

MONTANA DEPARTMENT OF LABOR & INDUSTRY
BOARD OF REALTY REGULATION
NEWSLETTER

VOLUME 2. ISSUE 3.....JULY 2010

As a member of the Screening Panel, I can report that the number of Brokers who are being cited for failure to properly supervise their agents is lower than when I joined the Board in 2005. I believe most of this is due to the supervising broker endorsement and continuing education required by the Board. However, we are still receiving complaints about agents whose brokers are not doing their job.

MCA 37-51-102. Definitions (25) "Supervising broker" means a licensed broker with whom a licensed salesperson is associated, directly, indirectly, regularly, or occasionally, to sell, purchase, or negotiate for the sale, purchase, exchange, or renting of real estate.

ARM 24.210.601 GENERAL LICENSE ADMINISTRATION REQUIREMENTS
(<http://www.mtrules.org/gateway/ruleno.asp?RN=24%2E210%2E601>) Please note especially Numbers 6 – 8

6) Supervising brokers are responsible for the performance of salespeople under the supervising brokers' supervision. If a complaint is submitted to the Board of Realty Regulation alleging improper conduct on the part of a salesperson, a copy of the complaint shall be provided to the supervising broker who shall also provide a response to the complaint. Even if the salesperson is in another city.

(7) Supervising brokers must provide ongoing real estate training to all salespeople under their supervision in order to assure competent practice of the profession. Please note "training." We are long past the era of putting a newbie at a desk with a box of business cards, the telephone directory and a phone line with the instructions to "get busy and make some calls."

(8) A listing obtained by a salesperson is not effective until it is reviewed, signed, and dated by the supervising broker. This is a common misconception in a lot of offices.

(9) Supervising brokers have the responsibility to exercise adequate supervision to assure that all documents for a real estate transaction prepared by salespeople under their supervision are appropriately prepared and executed. This is where the majority of supervising complaints are filed.

Although continuing education cannot make someone be responsible if they choose not to be-- education or not, don't let yourself be one of the ones who endanger their license through neglect.

Cindy Willis—Board Chair

**INSIDE THIS
ISSUE:**

BRR Staff &
Board
Members..Pg. 2

Core Course
Discussion..Pg 3

New Board
Member...Pg 3

New RE Market
Trends...Pg 4-5

Audit
Allstars...Pg 5

Disciplinary
Action...Pg 6-8

BRR
Calendar...Pg 8



BRR MEMBERS, STAFF & UPDATES

BOARD OF REALTY REGULATION MEMBERS

The Governor with Senate confirmation appoints board members. Members serve 4 year terms with a 2-term limit.

CINDY WILLIS
BOARD CHAIR
INDUSTRY MEMBER
POLSON, MT
Term Expires: 5/9/2013

SHIRLEY MCDERMOTT
PUBLIC MEMBER
LAUREL, MT
Term Expires: 5/9/2011

LARRY MILLESS
INDUSTRY MEMBER
CORVALLIS, MT
Term Expires: 5/9/2011

C.E. "ABE" ABRAMSON
INDUSTRY MEMBER
MISSOULA, MT
Term Expires: 5/9/2011

CONNIE WARDELL
INDUSTRY MEMBER
BILLINGS, MT
Term Expires: 5/9/2011

PAT GOODOVER
INDUSTRY MEMBER
GREAT FALLS, MT
Term Expires: 5/9/2012

STEPHEN HESS
INDUSTRY MEMBER
Butte, MT
Term Expires: 5/9/2014

HAVE YOU MOVED? MAKE SURE TO GET YOUR CHANGE OF ADDRESS TO US!

www.realestate.mt.gov :
Forms: General Forms:
Change Form

The Honorable Brian Schweitzer, Governor BOARD ADDRESS & CONTACT INFORMATION

BOARD OF REALTY REGULATION
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HELENA, MT 59620-0513
FAX: 406-841-2323
EMAIL: dlibsdrre@mt.gov
WEBSITE: www.realestate.mt.gov

For real estate licensing questions and information, contact:

Barb McAlmond, Program Manager 406-841-2325
Becky Zaharko, Licensing Tech. 406-841-2354

For information regarding education, contact:

Stacey Fossum, Education Director 406-841-2324

For information regarding audits, contact:

Marilyn Willson, Auditor 406-841-2321

For information regarding complaints, contact:

Teri Ray, Compliance Specialist 406-841-2336

Core Course Discussion

By Stacey Fossum, Education Director

As some of you may be aware, both the Education Committee for the Board of Realty Regulation and the Professional Standards Committee from MAR have been focusing lately on improving the quality and scope of education available in Montana. After much discussion, the Education Committee recommended to the Board that a committee be formed to investigate the feasibility of requiring a “core” course similar to what many other states currently require. Basically, this would be a course which all licensees were required to take; topics covered usually include federal and state law updates, license law updates, and “hot” topics (i.e. foreclosures and short sales, fair housing issues, etc.).

At the June 5, 2010 meeting, the Board approved a list of Core Course Committee members from varying parts of the states. Some of the members are real estate licensees, while others are associated with adjunct professions (i.e. title insurance, real estate law, banking). Beginning in August 2010, the Core Course Committee will meet and begin formulating a proposal for the Board regarding a possible “core” course, which will address the following questions:

- (1) How many hours should the core course be?
- (2) How often should licensees have to take it?
- (3) What topic(s) should the course cover? Should the topic(s) change each year? Partially change? If they change, who determines the topics for the core course in the future?

