subdivided lots without complying with applicable subdivision statutes and rules.
Order Date August 22, 2006
Action Cease & Desist, \$45,000 Civil Penalty & \$30,000 Grant to Education Fund (joint & several) , Rescission, apply for Public Report

Name GHR Development, Inc.
Location: Scottsdale, AZ
License Number Unlicensed Entity
Summary Respondent failed to amend Public Report and provided inaccurate or incomplete information.
Order Date August 4, 2006
Action \$2,500 Civil Penalty

Name Osvaldo R. Gudino
Location: Mesa, AZ
License Number SA572629000
Summary Respondent disclosed a March 2006 misdemeanor conviction for Extreme DUI.
Order Date September 26, 2006
Action 2 year Provisional License with Broker Acknowledgment, \$1,000 Civil Penalty, 2 year Body Fluid Testing

Name Michael Adam Hurley
Location: Bullhead City, AZ
License Number Unlicensed Applicant
Summary Applicant convicted of misdemeanor Assault and Criminal Damage in October of 2004.
Order Date August 7, 2006
Action License granted, 2 year Provisional License with Practice Monitor, \$10,000 Surety Bond

Name Heather John
Location: Phoenix, AZ
License Number SA508179000
Summary Respondent failed to deposit earnest money funds into a neutral escrow account.
Order Date August 30, 2006
Action \$1,000 Civil Penalty, 6 hr CE in Commissioner's Standards, 2 year Provisional License with Broker Acknowledgment

Name Jeffrey S. Kantor
Location: Scottsdale, AZ
License Number SA533218000
Summary In February of 2006, Respondent convicted of DUI. Respondent failed to timely notify the Department of the conviction.
Order Date September 5, 2006
Action License granted, \$2,000 Civil Penalty, 2 year Provisional License with Practice Monitor, 2 year Body Fluid Testing

Name Andrew S. Keener
Location: Mesa, AZ
License Number SA572379000
Summary Respondent timely disclosed a March 2006 misdemeanor conviction for Extreme DUI.
Order Date September 28, 2006
Action 2 year Provisional License with Broker Acknowledgment, \$1,000 Civil Penalty, 2 year Body Fluid Testing

Name Kino Springs Golf Course L.L.C.
Location: Santa Cruz County, AZ
License Number Unlicensed Entity
Summary Respondent sold lots in a subdivision without a valid Public Report and complying with applicable subdivision statutes and rules
Order Date August 22, 2006
Action \$8,000 Civil Penalty, Rescission, apply for Public Report

Name Ira S. Kristol
Location: Scottsdale, AZ
License Number BR043830000
Summary Respondent employed an unlicensed individual.
Order Date August 18, 2006
Action License granted, \$2,000 Civil Penalty, 3 hr CE in Commissioner's Standards, 3 hr Broker Management Clinic, 2 year Provisional License, develop written procedures to prevent unlicensed activity.

Name Dennis Krostal
Location: Green Valley, AZ
License Number BR039084000
Summary Respondent employed an unlicensed individual.
Order Date August 15, 2006
Action \$3,000 Civil Penalty

DISCIPLINARY DECISIONS

Consent Orders continued



Name Patricia Leigh
Location: Phoenix, AZ
License Number Unlicensed Applicant
Summary Applicant disclosed a May 2000 misdemeanor conviction for DUI-Liquor/Drugs/Vapors/Combo and a December 2003 misdemeanor conviction for DUI.
Order Date September 29, 2006
Action License granted, 2 year Provisional License with Practice Monitor, 2 year Body Fluid Testing

Name Sammy Lewin
Location: Prescott, AZ
License Number SA512110000
Summary Multiple misdemeanor convictions in 2004 of DUI. Failed to report the convictions to the Department in a time manner.
Order Date August 10, 2006
Action \$3,000 Civil Penalty, 6 hr CE in Commissioner's Standards, 2 year Provisional License with Practice Monitor

