



**T H E**  
 Arizona Department of Real Estate  
**B U L L E T I N**

September 2004

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## Let's Meet the Administration Staff!



**Ron Passarelli**  
 Deputy Commissioner  
 1.5 Years of Service  
 Ron is a former elected official, having served as a City Councilmember in Colorado. He is also an avid quoter of insightful thoughts.



**Dick Simmonds**  
 Business Services Director,  
 Commissioner's Special Asst.  
 10 Years of Service  
 Dick plays tennis every Saturday morning with his daughter and is also a garden model railroader.



**Curt Leaf**  
 Executive Staff Assistant  
 31 Years of Service  
 Curt is a stage manager for the Phoenix Symphony Guild, Orchestral Training Program and also makes hand-made pens.



**Kevin Goode**  
 Information Technology Specialist  
 7 Years of Service  
 Kevin enjoys racquetball, hiking, four-wheeling and likes spending time in the high country.



**Liz Carrasco**  
 Public Information Officer,  
 Bulletin Editor and Webmaster  
 1.5 Years of Service  
 Liz enjoys reading about politics, watching scary movies and loves her 7 month old son Daniel.



**Carla Randolph**  
 Executive Assistant to the Commissioner  
 18 Years of Service  
 Carla is an avid snow skier and is a mother to two lovely little girls, Allison and Makenna.

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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.

# 7 Questions Regarding the Broker Audit Declaration Form

By Lynda Gottfried

Following are some frequently asked questions regarding the Broker Supervision and Control Audit Declaration (Self-Audit) Form.

## Question 1

**If I am semi-retired and don't use my license often do I have to complete this form?**

Answer: If your license is **active** with the Department of Real Estate and you are a Designated Broker, you are required to complete the Audit Declaration Form. It does not matter whether or not you are conducting any real estate business. In this case, most of the answers will be "N/A."

## Question 2

**How do I determine the difference between a "No" answer and a "N/A" answer?**

Answer: A "No" answer means you are not in compliance with Arizona Revised Statute and/or Commissioner's Rule. A "N/A" answer means that section does not apply to you or to your brokerage. You are required to explain any "No" answers on page 9 of the Audit Declaration Form. A proper explanation should tell an auditor how and why you are not in compliance.

## Question 3

**Am I supposed to submit my Audit Declaration Form with my Broker's License Renewal or Employing Broker's (entity) License Renewal?**

Answer: The Audit Declaration Form is due prior to or with the Designated (including Self-Employed) Broker's License Renewal. It is not due with the entity (Corporation, Partnership, LLC) license renewal.

## Question 4

**If I change my license from a Designated Broker to an Associate Broker, am I still required to submit the Audit Declaration Form?**

Answer: No. The Audit Declaration Form is only a requirement for Designated Brokers.

## Question 5

**Do I have to scan and e-mail the Audit Declaration Form?**

Answer: The completed Audit Declaration may be mailed, faxed, scanned, e-mailed or hand-carried. It may also be sent to the ADRE's Phoenix or Tucson offices by mail.

## Question 6

**May I include the Audit Declaration Form with my renewal application and fees?**

Answer: Yes. If you choose to send them together, they must be addressed to the Licensing Division. The Licensing Division will then route the Audit Declaration Form to the Auditing Division.

## Question 7

**On page 6 of the "Broker Supervision & Control section", if I have no licensees, do I still need a Broker Supervision Policy?**

Answer: Yes.\*\* The Broker Supervision Policy manual is a requirement. If you have no employees or licensees and minimal activity, the manual will not need to cover as many of the required areas. The manual will need to address the areas that do apply, such as filing, storing and maintaining transactions, and the handling of funds.

\*\*A planned rule change is expected to exempt a broker with no or few employees. Additional rule changes may also occur and will be reported in future Bulletins.

*Editor's Note: Ms. Gottfried is the Deputy Director of Investigations/ Auditing and has been with ADRE for 9 years.*

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# Commissioner's Corner

By Commissioner Elaine Richardson

## THIS IS NOT REALITY TV—BUT IT IS REALITY!

If what I am about to tell you were on one of the new reality TV shows, I would change the channel. Unfortunately, I cannot do that at the Department of Real Estate. You may ask, "What is she talking about?" I like to relate us to the show "Survivor." Let me explain.

