



# ADRE STARS



**Joann Medina**

Joann Medina is a young woman who sees solutions, not problems. She has been with the Department for four years and previously worked at other State agencies for nine years. She is a single mom with four children who manages to get her children off to their respective sites in the morning and still manages to get to work before her scheduled start time.

Joann took it upon herself to develop two types of training manuals for the customer service representatives at ADRE. If there are no supervisors or experienced staff available, the customer service representative can go to the training manuals and get the necessary information to address any problem or issue they are facing.☐



**Kevin Goode**

Kevin willingly accepts projects and challenges and has kept the Department's computer system up-to-date with industry standards. He has updated the Department's licensing software and created software to track time frames on each application. His most recent challenge, in collaboration with Government Information Technology Agency (GITA) and IBM, has been to develop all of the in-house software for the new Online License Renewal System including the in-house system to track each transaction that will be invaluable to the Department's Help Desk.

Kevin's work ethic is outstanding and exemplary. He routinely works extra hours including weekends. Being the sole Information Technology person at ADRE, he is an integral part of what keeps the Arizona Department of Real Estate running smoothly on a day-to-day basis.☐

**"Success is the sum of small efforts repeated day in and day out." -Robert Collier**

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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.**

# THE

# BULLETIN

Arizona Department of Real Estate

**MARCH 2005**

**Volume 31, Issue 1**



## NEWS FROM THE FRONT LINES

### Phoenix Office (Licensing Counter Revamped)

By Todd Madeksza

In December 2004, licensees that came to ADRE to file applications later in the day may have noticed a change in the way the paperwork was processed. It was at this time that the Licensing Division started give **receipts only** for applications received after 4:30 p.m. Those applications are processed as soon as possible, however, due to the late hour and the volume of licensees, it may be that an applicant or licensee leaves the Department without a printed license. Under the new process the applicant or licensee will receive a receipt acknowledging that paperwork was received, reviewed and are eligible to work. In certain situations, new licensees or someone renewing with a disclosure may not be eligible to work and will receive a receipt stamped as such.

The Department's purpose in instituting the new procedure is to streamline the application process, avoid time consuming waiting for the licensees and eliminate the necessity of paying overtime or compensatory time (an expense the Department cannot afford to pay) to Department employees. Licensees seeking to leave with a renewed license, or new applicants seeking to obtain a brand new license are encouraged to visit Licensing before 4:30 p.m. and, if someone is in a hurry, the least busy time of day is between 8 and 9:30 a.m. ☐

Editor's Note: Todd Madeksza is the Director of Licensing.

### CONSUMER GUIDE A HIT!

Why spend your valuable time waiting in line?

ONLINE LICENSE

RENEWAL is HERE!



Recently the Arizona Department of Real Estate published Arizona Real Estate and You- -A Consumer Guide. The purpose of the Guide is to educate the public on the various aspects of buying and selling a home. Guides have been distributed at various events and have been very well received. The Department is getting requests for the Consumer Guide of not just one copy or five, but of copies in the hundreds!

The Department has received numerous positive comments regarding the Guide. Some of those comments have been:

- ✓ Peggy Wright of Tempe states "Oh, my gosh! What a great hand book. I just finished reading it cover to cover."
- ✓ Fred Brodsky of Brodsky School of Real Estate writes, "Real Estate Department Hits A Winner. The Arizona Department of Real Estate has just released a new "Consumer Guide" which explains practically everything that a buyer or seller would need to know about real estate transaction. This free book covers the essential basics from preparing a house for sale, to listing the property with a broker, as well as negotiating and closing the transactions. This well-done publication should be a source of pride for the Department."
- ✓ Bill Jilbert, President, Coldwell Banker Success Realty writes " Congratulations on the Department's new on-line publication Arizona Real Estate and You. I feel it is very well written, easy to understand and addresses delicate issues such as listing types, agency and commissions in a fair and unbiased manner. I like it so much, I am going to distribute it at our manager's meeting in January and suggest we incorporate it in our training program."

These are just a few examples of feedback that the Department has received regarding the Consumer Guide.

*A copy of the Consumer Guide can be obtained at either the Tucson or Phoenix Office of ADRE, or by mailing a request to ADRE with a 6x9 size self-addressed envelope with First Class Postage of \$1.52 or by downloading the Guide at the Department's web site: <http://www.re.state.az.us/>. ☐*



# Commissioner's Corner



Have you ever visited a place that was so lovely and inviting that it was difficult to leave? One such place is Alamos, Sonora, Mexico.

Alamos is a small, colonial town located a few hours from Hermosillo. There is no public airport into Alamos; therefore, we traveled by bus (12 very long hours), but it was well worth the trip. We were housed in a hacienda, as there is no major hotel. This was the most unusual conference and probably one of the most innovative that I have ever attended. Credit must be given to the Arizona-Mexico Commission (AMC) Director, Marco Lopez, and his staff for the ingenious manner in which this conference was organized. Since there was no main conference center, meetings were held in different locations around the town, most within walking distance. What a fabulous idea and more amazing was the fact that everything flowed flawlessly.