Name Michael Lichtie
Location: South Jordan, UT
License Number Unlicensed Individual
Summary Respondent failed to disclose an action taken by the AZ Registrar of Contractors when applying for a Public Report.
Order Date August 22, 2006
Action \$5,000 Civil Penalty (jointly and severally), amend Public Report

Name Robert Lontkowski
Location: Scottsdale, AZ
License Number Unlicensed Applicant
Summary Applicant disclosed a December 1987 conviction in US District Court for Embezzlement.
Order Date September 5, 2006
Action License granted, 2 year Provisional License with Practice Monitor, \$25,000 Surety Bond

Name James Robert Macallister
Location: Scottsdale, AZ
License Number SA555474000
Summary Respondent convicted of Extreme DUI in November of 2005
Order Date August 7, 2006
Action License Revocation

Name Richard Madden, Jr.
Location: Gilbert, AZ
License Number SA538666000
Summary Respondent's advertisement failed to clearly and prominently display the broker's name.
Order Date September 11, 2006
Action \$500 Civil Penalty, 6 hr CE in Commissioner's Standards

Name Pedro "Pete" Marino
Location: Gold Canyon, AZ
License Number SA045557000
Summary Respondent failed to properly credit buyers with appropriate monies. Failed to maintain proper paperwork and files. Accepted a commission that was not paid through broker.
Order Date September 19, 2006
Action 2 year Provisional License with Practice Monitor, \$5,000 civil penalty, 6 hr CE in Commissioner's Standards

Name Tiffany Martindale
Location: Chandler, AZ
License Number Unlicensed Applicant
Summary Applicant disclosed a June 2003 misdemeanor conviction for Adult Entertainment violations.
Order Date October 2, 2006
Action License granted, 2 year Provisional License

Name Ralph J. McGrath
Location: Scottsdale, AZ
License Number Unlicensed Individual
Summary Respondent failed to amend Public Report and provided inaccurate or incomplete information.
Order Date August 4, 2006
Action \$2,500 Civil Penalty

Name Tamara D. Molino
Location: Mesa
License Number SA549875000
Summary Respondent convicted of Aggravated Driving While Under the Influence of Intoxicating Liquor or Drugs. Respondent failed to timely notify the Department of the conviction.
Order Date September 15, 2006
Action License granted, \$2,000 Civil Penalty, 2 year Provisional License with Practice Monitor, 2 year Body Fluid Testing, AA meeting attendance and sobriety monitor

Name Cesar Ortiz
Location: Yuma, AZ
License Number Unlicensed Applicant
Summary Applicant disclosed a February 2001 misdemeanor conviction for Simple Battery.
Order Date September 27, 2006
Action License granted, 2 year Provisional License with Practice Monitor

Name Jared Payne
Location: Mesa, AZ
License Number SA557793000
Summary Respondent failed to disclose a misdemeanor conviction for Excessive Speed when applying for original license. Failed to disclose a December 2005 misdemeanor conviction for Excessive Speed in a timely manner
Order Date September 15, 2006
Action 2 year Provisional License with Broker Acknowledgment, \$2,000 Civil Penalty, 6 hr CE in Commissioner's Standards

DISCIPLINARY DECISIONS

Consent Orders continued



Name Michael R. Rassler
Location: Glendale, AZ
License Number SA531616000
Summary Respondent signed documents on behalf of an individual without having appropriate written authorization to do so.
Order Date August 16, 2006
Action 2 year Provisional License with Practice Monitor, \$2,000 Civil Penalty, 6 hr CE in Commissioner's Standards

Name Devon Robbins
Location: Scottsdale, AZ
License Number Unlicensed Applicant
Summary Applicant disclosed a December 2004 misdemeanor conviction for Assault and a December 1998 misdemeanor conviction for Assault.
Order Date September 11, 2006
Action License granted, 2 year Provisional License with Practice Monitor