Business is booming in Arizona and that is a good thing. The real estate industry counts for a major portion of that growth, whether it is in the form of developing/buying/selling land; building anything, from timeshares to residential communities to commercial to industrial to cemeteries, condos, etc.—you get the idea. But I'm not finished. Builders, trades people, sales agents and brokers as well as the general public are all affected sooner or later in one form or another by the happenings at the Department of Real Estate. O. K—so what? Here is where the reality comes in.

Let's look at the Subdivisions Division. No sales in a new home subdivision can be made without obtaining a Public Report. What does that mean? It means that an application for Public Report must be filed with our Subdivisions Division and the Report issued to assure that all the proper documents have been obtained from the Department of Water Resources, Department of Environmental Quality, County or City Planning & Zoning Departments, Title Companies, etc., and that all required disclosures will be made to buyer. So what's the problem? Let's do the math.

In fiscal year (FY) 2003, our subdivision staff processed **1,778 applications** for Public Report with 4 subdivision representatives. In FY 2004, our subdivision staff processed **2,212 applications** for Public Report with 4 subdivision representatives.

This means that an already overworked staff of **4 people** must now process **12\*** applications per week. An average application takes **9 hours** to process. Therefore, with our representatives working 8 hours per day, 5 days per week with *no interruptions whatsoever*, such as telephone calls from applicants,

title companies, etc., each representative could process **4.5 applications per week**. However, this leaves a **backlog of 7.5 applications per week**.

In 2003, each representative was responsible for **9.5 applications per week**, which in itself caused a carry-over. Impossible, you say? Yes, impossible, but a reality factor. We realize these delays cost everyone concerned lots of money—perhaps one reason we are so diligent in trying to correct this budgetary crisis.

Let's look at the Licensing Division. In FY 2003, we had **8 customer service representatives** (this includes the Tucson office) to handle **59,308 licensing applications**, which gives each representative **158\* applications** to process per week, or 32 per day. Total processing time for an application with *no interruptions* (which is nearly impossible) is approximately **1.5 hours** for applications that have no problems.

In FY 2004, ADRE had the same number of customer service representatives (including the Tucson office) to handle **64,740 applications**, meaning each representative must process **172\* applications per week** or 34 per day. Total processing time for an application is still **1.5 hours or more**. I did the math—8 hours in a work day divided by **1.5 hours** spent per application means it is feasible to handle **5.3 applications per day**. Again, this is an impossible situation and a crisis, not only for the Department, but also for the folks we are striving to serve and protect. As of this publication, there are currently **67,146 people with licenses** with ADRE.

I only discussed two of our five divisions, Licensing and Subdivisions, in this short epistle, but the numbers of the other three divisions are just as gruesome. We have some proposed beginnings of solutions which I will share with you in future Bulletins, but right now, I am going back to watch Survivor—their odds seem better at the moment!

*\*Note: The above figures are also affected by 10 days vacation, 10 holidays and an average of 5 days of sick time. ☐*

## ***A NOTE ABOUT GUEST COLUMN ARTICLES...***

**GUEST COLUMN ARTICLES DO NOT NECESSARILY REFLECT THE OPINIONS, POLICIES OR INTERPRETATIONS OF LAW BY ADRE. ADRE ASSUMES NO RESPONSIBILITY FOR THE CONTENT IN SUCH GUEST ARTICLES. THEY ARE MEANT TO INFORM THE PUBLIC AND PROVIDE VARIETY TO ADRE'S BULLETIN. ALL ARTICLES ARE EDITED FOR SPACE LIMITATIONS.**

## **ADRE Partners with Legislature on Growth Issues**

*By Guest Columnist Honorable Clancy Jayne*

As a resident of the North Valley, I have become accustomed to seeing wide open spaces of dirt and grassland become sprawling subdivisions full of homes almost overnight. The breathtaking growth taking place in North Phoenix and other areas of the state is both a sign of progress, and a challenge.