Now to the purpose of our meetings. I was appointed by Governor Napolitano to be a Co-Chair of the Real Estate Ad Hoc Committee. The other committees in the AMC all have Sonora counterparts in order to coordinate bilateral efforts and create Action Items, which in turn will become accomplishments that benefit us all. As an Ad Hoc Committee, a Sonora counterpart was never appointed. We often met with different Sonora government officials only to find out that they had been transferred to another area of government. That made our coordination efforts very difficult. Since the only person who appoints Committee Chairs in Sonora is Governor Bours, it seemed the only way to hit our target was to meet with him. Since the Governor has made business a priority and is a man of action, I felt we had a fighting chance at a personal meeting with him to make our plea for a counterpart committee. It had never been done before and I knew the Governor's schedule in Alamos would be hectic. Cutting to the chase, with the help of a few very helpful and influential individuals, we had a meeting with Governor Bours at the lovely Hacienda de los Santos. He listened, we were brief and he granted our request for a Sonora Real Estate Committee and bilateral participation.

I am happy to report we are now on a roll with a plan of action. This Plan includes actions items such as:

create an expedited process of subdivision authorizations for the issuance of the Arizona Public Report for subdivisions; initiate distribution in Arizona and Sonora of the AMC brochure entitled "*Buying Property in Mexico*" produced by the Real Estate Ad Hoc Committee; provide access to the brochure through the AMC web site; recommend a link from the Sonora Agent Registry to the Arizona Department of Real Estate web site.; and, to commit to work with the Financial Business and Legal Services Committee on items pertaining to Real Estate Law in both Arizona and Mexico.

This is an exciting time in the world of real estate. Arizona's thriving economy is due in no small part to all the aspects of the real estate industry and in a very great part to being fortunate enough to have our Governor Napolitano and Sonora's Governor Bours both committed to a healthy, thriving business climate.

Change is not easy and there are many growing pains along the way, with our committee no exception. However, with the added good fortune of folks at the National Law Center and committee members dedicated to the common good of our States working together, putting personal agendas aside, I feel very confident we will succeed in making our goals a reality.☐



Pictured from left to right are: Cindy Ferrin (ADRE), Raul O'Farrill (RE Ad Hoc Committee), Commissioner Richardson, Sonora's Governor Bours, Mitch Creekmore (RE Ad Hoc Committee Co-Chair), Edmundo Chavez (ICRESON). Back row:(left to right): unidentified, Diego Padilla, Sonora Representative to Az.; Rodolfo Elias Calles Dingfelder (Secretariat of Economy).

*A NOTE ABOUT GUEST COLUMN ARTICLES...*

*GUEST ARTICLES DO NO REFLECT THE OPINIONS, POLICIES OR INTERPRETATIONS OF LAW BY ADRE. ADRE ASSUMES NO RESPONSIBILITY FOR THE CONTENT IN SUCH ARTICLES.*

## “IMAGINE”...

*By Guest Columnist Robert W. Peirce Jr.-CEO Scottsdale Area Association of REALTORS®*

Do you remember that wonderful John Lennon tune from the seventies? Well, sit back for a moment, hum the tune, and **imagine** conducting your real estate business in the following environment:

- There's no regulation...
- There's no license necessary to sell property...
- There no standardization of contracts...
- There's no parcel numbers...
- There's no property boundaries/descriptions...
- There's no accurate record-keeping of sales...
- There's no records for CMA purposes...
- There's no home inspection...
- There's no chain of title...

These are just some of the reasons that we (Commissioner Richardson, Paul Lindsey and I...) were invited to conduct a real estate seminar for our counterparts in Almaty, Kazakhstan. Faced with widespread corruption in the industry, the leaders in the real estate industry of Almaty are most eager to develop rules, regulations, and standards of practice from amongst themselves as opposed to having them be imposed by the government.

Aside from the lack of uniform regulations mentioned above, Kazakhstan is considered a model transition economy in overcoming the legacy of the Soviet centralized command economy through sustained commitment to economic liberalization and encouraging an attractive investment environment through policy choices and cooperation with the West. Of all post-communist economies, Kazakhstan is ranked first in foreign direct investment (FDI) as a percentage of GDP, and second only to Hungary in per capita FDI.

Although overall inflation in their economy has dropped significantly from a peak of about 3000% in 1994 to about 2% in 2002, property values still hold very strong. There are many similarities to the real estate market in Almaty and in the strong growth areas in America. The land cost within the city boundaries is extremely high for obvious reasons. A new, two-story home of approximately 175 square meters (1,883 square feet) will be priced between 140-160 thousand dollars. However, many factors must be considered with these numbers. For instance, a 10 year mortgage would be considered a long period. As recently as five years ago, mortgages were almost impossible to find and if you found one, the interest rate would be extraordinarily high...18%-25% and it may have had a term of three years!