Name Jose Robledo
Location: Yuma, AZ
License Number Unlicensed Applicant
Summary Respondent disclosed a February 1997 felony conviction for Willfully Aiding and Assisting in Preparation of a Materially False 1992 Income Tax Return
Order Date September 28, 2006
Action License granted, 2 year Provisional License with Practice Monitor, \$25,000 Surety Bond

Name Zacharias Rodriguez
Location: Tucson, AZ
License Number BR529408000
Summary Respondent failed to disclose a 1995 misdemeanor conviction when applying for original license in 2005.
Order Date August 2, 2006
Action \$1,000 Civil Penalty, 6 hr CE in Commissioner's Standards, 2 year Provisional License

Name James Louis Schmidt
Location: Green Valley, AZ
License Number BR532046000
Summary Respondent failed to timely notify the Department of a 2003 action taken by the State of Oregon against Respondent's Oregon license.
Order Date September 15, 2006
Action 2 year Provisional License with Broker Acknowledgment, \$1,000 Civil Penalty, 6 hr CE in Commissioner's Standards

Name Floyd Scott
Location: Phoenix, AZ
License Number BR007247000
Summary Failed to exercise reasonable supervision over the activities of a salesperson.
Order Date August 22, 2006
Action \$2,000 Civil Penalty

Name Sean P. Sherlock
Location: Amado, AZ
License Number SA042822000
Summary Respondent conducted sales activities with an expired license.
Order Date August 18, 2006
Action License granted, \$3,000 Civil Penalty, 2 year Provisional License with Broker Acknowledgment.

Name A. Chad Shriner
Location: Mesa, AZ
License Number BR540737000
Summary Respondent failed to exercise reasonable supervision over a salesperson's activities.
Order Date September 8, 2006
Action \$500 Civil Penalty

Name Jeanay Sirrine
Location: Scottsdale, AZ
License Number SA571492000
Summary Respondent signed the name of another person on a document without the express written consent of the person.
Order Date September 7, 2006
Action \$2,000 Civil Penalty, 12 hr CE in Commissioner's Standards, 30 day License Suspension, 2 year Provisional License with Practice Monitor

Name Mark Smith
Location: Mesa, AZ
License Number SA543184000
Summary Respondent failed to deposit earnest money funds into a neutral escrow account.
Order Date September 8, 2006
Action \$1,000 Civil Penalty, 6 hr CE in Commissioner's Standards, 2 year Provisional License with Broker Acknowledgment

Name Stephen John Smith
Location: Phoenix, AZ
License Number SA542224000
Summary April 2005 conviction for DUI.
Order Date September 11, 2006
Action 2 year Provisional License with Broker Acknowledgment, \$1,000 Civil Penalty

Name Linda Tierney
Location: Scottsdale, AZ
License Number Unlicensed Applicant
Summary Applicant disclosed an October 2003 misdemeanor conviction for Assault.
Order Date August 3, 2006
Action License granted, 2 year Provisional License with Practice Monitor

Name Savannah J. Varns
Location: Glendale, AZ
License Number SA569546000
Summary Respondent timely disclosed a December 2005 misdemeanor conviction for Extreme DUI.
Order Date September 29, 2006
Action \$1,000 Civil Penalty, 2 year Provisional License with Broker Acknowledgment, 2 year Body Fluid Testing

DISCIPLINARY DECISIONS

Consent Orders continued & Commissioner's Final Orders



Name Rod Whitt
Location: Phoenix, AZ
License Number SA103042000
Summary Respondent signed documents on behalf of an individual without having appropriate written authorization to do so.
Order Date September 18, 2006
Action 2 year Provisional License with Broker Acknowledgment, \$1,000 Civil Penalty, 6 hr CE in Commissioner's Standards

Drug Paraphernalia, 2000 failure to comply with probation, 2000 felony conviction for Possession of Chemicals and Equipment to Manufacture Dangerous Drugs and Criminal Trespass.

Order Date September 8, 2006
Action 2 year Provisional License with Practice Monitor, 2 year Body Fluid Testing, Sobriety Monitor and AA attendance.