It is with this in mind that I sponsored two pieces of legislation in our recently concluded regular session that seek to address these dual issues. The first, House Bill 2553, targeted the rampant practice of lot-splitting and subdividing, by removing the \$1,000 penalty cap for violations to subdivision or unsubdivided lands laws, and thus allowing a penalty range from \$1,000 to \$5,000 per infraction. It also would have changed the definition of "barrier" to mean a geographical feature either natural or man made that prevents parcels of land from being practicably, reasonably, and economically united, that was not created by the owner of the parcel at any time. The Department of Real Estate, as well as a number of stakeholders, supported this significant piece of legislation. Unfortunately, it was assigned to three House committees, virtually guaranteeing its demise. After passing the Federal Mandates and Property Rights Committee and the Commerce Committee, it failed to pass in the Appropriations Committee.

The second bill, House Bill 2556, would have improved the efficiency and self-sufficiency of the Department of Real Estate by creating the Real Estate Regulatory Revolving Fund, comprised of surcharges and fees. It would have modified guidelines and fees for various real estate laws regarding the sale of subdivided and unsubdivided lands, the organization, and the regulation of cemetery land and real estate licensing. The goal of this bill was to enable the Department to

improve service by processing certification requests and subdivision reports more quickly. The Regulatory Fund would also have made the Department less dependent on the state's General Fund, and enabled it to hire additional staff and improve services for developers and Realtors®. Like its partner, HB 2553, this bill was also defeated in the House Appropriations Committee, where a few lawmakers misunderstood its benefits for the people of Arizona.

Fortunately, there is always next year. Legislation rarely passes through the Legislature the first time it is introduced, and these two bills are obviously no exception. I am confident that next year's Legislature will be more understanding of the needs of our state's developers and Realtors®, as well as the need to provide the Department of Real Estate with the resources it needs to carry out its responsibilities. I look forward to continuing to work with Commissioner Elaine Richardson on these important issues, and hope that together we can facilitate our state's explosive growth in a manner that benefits all of our state's residents.

*Editor's Note: Clancy Jayne is a member of the Arizona State House of Representatives from District 6 and co-sponsored ADRE's two legislative bills mentioned above. ☐*





# The Property Management Debate Over On-Site Licensing

By Guest Columnist Gina Hudson

Last year, Commissioner Elaine Richardson hosted a series of Stakeholder Meetings with several subcommittees, which were responsible for reviewing real estate statutes and rules and making recommendations on revisions, if needed, to the Commissioner. One such subcommittee was the Property Management Subcommittee. This subcommittee failed to come to consensus on many agenda items, one of which included security deposit issues and the licensing of on-site staff.

More than half of the states in the country have rules incorporated into their Landlord/Tenant laws and into their Real Estate Statutes regarding the disposition of security deposits. This continues to be an area of concern in Arizona. Discussion ensued as to whether it was proper for owners to keep security deposits, rather than depositing the funds into a neutral Trust Account to be held on the tenants' behalf, which would ensure accountability at the end of the rental period. A question also arose about the propriety of not reporting these funds given to owners in their 1099's tax forms at the end of the year as income. It was at least decided that the recommendation would be made to the Commissioner that lease agreements should require the **disclosure of who** retains the tenant's security deposit. That was a beginning to address the increasing problem regarding security deposits in this state.

The licensing of on-site staff has been an ongoing issue between commercial managers and managers of residential and small multi-unit properties, each having valid arguments to support their positions. In an article appearing in the December 2003 issue of Apartment News Magazine by the Arizona Multi-Housing Association's lobbyist Suzanne Gilstrap, she stated that the licensing of on-site managers was of "significant" concern to the industry and explained why it should be opposed. Among her reasons, she asserted that a real estate license had "little to do" with property management operations and would be of "no real value" towards improving job performance or affording protection to rental residents or property owners.

I cannot imagine how *more professional training* would not benefit the public, tenants or property owners! Ms. Gilstrap also pointed to the fact that the AMA and other organizations provide in-house training to staff,

which in her opinion, appeared sufficient. She further stated that leasing agents and managers did not independently create lease agreements, that they "merely present the lease amounts, terms, required deposits and concessions established by the management."

Having personally observed managers and leasing agents myself, I have found that they also negotiate lease terms and amounts, make additions or deletions to rental agreements and in general, can give the appearance of being real estate agents. While some of us in the industry may recognize the difference, the public most certainly does not.

Lastly, Ms. Gilstrap explained that the licensing of on-site personnel would impose "significant financial burdens" on the Property Management industry. What she really should have said is that it was the owners of commercial properties that were worried about the licensing of on-site staff as a financial "hardship" by having to pay for more professional, licensed staff, regardless of the benefits to the public. On the flip side, residential property management companies have licensed their personnel for years, as required by Statutes, and they do not seem to be suffering a terrible "hardship" to the industry as a whole. Their industry has survived, even with the additional costs. Ms. Gilstrap is simply wrong.