The construction industry is very active everywhere in Almaty, both residentially and commercially. In the residential market, it is not unusual to have varying standards/quality of construction depending on who the end user is going to be...an owner or an investor. But the expectations of the modern-day buyer are just as high as they are here. However, the most important consideration is functionality with not a great emphasis on glamour. The Kazakhs have the same environmental concerns as we do in the U.S....air/water pollution, abuse of natural resources, over-crowding of roads, etc. Many folks will move out of the city for cleaner air, but they quickly realize they will then have to battle overcrowded highways to get to work.

Overall, suffice to say that given its excellent macro-  
(continued on next page)



-economic reform record and abundance of natural resources (petroleum, natural gas, coal, iron ore, manganese, chrome ore, nickel, cobalt, copper, lead, zinc, bauxite, gold, and uranium...), Kazakhstan has enormous potential for foreign investment and long-term economic growth. As recently as the first week of this year, Honeywell announced that it has begun work on a multimillion dollar automation project as part of a \$3 billion asset development program that will expand operations at the Tengizchevroil oil field in Tengiz, Kazakhstan. This expansion project is expected to increase TCO's oil production capacity from the current rate of 13 million tons per year to between 20 and 25 million tons per year. As an aside, the automation solution process was developed by Honeywell's Phoenix-based Process Solution Unit.

In closing, let me say this was an experience of a lifetime and I thank Commissioner Richardson for the opportunity to be part of this idea-sharing expedition!☐

#### **LETTER FROM ARIZONA-MEXICO COMMISSION DIRECTOR**

*Dear Friends:*

*Many important advancements were made during the most recent plenary session of the Arizona-Mexico Commission (AMC) held in Alamos, Sonora, Mexico. The AMC and its sister commission, the Comision Sonora-Arizona (CSA), were created in 1959 at an international conference in Tucson by Governors Paul J. Fannin of Arizona and Alvaro Obregon of Sonora. This area, handled by the AMC Real Estate Ad Hoc Committee, is one that has tremendous implications for Arizona and Sonora buyers.*

*An area that has seen great movement in the last two and half years is the development of standardized forms that can be used by the Sonora government to streamline the process of securing an Arizona Real Estate Public Report. The hope is that this process will facilitate full disclosure and lawful marketing in Arizona of Mexican real estate developments. As co-chair of the Real Estate Ad Hoc Committee, Commissioner*

*Richardson has worked hands on to insure the comfort and security of Arizona investors in Mexican projects. The next plenary, to be held in Tucson in June, will be a great opportunity to update the progress that has been made in this area.*

*Another accomplishment of the December plenary in Alamos, Sonora was the completion of a brochure on purchasing real estate in Mexico. The color brochure, now available through the Arizona Department of Real Estate, is an informative step-by-step guide that helps the reader navigate through the Mexican real estate purchasing maze. It includes a buyer's checklist that provides basic information to augment the advice of an attorney, real estate agent, and other parties involved during a real estate transaction in Mexico. The AMC hopes that these brochures will help Arizona's and Sonora's buyers feel more comfortable when making investments across the border.*

*One final action item that was agreed to during the Alamos meeting was the accord to work with the Sonora Secretary of Economic Development to register Sonora real estate agents. This is a great undertaking, and will reinforce the security of transactions by Arizona investors and buyers.*

*We applaud the members of our Real Estate Ad Hoc Committee for taking the initiative to tackle these challenges. We look forward to future accomplishments from this and the rest of the AMC committees at our Plenary Session in Tucson, June 16-18, 2005. Sincerely, Marco Lopez☐*

Editor's Note: Marco Lopez was the Mayor of Nogales from 2000 to 12/5/03 when he was appointed to be the Director of the AMC.



## *What are Fractionals, Non-Equity Clubs and Fractional Interests?*

By Cindy Ferrin

Last year I attended the ARELLO (Association of Real Estate License Law Officials) Convention in Pittsburgh, Pennsylvania and the ARDA (American Resort Development Association) Convention in Las Vegas, Nevada. The topics of "fractionals" and "non-equity clubs" were presented at both conventions. It was questioned whether "fractionals" and "non-equity clubs" are considered timeshares and fall under the jurisdiction of State licensing agencies.

What the timeshare industry generally refers to as fractionals usually involves a deeded interest in real property. While there is no one accepted definition of a "fractional" in the timeshare industry and no one feature that makes fractionals clearly different from traditional timeshares interests, most people in the timeshare industry seem to believe that any product for which there are fewer than 13 or so interests per accommodation is a fractional offering. Non-equity clubs, on the other hand, do not involve any real estate interest, but only "use" of accommodations.

The newest fractional product is an upscale luxury home designed to appeal to the affluent buyer at the highest end of the market. The buyer profile for luxury resort fractionals is typically high echelon professionals, corporate executives and entrepreneurs. When they vacation they want and expect a high level of luxury and service and usually will stay in a four or five star resort hotel. While the buyer is able to afford an expensive vacation home, due to infrequent use they may have difficulty justifying the investment. These higher end fractionals are often purchased for three to twelve weeks and may cost between \$150,000 to over \$1,000,000. The majority of the purchasers pay cash and do not finance their purchases.