Name James Dedario
Location: Phoenix, AZ
License Number BR031807000
Summary March 30, 2006 Summary Suspension upheld, based on licensee's January 2006 felony conviction for Aggravated DUI.

Order Date August 30, 2006
Action Summary Suspension upheld

Name Vanessa Marie Kobold
Location: Prescott, AZ
License Number Unlicensed Applicant
Summary As part of an original license application, applicant disclosed 2004 convictions for DUI and Reckless Endangerment

Order Date August 18, 2006
Action 2 year Provisional License with Practice Monitor; 2 year Body Fluid Testing, Sobriety Monitor and AA attendance

Name William Larkin
Location: Tucson, AZ
License Number Unlicensed Individual
Summary Request for review or rehearing of July 5, 2006 Commissioner's Final Order, appeal denied

Order Date August 11, 2006
Action Denial of license

Name Randall Melancon
Location: Phoenix, AZ
License Number BR027240000
Summary As part of an renewal license application in 2005, Petitioner disclosed 2004 misdemeanor convictions for Aggravated Assault and Criminal Damage.

Order Date August 18, 2006
Action 2 year Provisional License with Practice Monitor, \$2,000 Civil Penalty, 6 hr CE in Commissioner's Standards

Name Nicholas S. Olson
Location: Chandler, AZ
License Number Unlicensed Applicant
Summary Failed to appear for Formal Hearing.
Order Date September 13, 2006
Action Denial of License

By Commissioner's Final Order

Name James Steven Bullard
Location: Mesa, AZ
License Number Unlicensed Applicant
Summary As part of an original license application, applicant disclosed drug-related felony convictions in 1994, 1996 and 2000.

Order Date September 8, 2006
Action Denial of License

Name Michael James Burns
Location: Phoenix, AZ
License Number Unlicensed Applicant
Summary As part of a 2006 original license application, applicant disclosed a 2003 felony conviction for Possession for Sale of Narcotic Drugs and Resisting Arrest as well as a Probation violation in 2004. 2004 late renewal application was denied.

Order Date August 18, 2006
Action 2 year Provisional License with Practice Monitor, 2 year Body Fluid Testing, Sobriety Monitor and AA attendance.

Name Michael James Burns
Location: Phoenix, AZ
License Number Unlicensed Applicant
Summary Request for review or rehearing of August 18, 2006 Commissioner's Final Order, appeal denied

Order Date September 28, 2006
Action 2 year Provisional License with Practice Monitor, 2 year Body Fluid Testing, Sobriety Monitor and AA attendance.

Name Harvey Burr
Location: Mesa, AZ
License Number Unlicensed Applicant
Summary As part of an original license application, applicant disclosed 1992 and 1995 convictions for False Statements.

Order Date September 5, 2006
Action Denial of License

Name Jason T. Clark
Location: Phoenix, AZ
License Number SA540732000
Summary Misrepresented the terms of a lease/purchase agreement

Order Date September 29, 2006
Action Denial of License Renewal

Name Erica Decker
Location: Chandler, AZ
License Number Unlicensed Applicant
Summary As part of an original license application, applicant disclosed a 1998 conviction for Possession of

Summary Suspensions

Name Dawn M. Callaway
Location: Scottsdale, AZ
License Number SA511039000
Summary Respondent received adverse judgment involving real estate activity. Failed to respond to requests



for information.
Order Date August 1, 2006
Action Summary Suspension of Salesperson's License

Name Cynthia S. Ensmann
Location: Phoenix, AZ
License Number SA548868000
Summary Respondent convicted in May of 2006 of Attempted Fraudulent Schemes and Artifacts, a Class 3 Felony. Respondent placed on 2 years probation.

Order Date August 10, 2006
Action Summary Suspension of Salesperson's License

Name Terry Darwin Garvey
Location: Glendale, AZ
License Number SA553365000
Summary Respondent failed to disclose multiple misdemeanor convictions when applying for a license in August of 2004. Respondent failed to respond to Department requests for information.