Even though our subcommittee could not reach consensus about on-site licensing, we were afforded the opportunity to discuss some of these very important issues with Commissioner Richardson. I have found the Commissioner to be in favor of increased education at all levels of our industry –because it increases professionalism and it protects the consumer. She is also open to hearing about innovative solutions needed for an industry facing new challenges everyday. Commissioner Richardson's commitment to bring change where change is needed, to promote competency in all areas of real estate in Arizona, and to clearly define the obligations of each Arizona licensee is right. I look forward to further discussions about the issue of licensing for on-site staff.

*Editor's Note: Ms. Hudson is Registered Property Manager, Designated Broker, Certified International Property Specialist, Mediator, Educator and owner of Gina's Property Management & Realty, Inc. in Tucson. ☐*

## Frequently Asked Questions (FAQ)...

**Question: If I have a complaint filed against me can I appear before the Advisory Board to tell my side of the story?**

**Answer:** No, that is not the Advisory Board's role. The Advisory Board exists to "provide the Commissioner with such recommendations as it deems necessary and beneficial to the best interests of the public." It may also provide recommendations on specific questions or proposals. It does not become involved in individual disciplinary or licensing situations.

**Question: If the Advisory Board does not hear disciplinary cases then who does?**

**Answer:** When the Investigation Division's complaint investigation reveals sufficient information to indicate a violation of real estate law or rule, it forwards the case to the Administrative Actions Division. That Division may contact the licensee to work out a "consent order" in which the licensee admits committing a violation and accepts an agreed-upon disciplinary action. Alternatively, the Administrative Actions Division may forward the case to the Office of the Attorney General for action.

**Question: What happens if a case is sent to the Attorney General?**

**Answer:** The Attorney General's (AG) staff reviews the case and determines if they believe they can prevail in a hearing. If so, the AG's staff prepares a notice of hearing and complaint, and a cease and desist order or a summary suspension order. Hearings are held in front of an Administrative Law Judge (ALJ) at the Office of Administrative Hearings. If the AG's office does not believe there is sufficient evidence for a disciplinary action, they return the case to the Department for additional work or with the recommendation to close the file.

**Question: What happens at a hearing?**

**Answer:** Each side may present evidence, including documents, testimony, or other evidence. The ALJ has 20 days to determine whether a violation occurred and what the appropriate penalty (if applicable) is.

**Question: Is the Administrative Law Judge's decision final?**

**Answer:** No, the ALJ prepares a document that contains findings of fact, (the facts of the case), conclusions of law (what statutes apply and which were violated), and a proposed order (how to resolve the case) which is sent to the Commissioner. The Commissioner reviews this document and may accept, reject, or modify it and issues her Final Order.

**Question: May I appeal the Commissioner's decision?**

**Answer:** Yes, the case may be appealed to the Superior Court. ☐

# Illegal Subdividers Beware!

By Bill Day

The new ADRE administration under Commissioner Elaine Richardson has placed a high priority on combating illegal subdividing. The Commissioner has created a special unit within the ADRE's Investigations Division to deal entirely with illegal subdividing and subdivision violations. In addition, ADRE has been working closely with Counties and other State agencies to detect illegal subdividing, assist in prosecuting illegal developers and bring the properties into compliance with state laws and county ordinances.

**Illegal subdividers beware**—there are many eyes out there looking for you!

In order to determine whether an illegal subdivision has been or is being created, one needs to review the Statutes. The definitions related to subdividing include A.R.S. §32-2101(1), "Acting in Concert", A.R.S. §32-2101(14), "Common Promotional Plan", A.R.S. §32-2101(53), "Subdivider", and A.R.S. §32-2101(54) "Subdivision". The statutes for violations of subdivision laws A.R.S. §32-2181(A)(D) and A.R.S. §32-2183(F). In addition, A.R.S. §32-2164 specifically relates to licensees. Also, A.R.S. §32-2165(B) designates illegal subdividing as a class 5 Felony.