Then there is the "non-equity club" membership approach. Members acquire no title interest in real estate. In a non-equity club, in general, the developer retains ownership and everyday control of the resort property. Members of the club hold essentially a license to use or "right to use", units and certain amenities. Thus, members have neither an ownership interest in any unit nor in the entity that owns the units.

Under A.R.S. §32-2197 (28), definition of a timeshare plan "means any arrangement, plan or similar device, other than an exchange program, whether by membership agreement, sale, lease, deed, license or right-to-use agreement or by any other means, in which a purchaser, in exchange for consideration, receives ownership rights or the right to use accommodations for a period of time less than a full year during any given year, but not necessarily for consecutive years. A timeshare plan may be a single site timeshare plan or a multisite timeshare plan.

Additionally, under Arizona subdivision statutes, A.R.S. §32-2101(55) defines a subdivision in part as improved or unimproved land or lands divided or proposed to be divided for the for the purpose of sale or lease, whether immediate or future, into six or more lots, parcels or fractional interests.

Therefore, developers wishing to market "fractionals", "non-equity club memberships" or "fractional interests" in the state of Arizona are required to file for and obtain either a Timeshare Public Report or Subdivision Public Report prior to any marketing or offer for sale, unless an exemption applies. The type of public report needed can only be decided on a case-by-case basis upon our review of the development creation documents. Contact the Department to discuss your project prior to submission. As for other states, developers should contact them directly for their regulatory requirements. ☐

Editor's Note: Cindy Ferrin is the Deputy Director of Subdivisions and has made presentations before ARELLO on timeshares issues.





## LEGISLATIVE UPDATE

BY  
Todd Madeksza

The 46<sup>th</sup> Legislature enacted the first major piece of Department of Real Estate legislation in recent memory. That bill, while a major accomplishment, was only one of three pieces the Department was promoting and the only one of the three Department sponsored bills to pass both houses of the legislature and be signed into law.

Last year's S.B. 1140 – our Omnibus bill was a result of the Department's stakeholders meetings from 2003. Those began a review of different rules and statutes that affect the different constituencies. The stakeholders formed about ten different committees to look at defined issues and came up with written recommendations on which the committee had reached consensus.

The omnibus bill reflected numerous clarifications of statute that stakeholders felt would assist consumers and real estate professionals in their transactions. Statutes regarding cemeteries, property management and out-of-state brokers in Arizona had not been substantially updated for some time and the omnibus bill clarified and updated many of those laws.

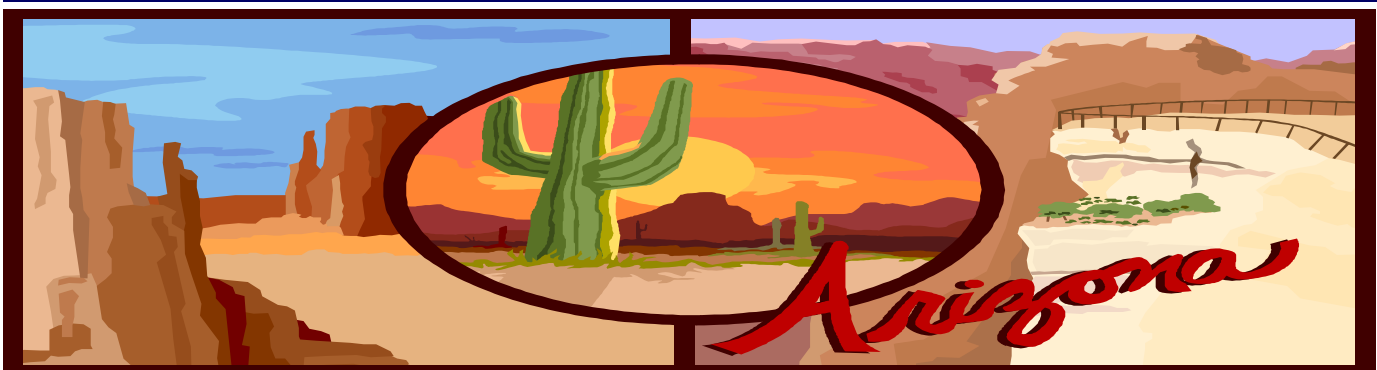
This year, the Department continues to pursue better laws for the protection of consumers and the service of licensees. H.B. 2183, H.B. 2184, H.B. 2185 and H.B. 2186 have all been introduced and most are working their way through the process.

- **H.B. 2183 real estate education fund**; specifies that the monies in the education fund are used for the enforcement of Commissioner's education standards.

- **H.B. 2184 real estate; definitions; civil penalties** updates and clarifies different subdivision terms and establishes a procedure to impose disciplinary action against those who violate the laws for unsubdivided lands within five years of discovery of the violation and outlines penalties that are identical to penalties on infractions for illegal subdivisions.
- **H.B. 2185 real estate; subdivisions; civil penalties** Increases the civil penalty from a flat maximum penalty of \$1,000 per infraction, to a range of \$1,000 to \$5,000 per infraction for those who violate the subdivision laws and removes language of an infraction to allow a violation for each lot to be considered a separate infraction.
- **H.B. 2186 real estate recovery fund** expands the definition of Designated Broker to include a Professional Corporation (PC) or a Professional Limited Liability Company (PLLC) to conform to recently passed real estate statute and conforms existing Recovery Fund statute to recently passed changes by permitting ADRE to hold licensees who are PCs or PLLCs liable for repayment to the fund when they are subject to judgment by a court of competent jurisdiction.