Order Date August 24, 2006
Action Summary Suspension of Salesperson's License

Name Stacy Mae Lemmert
Location: Tucson, AZ
License Number SA554873000
Summary Respondent failed to disclose October 2005 misdemeanor conviction, failed to respond to multiple requests for information.

Order Date August 14, 2006
Action Summary Suspension of Salesperson's License

Name Roy F. Ross
Location: Tubac, AZ
License Number BR003548000
Summary Conducted sales activity when broker's license had not been renewed. Failed to respond to requests for information.

Order Date August 4, 2006
Action Summary Suspension of Broker's License, Cease and Desist all real estate activities.

Name Ross Land, L.L.C.
Location: Tubac, AZ
License Number LC526999000
Summary Conducted sales activity when broker's license had not been renewed. Failed to respond to requests for information.

Order Date August 4, 2006
Action Summary Suspension of Broker's Entity License, Cease and Desist all real estate activities.

Name Frank Rocco Santore
Location: Cornville, AZ
License Number SA548942000
Summary Respondent failed to disclose previous felony convictions in California when applying for a license in 2004. Failed to provide a current address to Department. Failed to respond to Department requests for information.

Order Date June 27, 2006
Action Summary Suspension of Salesperson's License

Name Casey Lee Weeks
Location: Gilbert, AZ
License Number SA554967000
Summary Respondent failed to disclose previous probation and discharge from the military. Respondent failed to comply with Department requests for a

statement and information about the probation and military discharge
Order Date August 24, 2006
Action Summary Suspension of Salesperson's License

By Consent Order (ASA)

Name 1st Arizona Realtors, Inc.
Location: Phoenix, AZ
License Number CO547502000
Summary Conducted sales activities without an active license.

Order Date July 6, 2006
Action \$4,000 Civil Penalty

Name Barbara L. Alvarado
Location: Scottsdale, AZ
License Number SA533393000
Summary Conducted sales activities without an active license.

Order Date July 26, 2006
Action \$1,000 Civil Penalty

Name Martin Chikuni
Location: Mesa, AZ
License Number SA516504000
Summary Conducted sales activities without an active license.

Order Date August 14, 2006
Action \$1,000 Civil Penalty

Name Christine M. Denney
Location: Mesa, AZ
License Number SA522228000
Summary Failed to disclose, within 10 days, January 2005 misdemeanor conviction for Reckless Driving.

Order Date August 11, 2006
Action \$1,000 Civil Penalty

Name Diversified Equity Corporation
Location: Tucson, AZ
License Number CO000976000
Summary Conducted sales activities without an active license.

Order Date August 28, 2006
Action \$5,000 Civil Penalty

Name Gary Finlison
Location: Mesa, AZ
License Number BR043532000
Summary Failed to properly supervise; allowing sales activities by an unlicensed person.

Order Date August 3, 2006
Action \$1,000 Civil Penalty

Name Holly Fischer
Location: Scottsdale, AZ
License Number SA528018000
Summary Advertisement did not include name of employing broker.

Order Date August 2, 2006
Action \$500 Civil Penalty

Name Christian Fischer
Location: Scottsdale, AZ
License Number SA542494000

DISCIPLINARY DECISIONS

A.S.A.s continued & Cease and Desist Orders



Summary Advertisement did not include name of employing broker.
Order Date August 2, 2006
Action \$500 Civil Penalty

Name Kimberly Kay Goyena
Location: Fountain Hills, AZ
License Number SA510019000
Summary Failed to disclose, within 10 days, November 2004 misdemeanor conviction for DUI.
Order Date August 23, 2006
Action \$1,000 Civil Penalty

Name R. Scott Green
Location: Scottsdale, AZ
License Number SA532752000
Summary Conducted sales activities without an active license.
Order Date July 26, 2006
Action \$1,500 Civil Penalty

Name Ira S. Kristol
Location: Scottsdale, AZ
License Number BR043830000
Summary Failed to properly supervise; allowing sales activities by an unlicensed person.
Order Date May 23, 2006
Action \$1,000 to ADRE Education Fund