In A.R.S. §32-2101(16), "Contiguous " refers to lots, parcels or fractional interests that share a common boundary or point. This relates only to properties that are not located within a subdivision development. Any properties within a subdivision development, whether they share a common boundary or point or not, are automatically deemed to be contiguous. Therefore, if one owns or has interest in more than five parcels anywhere within the development, that person is required to comply with the subdivision laws.

Even if lots or parcels are not contiguous, if they are part of a common promotional plan or parties are determined to be acting in concert, the creation of 6 or more lots or parcels would also require compliance with the subdivision laws pursuant to A.R.S. §32-2181. Acting in concert is the most prevalent method persons use to attempt to avoid the subdivision laws. To determine whether persons are acting in concert, the Department may consider any one or more of the following:

- Familial relationship between parties.
- Business relationship between parties to buy, sell and/or divide property.

- Officers, members, managers or directors, or person owning interest in one or more business entities or partnerships, and/or partners in one or more businesses.
- Lot release provisions to enable further divisions.
- Use of same surveyor, same real estate agent, and/or notary public by multiple parties to the transactions in question.
- Maps, drawings, or surveys of the parcel indicating further division.
- Recorded or unrecorded conditions, covenants and restrictions, or deed restrictions that may indicate development activity.
- The timing of applications for permits for septic tanks, wells or other infrastructure.
- Well-share or road maintenance agreements between or among actual or prospective lot owners.
- The number and placement of easements.
- The manner in which transactions are structured and/or closed.

Why do persons avoid the subdivision laws? It's simple – ignorance, money and greed. They may buy a parcel of land and proceed to divide and sell it without fully exploring the related rules and statutes. Or they try to avoid the costs of properly subdividing the property. As a result, the purchasers do not get what they are entitled to. Most purchasers think they are getting a good deal, until something goes wrong, for example, an inadequate water supply, an inadequate water supply for fire suppression, inadequate flood protection, emergency vehicles not being able to get to the residence because of inadequate roads, poor air quality due to dirt roads, roads not up to county standards, and the list goes on. Ultimately either the purchasers have to pay for the improvements or the taxpayers must pay, when the local government is forced to provide the facilities for health and safety reasons. Illegal subdividing hurts everyone.

ADRE's mission is to protect the public — this responsibility is taken very seriously. Real estate licensees are subject to revocation of their licenses. **Illegal subdividers, persons assisting them, and real estate agents, beware** – when ADRE finds you, we will take action – and do not expect a slap on the hand.

*Editor's Note: Mr. Day is Deputy Director of Investigations, has been with ADRE for 18 years, and is a Certified Fraud Examiner. ☐*

## Unlicensed Activity – Me?

By Tom Adams

The odds are most licensees in Arizona will never find themselves in a position of having to respond to a charge of conducting “unlicensed activity,” but you never know. It can and does happen more frequently than you might imagine.

There are a number of things that occur which result in unlicensed activity, but one of the most common involves a broker who also obtains a broker’s license for a business (partnership, L.L.C., etc.). Frequently the broker obtains the business’s license a few months after renewing (or obtaining) the broker’s individual license. The business license is issued for two years, the same as any other license. Brokers sometimes become confused about the distinction between their personal broker’s license and their business license, and believe they both expire together. For example, assume a broker’s license expires on May 31 and the broker renews it. A few months later the broker obtains a business license that expires July 31. The broker assumes that July 31 is the expiration of both licenses and does not renew the broker’s personal license by May 31 and it expires. Sometime between May 31 and July 31 the broker wants to hire a new agent and submits the appropriate paperwork to the Department, and is advised the broker’s license has expired.

Sometimes licensees fail to obtain sufficient continuing education hours before their licenses expire. Checking with the Department, they learn they have a year to make up the hours, but do not hear the part of the discussion that says “but your license still expires at the regular time.” These folks believe they have another full

year to work and obtain their CE credits when, in fact, their licenses expired on the normal expiration dates. While it is true there is a year in which the person can renew without re-taking the tests, during that year they are not licensed and cannot legally participate in any activity requiring a license.

Earlier this year, the Department revised its Substantive Policy Statements (SPS). During that process SPS #8 (formerly #22) was revised to tighten the requirements and increase the consequences for those who participate in unlicensed activity. Now, if a licensee conducts unlicensed activity for less than 30 days (and it is the first time and there are no extenuating circumstances) the Department will issue the licensee a non-disciplinary Advisory Letter of Concern (LOC). While not disciplinary, the LOC is maintained in the licensee’s license file and can be used to determine the appropriate discipline in any future similar cases. Unlicensed activity lasting more than 30 days, or when it is a second or subsequent violation, or involves extenuating circumstances, is investigated and processed fully for disciplinary action.