Some of the proposals may look a little like some of the measures from the stakeholders' meetings of 2003. Others are completely new. All are put forth with the idea that these recommendations help the Department fulfill its ultimate goal – protecting the citizens of Arizona. ☐

Editor's Note: Todd Madeksza is the Director of Licensing as well as the designated lobbyist for ADRE.







# Online Licensing Renewals



February 14, 2005– The Arizona Department of Real Estate gave Arizona licensees the best Valentine gift! ADRE inaugurated the Department's new Online License Renewal System (OLRS). The Department recognized the need to more effectively meet the needs of real estate professionals and collaborated with GITA (Government Information Technology Agency) and IBM to develop a system that would do just that.

Since February 14, 2005 to March 16, 2005, there have been 3,540 sessions with a total of 1,743 transactions. That breaks down to 349 Renewals, 150 Hires, 195 Severs and 1,049 Changes (of personal information).

OLRS has been well received. A Designated Broker in Rio Verde comments *"I must tell you how pleased I am to see that the Licensing Department is advancing into the future with the convenience of making changes on line. As we all know, the ADRE is there to protect the public, but it is also nice to know that they are looking for more friendly ways to deal with all licensees."*

OLRS is designed to save licensees time and effort by making the process of license renewal **fast, easy and convenient**. The real estate professional will be able to go online, anywhere at anytime and visit [www.az.gov/real-estate](http://www.az.gov/real-estate), fill out a simple form, and renew his/her license in no time.

The Department stands ready to meet the ever increasing demands of the booming real estate industry by being innovative and willing to "think outside the box." Over the next few months, additional features will be added to OLRs in order to provide better service to Arizona real estate professionals. ☐

# Administrative Actions

## Commissioner's Final Orders Disciplinary Actions

### Antonio Gonzalez (Flagstaff)

File No. 04F-093-REL, Order 9/29/2004

After hearing, Gonzalez's real estate salesperson's license is revoked and he is assessed a civil penalty of \$6,000 based on Gonzalez's violation of A.R.S. §§ 32-2151.01(D), 32-2153 (A)(3), (B)(3), and A.A.C. R4-28-802 (B) and R4-28-1101 (A) as follows: Violated provisions of statute and rule; Made substantial misrepresentations; Failed to promptly place all cash, checks or other items of value received as payment in connection with a real estate transaction in the care of the designated broker; Deposited client money into his personal account; Breached his fiduciary duty to his client and failed to deal fairly with all parties to a transaction; Failed to promptly submit to a client all offers to lease the client's property.

### Ronald D. Jones and Tuanchai Arspairin (Prescott)

File No. 04F-154-REL, Order 10/6/2004

After hearing, Jones and Arspairin were found to be in violation of A.R.S. § 32-2153 (B)(9) by failing to comply with a previous consent order. Respondents are ordered to submit, within 150 days of 9/1/2004, a completed application for public report for Antelope Valley Ranches, located in Yavapai County or each pay a \$1,000 civil penalty. Respondents shall continue to cease and desist from selling or conveying lots in the subdivisions, however may continue to accept payments from purchasers who contracted to purchase before the original cease and desist order issued by the Department. Respondents' attorney John Sears must notify purchasers by letter sent no later than 9/15/2004 of the status of the Respondents' application for public report, or respondents shall each pay a \$500 civil penalty, under A.R.S. §§ 32-2153 (B)(9) and 32-2185.09.

### Jackie D. Robinson, II (Scottsdale)

File No. 04F-DI-016-REL, Order 10/18/2004

After hearing, Robinson's real estate salesperson's license is revoked and he is assessed a civil penalty of \$4,000, based on Robinson's violation of A.R.S. §§ 32-2130 (A); 32-2153 (A)(1), (A)(3), (A)(4), (B)(1), and (B)(3) and A.A.C. R4-28-401 (A), R4-28-502 (C), R4-28-701, and R4-28-1101 (A) and (I) as follows: Pursued a course of misrepresentation when acting in the role of a licensee in a transaction; Knowingly authorized, directed, connived at or aided in the distribution or circulation of material false or misleading statement or misrepresentation concerning his business; Filed a false or misleading renewal application by falsifying his compliance with the continuing education classes; Made substantial representations; Violated provisions of statutes and rules; Failed to ensure that advertising contained accurate claims and representations and fully stated factual material; Failed to disclose to all parties in a transaction, in writing before closing, who will receive compensation from the transaction; Failed to deal fairly with all other parties in a transaction; Failed to ensure that information material to a client's interest and relevant to the contemplated transaction was



obtained and accurately communicated to the client.