Name Julie La Russa
Location: Scottsdale, AZ
License Number SA105840000
Summary Failed to disclose, within 10 days, May 2005 misdemeanor conviction for DUI.
Order Date August 17, 2006
Action \$1,000 Civil Penalty

Name Sasha M. Lee
Location: Avondale, AZ
License Number SA549892000
Summary Failed to disclose, within 10 days, November 2004 misdemeanor conviction for Disorderly Conduct and Criminal Trespassing.
Order Date August 16, 2006
Action \$1,000 Civil Penalty

Name Ronda L. McCulloch
Location: Phoenix, AZ
License Number SA518445000
Summary Failed to disclose, within 10 days, February 2005 misdemeanor conviction for DUI.
Order Date July 26, 2006
Action \$1,000 Civil Penalty

Name Stephanie D. Mount
Location: Phoenix, AZ
License Number BR526608000
Summary Failed to properly supervise; allowing sales activities by an unlicensed person.
Order Date August 7, 2006
Action \$2,000 Civil Penalty

Name Mount Lemmon Realty, Inc.
Location: Mt. Lemmon, AZ
License Number CO510418000
Summary Conducted sales activities without an active license.
Order Date August 7, 2006
Action \$4,000 Civil Penalty

Name Ryan E. Ottosen

Location: Kingman, AZ
License Number SA568111000
Summary Failed to disclose, within 10 days, December 2005 misdemeanor conviction for DUI.
Order Date August 23, 2006
Action \$1,000 Civil Penalty

Name Michael P. Ragland
Location: Phoenix, AZ
License Number SA115490000
Summary Failed to disclose, within 10 days, March 2006 misdemeanor conviction for DUI.
Order Date August 8, 2006
Action \$1,000 Civil Penalty

Name Tony D. Werstler
Location: Scottsdale, AZ
License Number SA114160000
Summary Failed to disclose, within 10 days, November 2005 misdemeanor conviction for DUI.
Order Date August 10, 2006
Action \$1,000 Civil Penalty

Name Wockenfuss Family Business, LLC
Location: Gilbert, AZ
License Number LC551038000
Summary Conducted sales activities without an active license.
Order Date August 14, 2006
Action \$2,000 Civil Penalty

Name Marilyn Jean Zipprich
Location: Scottsdale, AZ
License Number BR108590000
Summary Failed to properly supervise; allowing sales activities by an unlicensed person.
Order Date July 27, 2006
Action \$2,500 Civil Penalty

By Cease and Desist Order

Name I Buy Land, L.L.C.
Location: Scottsdale, AZ
License Number Unlicensed Entity
Summary Respondent conducting real estate sales activity in Arizona without a license.
Order Date September 1, 2006
Action Cease and Desist all sales activities

Name Share-Trader, Inc.
Location: Brandon, FL
License Number Unlicensed Entity
Summary Respondent conducting real estate sales activity in Arizona without a license.
Order Date August 11, 2006
Action Cease and Desist all sales activities

END OF DISCIPLINARY DECISIONS

October / November 2006 Listings

Reminders

Abbreviations Used In The Bulletin

AAC	Arizona Administrative Code (<i>usually citing the Rules promulgated by the Arizona Department of Real Estate, often referred to as "The Commissioner's Rules"</i>)
AAR	Arizona Association of REALTORS®
ADRE	Arizona Department of Real Estate
AMC	Arizona Mexico Commission
ARS	Arizona Revised Statutes
ASA	Accelerated Settlement Agreement
CE	Continuing Education
ICRESON	<i>Instituto Catastral y de Servicios Registrales</i> This is the agency within the Government of the State of Sonora, Mexico that maintains the public registry (<i>cadastral</i>) of titles and deeds, and the voluntary registry of real estate agents working in Sonora.
PC	Professional Corporation
PLLC	Professional Limited Liability Corporation

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see article on page 6.

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