The Department’s intent in increasing the emphasis on unlicensed activity and in tightening the potential outcomes for such activity is to emphasize the importance of maintaining a valid license and to express the seriousness with which the Department views violations of the licensing statutes.

*Editor’s Note: Mr. Adams is the Director of Investigations and has been with ADRE for one year. ☐*

## TIME IS MONEY!

Why spend it waiting in line at the end of the month, when waiting and lines are longer?

Renew your license early and beat the rush!  
Isn’t your time worth money?





# Do you like to write?

Do you have an article idea?\*

If you would like to submit an article to be considered for inclusion in The Bulletin, please send your article to the Editor via email at: [lcarrasco@re.state.az.us](mailto:lcarrasco@re.state.az.us).

Submissions must be in MS Word format and less than 500 words.

\*Submissions of guest writers may not necessarily reflect the opinion of the Department and may be edited due to space limitations.

## Let's Meet the Administration Staff (continued...)

(continued from page 1)



**Shirley Thomas**

*Administrative Assistant II HR  
15 Years of Service*

A native Arizonan, Shirley has a son, the family's first to graduate from college at ASU. She is the proud grandma of Mackenzie and also enjoys yard work.



**Sue LaBotz**

*Administrative Assistant II  
8 Years of Service*

Sue enjoys traveling, cooking and reading.



**Jerry Baranuk**

*Administrative Assistant I  
18.5 Years of Service*

Jerry has been married almost 19 years and has an 18 year old daughter. He likes to watch old movies.



**Pattylou Stults**

*Mail/ File room Clerk  
8.5 Years of Service*

Pattylou enjoys participating in almost any sport except football. She likes the "physical workout" part of her job the best.

# Administrative Actions

## COMMISSIONER'S ORDERS Disciplinary Actions

### **Patrick Joseph Logue and Urban Investment Corporation (Phoenix)**

File No. 01A-145-REL, Amended Order 6/24/2004  
After hearing, Logue was issued a 21-month provisional real estate broker's license subject to specified terms and conditions, based on Logue's violation of A.R.S. § 32-2153 (B)(8) during the term of commercial property management agreements between Mazarine Investment and Urban Investment Corp., Logue's company.

### **Enrique Recendiz (Phoenix)**

File No. 04F-095-REL, Order 6/22/2004  
After a hearing, the Commissioner revoked Recendiz's real estate salesperson's license and assessed a civil penalty of \$2,000 based on both his felony conviction for Filing False Statements with the U S Dept of Housing & Urban Development, and his debarment by HUD from procurement and non-procurement transactions with HUD. This is based on violation of A.R.S. § 32-2153 (B) (2), (B)(5), (B)(7) and (B)(10).

## Appealable Agency Actions

### **Dale E. Litwiller (Phoenix)**

File No. 04F-071A-REL, Order 6/23/2004  
After hearing, the Commissioner ordered that the Cease and Desist Order issued to Litwiller remain in effect; that he refrain from engaging in real estate brokerage activities until he is licensed; that he provide a list of clients from whom he accepted money for the sale, lease or showing of real estate; that he return all monies given to him for any reason regarding his real estate activities; and assessed a civil penalty against him of \$1,000 for his violation of A.R.S. § 32-2122(B).

### **Maria De La Riva (Phoenix)**

File No. 04F-087-REL, Order 6/17/2004  
After hearing, De La Riva was granted license renewal and issued a 2-year provisional license subject to specified terms and conditions, and was assessed a civil penalty of \$2,000. This was based on her misdemeanor conviction of Making False Statements to HUD and



failure to disclose the conviction to the Department within 10 days, in violation of A.R.S. § 32-2153 (A)(3), (B)(2), (B)(5) and (B)(10).