**Correction:** In the December 2004 issue of the *Bulletin*, the Department erroneously reported that the Commissioner's Final Order against Gene Jones was affirmed on 9/9/04. The court denied Jones' request for stay of the Order on 9/9/2004; the appeal is pending.

## Appealable Agency Actions

### David Allen Belkiewitz (Cottonwood)

File No. 04F-LI-142-REL, Order 10/18/2004

The Department denied Belkiewitz's application for real estate salesperson's license based on his multiple criminal convictions from 1995 through 2004. Belkiewitz appealed. After hearing, the Commissioner denied Belkiewitz's application under A.R.S. § 32-2153(B)(7).

### Curtis Devine (Phoenix)

File No. 04F-180-REL, Order 10/1/2004

The Department denied Devine's license application based on Devine's 2002 conviction for larceny. Devine appealed. After hearing, Devine's application for real estate salesperson's license is denied under A.R.S. § 32-2153 (B)(7) and (10).

### Stacey L. Sheffield (Gilbert)

File No. 04F-LI-195-REL, Order 11/12/2004

The Department denied Sheffield's license application under A.R.S. § 32-2153(B)(9) and (10) based on three convictions for Driving While (driver's) License Suspended in 1997 and 1995, warrants for failure to appear and to pay a fine, 1999 misdemeanor conviction for False Information to a Police Agency, and 2001 deferred prosecution for Minor Impeded by Neglect. After a hearing, Sheffield was granted a provisional real estate salesperson's license subject to specified terms and conditions.

**Consent Orders**  
**Disciplinary Actions**

**Dino Clark (Gilbert)**

File No. 04F-LI-162, Consent Order 12/28/2004  
Clark filed a false and misleading application for license when he failed to disclose 1992 felony convictions for Possession of Marijuana and Attempt to Possess Narcotic Drug For Sale While on Probation, in violation of A.R.S. §32-2153 (B)(1) and (2). Clark's license is suspended for 90 days, commencing 2/1/2005, and he is assessed a civil penalty of \$1,500. Following the license suspension, Clark is eligible for a 2-year provisional license, subject to specified terms and conditions.

**Steven Deakin and Mary D. Rutz (Bullhead City)**

File No. 04F-SD-161, Consent Order 12/22/2004  
Deakin's and Rutz's concerted efforts created a subdivision by acquiring a 50-acre parcel of land and dividing or proposing to divide it into six or more lots, parcels, or fractional interests and, as real estate brokers they knew or should have known that their actions would result in subdivided lands, as provided by A.R.S. § 32-2101 (54), and that it is unlawful, under A.R.S. § 32-2181(D), for persons to act in concert to attempt to avoid the provisions of Title 32, Chapter 20, Article 4, Ariz. Rev. Stat. Rutz shall offer rescission to the purchaser of her 5 lots; Deakin and Rutz shall recombine their two 25-acre parcels and divide it into no more than five lots total; shall cease and desist offering for sale or selling any lot in the Subdivision until they demonstrate compliance with applicable laws and the consent order; and shall pay a civil penalty of \$1,000 each.

**Kenneth Edlebeck; Edlebeck Enterprises, Inc., dba Resort Homes; Matthew Edlebeck; M & N Edlebeck, Inc., dba Westgate Homes & RVs; Katrine P. Petrine, formerly known as Katrine Edlebeck (Phoenix)**

File No. 04F-SD-123-REL, Consent Order 12/9/2004  
Respondents acted together to acquire property in the vicinity of 221st Avenue and Patton Road near Wittman. Edlebeck Enterprises and M & N Edlebeck, by and through K Edlebeck and M Edlebeck, divided the property into six or more parcels, creating a subdivision. Respondents failed to notify the Commissioner of their intent, to comply with the requirements for a lawful subdivision before selling or offering subdivided lots, and failed to provide notice to purchasers of their right to receive a subdivision public report, in violation of A.R.S. §§ 32-2181(D), 32-2183 (A) and (F), and A.A.C. R4-28-803 and R4-28-805. Petrine knew or should have known that she was assisting in the offer, sale or lease of a subdivision lot or parcel in violation of real estate laws, in violation of A.R.S. § 32-2164. Respondents shall cease and desist the offer or sale of subdivided lots without first complying with county and state requirements; offer rescission to purchasers; comply with requirements for a county-approved subdivision and obtain a public report or exemption; pay a total of \$3,000 as civil penalties; Petrine shall attend a 3-hour class on subdivision law.

**Mark W. Erwin (Phoenix)**

File No. 03A-110-REL, Consent Order 11/24/2004  
Erwin violated provisions of statute and failed to protect and promote his clients' interests by altering invoices on properties that he managed, causing owners of properties that did not receive services to pay the invoices for the properties that did receive services. His license is revoked based on his violation of A.R.S. § 32-2153(A)(3).

**Pamela Heng, formerly known as Pamela Arnold (Glendale)**

File No. 04F-LI-165, Consent Order 11/3/2004  
Heng filed a false and misleading application for real estate salesperson's license when she failed to disclose a 1994 felony theft conviction, in violation of A.R.S. § 32-2153 (B)(1) and (2). Heng's license is suspended for 45 days, commencing 11/15/04, she is assessed a civil penalty of \$1,500, and following the suspension shall be issued a 2 year provisional license subject to specified terms and conditions.