## SETTLEMENTS BY CONSENT ORDERS Disciplinary Actions

### **Gloria Cisneros (Phoenix)**

File No. 04F-022-REL, Consent Order 7/22/2004  
In a transaction where she represented the buyers, Cisneros altered a document signed by the sellers and caused the document containing the statement to be distributed or circulated, in violation of A.R.S. § 32-2153 (A)(4), and failed to disclose her familial relationships with the loan officer and the escrow officer in a transaction, in violation of A.A.C. R4-28-1101 (E)(4) and A.R.S. § 32-2153 (A)(3). The Commissioner suspended Cisneros's license for 60 days and assessed a \$1,000 civil penalty

### **Ruth Karr (Scottsdale)**

File No. 03A-108-REL, Consent Order 7/20/2004  
Karr failed to place all checks or items of value in the care of her designated broker, as required by A.R.S. § 32-2151.01(D), commingled client funds with her personal funds, in violation of A.R.S. § 32-2153 (A)(16); failed to act expeditiously in performing acts for which a license is required in violation of A.A.C. R4-28-1101(C); failed to secure earnest money and/or to advise her client that the deposit had not been provided as represented in the purchase contract, breached her fiduciary duty to her client and failed to deal fairly with all

## *Administrative Actions (continued...)*

parties to the transaction, in violation of A.A.C. R4-28-1101(A) and A.R.S. § 32-2153(A)(3). The Commissioner assessed a \$2,500 civil penalty and ordered Karr to attend 12 credit hours of approved real estate courses.

### **KBOne, Inc. (Minneapolis, MN)**

File No. 04F-094-REL, Consent Order 7/13/2004  
KBOne acquired 6 lots in an approved subdivision from KB Home-Phoenix. KBOne listed the 6 model homes for sale with KB Home-Phoenix and sold 3 without providing purchasers with a Public Report issued to KBOne or obtaining an exemption, in violation of A.R.S. § 32-2183 (F). In mitigation, purchasers were provided with KB Home-Phoenix's Public Report, and the only change to the report was the owner. KBOne is assessed a civil penalty of \$1,000.

### Appealable Agency Actions

### **Medea Bevier (Tempe)**

File No. 04F-141-REL, Consent Order 7/22/2004  
The Department denied Bevier's application for real estate salesperson's license under A.R.S. § 32-2153 based on two misdemeanor convictions for DUI with .08 percent or more B.A.C. in California in January 2003 and June 1997. Bevier appealed the denial and was granted a 2-year provisional real estate salesperson's license subject to specified terms and conditions.

### **Albert Black (Prescott)**

File No. 04F-040-REL, Consent Order 7/8/2004  
The Department denied Black's application for renewal of his real estate salesperson's license under A.R.S. § 32-2153 based on his 2002 conviction for Domestic Violence Assault, a misdemeanor, and his failure to disclose the conviction to the Department within 10 days. Black appealed the denial and was granted a provisional license subject to specified terms and conditions, and assessed a civil penalty of \$500.

### **KB Home Sales-Phoenix, Inc. (Phoenix)**

File No. 03A-098-REL, Consent Order 6/23/2004  
The Department denied KB Home's application for renewal of its real estate broker's license under A.R.S. § 32-2153 based on the adequacy and accuracy of information disclosed in its Public Report. Homebuyers

complained that they were never told that SK Ranch subdivision near Casa Grande was adjacent to and may have been part of a small airport used for crop-dusting activities over several decades; that there was a special assessment district for road construction and maintenance for which the buyers were responsible; and that six of the lots KB Home was marketing were actually owned by another entity, KBOne, Inc. a Virginia corporation. KB Home appealed the denial and was granted renewal of its license; assessed a civil penalty of \$5,000; required to reimburse the Department's investigative costs of \$3,800; required to reimburse eight purchasers who did not receive notice of the special assessment before they closed on their home purchase; and contributed \$35,000 to the Real Estate Education Fund. KB Home must also inform SK Ranch homeowners where they can view the environmental reports it relied on concerning SK Ranch, will provide a copy to the SK Ranch homeowners upon request, and work with colleagues and the Department to help establish means and methods for ensuring responsible industry compliance with disclosure requirements, and the Department's enforcement of those requirements.

### **Adam Dwight Koster (Cottonwood)**

File No. 04F-143-REL, Consent Order 7/8/2004  
The Department denied Koster's application for real estate salesperson's license under A.R.S. § 32-2153 based on his two felony drug possession convictions. Koster appealed the denial and was granted a 2-year provisional license subject to specified terms and conditions. ☐



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