**Regina Jarman and Epsen Enterprises II, LLC (Tubac)**

File No. 05F-DI-095-REL, Consent Order 11/22/2004  
Epsen Enterprises, its employees, and Jarman, its designated broker, conducted unlicensed activities when Epsen continued to employ and pay real estate licensees for almost two months after its broker's license expired, in violation of A.R.S. §§ 32-2153(A)(3), (B)(6) and 32-2155 (A). The brokers' licenses are suspended for 15 days, commencing 10/26/2004, and they are assessed a total of \$1,500 in civil penalties.

**Chonna Marshall and CB Real Estate Services, Inc. (Parker)**

File No. 05F-DI-084-REL, Consent Order 11/22/2004  
CB Real Estate, its employees, and Marshall, its designated broker, conducted unlicensed activities when it continued to employ and pay real estate licensees for a little over one month after its broker's license expired, in violation of A.R.S. §§ 32-2153(A)(3), (B)(6) and 32-2155 (A). Marshall, on behalf of CB Real Estate, misrepresented to the Department the timeframe during which unlicensed activity occurred, in violation of A.R.S. §§ 32-2153 (A)(1). CB Real Estate's broker's license is suspended for 15 days and Marshall's license is suspended for 45 days, commencing 11/22/2004, and they are assessed a total of \$2,500 in civil penalties.

**Jason Meszaros and Hewson Development Corp. (Phoenix)**

File No. 05F-DI-090-REL, Consent Order 12/10/2004  
Hewson Development, its employees, and Meszaros, its designated broker, conducted unlicensed activities when it continued to employ and pay real estate licensees for a little over one month after its broker's license expired, in violation of A.R.S. §§ 32-2153(A)(3), (B)(6) and 32-2155 (A). Hewson Development's and Meszaros's brokers' licenses are suspended for 12 days, commencing 10/8/2004, and they are assessed a total of \$1,000 in civil penalties.

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

### **David Newquist and Newquist Ault Realty Advisors LLC (Phoenix)**

File No. 05F-DI-031-REL, Consent Order 12/20/2004  
Newquist Ault, its employees, and Newquist, its designated broker, conducted unlicensed activities when it continued to employ and pay real estate licensees for almost two months after its broker's license expired, in violation of A.R.S. §§ 32-2153(A)(3), (B)(6) and 32-2155 (A). Newquist Ault's and Newquist's brokers' licenses are suspended for 15 days, commencing 12/20/2004, and they are assessed a total of \$2,000 in civil penalties.

### **Todd Oden, Todd C. Menard, and NHIC Dobson-Warner LLC, dba New Home Information Center (Chandler)**

File No. 05F-DI-098-REL, Consent Order 12/21/2004  
Oden and his employer, NHIC, conducted unlicensed activities when, under Menard's supervision, it continued to employ and pay Oden for real estate activities for almost six months after his real estate salesperson's license expired, in violation of A.R.S. §§ 32-2153(A)(3), (B)(6) and 32-2155 (A). Oden's real estate salesperson's license is suspended for 60 days, commencing 9/24/2004 and he is assessed a civil penalty of \$2,500. Menard and NHIC are assessed a civil penalty of \$2,000.

### **Kimberly Sambito and Zenn LHC, LLC, dba The Refuge at Lake Havasu (Lake Havasu City)**

File No. 05F-DI-143-REL, Consent Order 12/11/2004  
Zenn, its employees, and Sambito, its designated broker, conducted unlicensed activities when it continued to employ and pay real estate licensees for almost 5 months after its broker's license expired, in violation of A.R.S. §§ 32-2153(A)(3), (B)(6) and 32-2155 (A). Sambito's and Zenn's brokers' licenses are suspended for 45 days, commencing 10/28/2004, and they are assessed a total of \$2,500 in civil penalties.

### **Jennifer Ann Swaim (Prescott Valley)**

File No. 04F-DI-088, Consent Order 11/19/2004  
Swaim filed a false and misleading application for licensure when she failed to disclose 1991 convictions for Possession of a Controlled Substance and Possession of Marijuana 28.5 Grams or Less, in violation of A.R.S. § 32-2153 (B)(1), (2), and (7). Swaim's license is suspended for 90 days, commencing 11/19/2004, after which she will be issued a 2 year provisional license subject to specified terms and conditions, and she is assessed a civil penalty of \$2,000.

### **Thomas Taylor and Crossland Realty LLC (Overgaard)**

File No. 05F-DI-089-REL, Consent Order 11/30/2004  
Crossland Realty, its employees, and Taylor, its designated broker, conducted unlicensed activities when it continued to employ and pay real estate licensees for a little over eight months after its broker's license expired, in violation of A.R.S. §§ 32-2153(A)(3), (B)(6) and 32-2155 (A). Crossland's and Taylor's brokers' licenses are suspended for 60 days, commencing 10/6/04, and they are assessed a total of \$5,000 in civil penalties.

### **Jason Alan Young (Phoenix)**

File No. 05F-LI-030, Consent Order 11/12/2004  
Young filed a false and misleading application for licensure ,

when he failed to disclose a 1995 felony conviction for Producing Marijuana and a 1999 conviction for Solicitation to Commit Forgery, designated a misdemeanor, in violation of A.R.S. §§ 32-2153 (B)(1) and (2). Young's real estate salesperson's license is suspended for 90 days, commencing 11/12/2004, and he is assessed a civil penalty of \$1,500. Following the suspension, Young shall be issued a provisional license for 2 years, subject to specified terms and conditions.

## **Appealable Agency Actions**

### **Arlynn M. Carbrey (Surprise)**

File No. 05F-LI-023-REL, Consent Order 11/10/2004  
The Department denied Carbrey's application for real estate salesperson's license under A.R.S. § 32-2153 (B)(7) and (10) based on the Department's 2002 denial of her real estate salesperson's application and the Arizona Department of Insurance's 1993 revocation of her insurance licenses. Carbrey appealed and is issued a 2-year provisional license subject to specified terms and conditions, including that she post a surety bond.

### **James A. Edens (Chandler)**

File No. 05F-LI-111-REL, Consent Order 12/23/2004  
The Department denied Edens' late-filed license renewal application based on a 2002 misdemeanor conviction for assault, his failure to disclose it to the Department within 10 days, and his failure to provide the required documents to the Department when requested to do so, based on A.R.S. § 32-2153 (A)(3), (B)(7), (10) and A.A.C. R4-28-301 (F). Edens appealed and his renewal application is approved, and he is assessed a civil penalty of \$1,500.

### **Wells Hampton, Jr. (Scottsdale)**

File No. 05F-LI-040-REL  
The Department denied Hampton's application for real estate salesperson's license under A.R.S. § 32-2153 (B)(2), (3), (7), and (10) based on his 1994 felony conviction for False Statements to a Financial Institution. Hampton appealed and is issued a 2-year provisional license subject to specified terms and conditions, including that he post a surety bond.

### **Beth Ann Lindsay, formerly known as Beth J. Savage (Buckeye)**

File No. 05F-LI-055-REL, Consent Order 11/23/2004  
The Department denied Lindsay's application for real estate salesperson's license under A.R.S. §§ 32-2153 (B)(7) and (9) based on her 1998 misdemeanor convictions for Possession of THC, Obstructing an Officer, and Bail Jumping. Lindsay appealed and is issued a 2-year provisional license subject to specified terms and conditions.

### **Jennifer Faye McGee (Tucson)**

File No. 05F-LI-037-REL, Consent Order 12/3/2004  
The Department denied McGee's application for real estate salesperson's license under A.R.S. §§ 32-2153 (B)(2), (7), and (10) based on her 2002 misdemeanor convictions for Shoplifting, Contributing to the Delinquency of Minor and Driving on a Suspended License. McGee appealed and is issued a 2-year provisional license subject to specified terms and conditions, including that she post a surety bond.

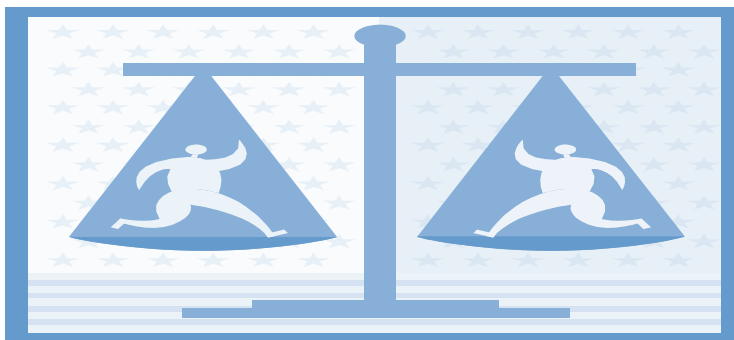


## *Administrative Actions (continued...)*

Stephanie L. Tiefry (Scottsdale)

File No. 05F-LI-017-REL, Consent Order 11/4/2004

The Department denied Tiefry's application for real estate salesperson's license under A.R.S. § 32-2153 (B)(7) based on her 2001 misdemeanor conviction for Possession of Marijuana. Tiefry appealed and is issued a 2-year provisional license subject to specified terms and conditions.



### COMMISSIONER'S RULES CHANGES

ADRE announced the Real Estate Commissioner's Rules (Arizona Administrative Code) have changed and those changes were effective March 5, 2005. A Supplement to the Law Book is available from the Department. If a section is not included in the supplement, it was not amended in this rulemaking package; please refer to the Rules contained in your copy of the Arizona Real Estate Law Book. You may view the Rule changes in their entirety at the Department's web site. Law Book and Supplement are available for purchase for \$10.00 (\$8.00 fee plus \$2.00 postage).

If you purchased the 2004 Law Book, you may download the Supplement from the Department's web page, or pick up a complimentary copy at the Department's offices.

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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: [mutley@re.state.az.us](mailto:mutley@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.

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