- (4) How do we make a course that is relevant to brokers, salespeople and property managers? Should we have a separate core course for property managers?
- (5) Once topics are decided upon, how do we ensure that everyone is getting relatively the same content? Should we have a detailed course outline? Instructor manual? Instructor training?
- (6) CE courses are currently approved for up to 2 years. How long should core courses be approved for?
- (7) Inactive licensees reactivating: should they have to take a core course as part of their 24 hours of CE? How will they get previous years' core courses?
- (8) Expired licensees renewing: what happens if the previous year's core course is no longer available? How would we make sure it is available?
- (9) Should the core course be inclusive in or on top of the current requirement for 12 hours of CE?

If you have any input or suggestions regarding these questions, please feel free to email sfossum@mt.gov.

BRR Welcomes a New Board Member

BRR would like to welcome a new Public Member to the Board of Realty Regulation-- Stephen Hess. Mr. Hess will be filling the vacancy that was created when Judy Peasley submitted her resignation to the Board in May.

Mr. Hess is a resident of Butte, Montana, who currently works for the Butte-Silverbow Planning Department as a **Senior Planner??????**. He has been employed by the **Butte-Silverbow Planning Department for ????? years**.

This will be Mr. Hess's first time serving as a member of a public licensing board.



Study Predicts the "New Normal" Real Estate Market

Reprinted with permission from ARELLO Boundaries Newsletter

Pundits generally agree that U.S. housing markets are showing signs of recovery, but disagree on the question of how long that recovery will take. One expert says that once they recover, real estate markets will be "vastly different" from those existing prior to the U.S. recession. A research paper recently released by the Urban Land Institute (ULI) entitled [*Housing in America: The Next Decade*](#), concludes that continuing market challenges combined with emerging trends in demographics and consumer behavior will result in new generations of homebuyers that will have a very different view of the "American Dream" and its implied "joys of homeownership".

The ULI report was authored by John K. McIlwain, senior resident fellow, ULI Institute/J. Ronald Terwilliger Chair for Housing. McIlwain explains in the report that while home prices are stabilizing in many parts of the U.S., huge challenges remain. McIlwain predicts that national housing prices will fall another 10 percent this year and then stabilize by 2011, but only if U.S. job losses come to an end quickly and unemployment begins to decline. McIlwain also predicts that in 2010 the number of U.S. homes that are "underwater", with mortgage balances that are higher than current values, will reach 40 percent. The report also points to the currently nonexistent private-market residential finance system, noting that virtually all new mortgages today are being bought or securitized by the federal government and that private investors have completely exited the market unless federal guarantees are involved. McIlwain says that mortgage origination and securitization processes must be reformed or replaced before private investors will return.

Also, in a presentation of the research paper to ULI trustees during the group's Midwinter Meeting in Washington, McIlwain said that "...the growing number of consumers who are choosing to walk away from underwater mortgages suggests a fundamental change from the long-held notion of homeownership as the ultimate 'American Dream'. This disillusionment over homeownership as a way to build wealth could persist for decades to come, as those entering the housing market will be more apt to rent longer and to place more emphasis on buying for shelter rather than investment purposes."

These phenomena lead to McIlwain's conclusion that new generations of American homebuyers will have a very different view of homeownership and create "new normal" real estate market demographics:

- Aging baby boomers (55 to 64 years old) Many will keep working out of necessity or by choice and some will be forced to stay in their suburban homes until values recover. Those who are able to move will not choose traditional retirement locations or senior housing, opting instead for more mixed-age living environments that cater to their active lifestyles. Suburban town centers with a walkable urban "feel" will appeal to this group.
- Younger baby boomers (46 to 54 years old) Those who are in or are entering their prime earning years will also face a tough time selling existing suburban homes, thus hampering the ability to move. The recession has left many younger boomers with flat incomes and less home equity and their ability to purchase second homes will be greatly diminished, thus curbing prospects for the second home market. When able to switch housing, they will also be drawn to more connected, compactly designed communities. (cont. on next page)

Study Predicts the "New Normal" Real Estate Market

(continued from page 3)

- **"Generation Y"** This tech-savvy generation has a population of roughly 86 million that now exceeds the baby boomer generations. "Gen Y" will place a high value on community and places to gather and share information, ideas and opinions. As they enter the housing market, they will be far less interested in homeownership than their parents. McIlwain said that the recession has "...tempered the interest of Gen Y'ers in buying their own homes and they will be renters by necessity or choice for years ahead." Gen Y will gravitate toward walkable, close-in communities. Green, "net zero" energy efficient homes will have strong appeal to this group.
- **Immigrants** Already 40 million strong, the population of legal and illegal immigrants in the U.S. has an even greater impact when their children and grandchildren are factored. McIlwain's report says that the

tendency of immigrants to cluster, and to live in multi-generational households, suggests that they would prefer larger homes if affordable and homes in neighborhoods with a strong sense of community.

According to McIlwain, economic and land constraints make it impossible for urban infill development to accommodate the housing demand represented by all demographic groups. As a result of all of these factors, suburban development "...must adapt or it will be obsolete. The suburban century is over. This is the urban century", said McIlwain.

The Urban Land Institute (www.uli.org) is a member-supported, global nonprofit education and research institute whose mission is to provide leadership in the responsible use of land, development and creating and sustaining thriving communities.



Audit All-Stars



The licensees below had no exceptions on their audits. Congratulations!

Susan Danberg-Laverty

Swan River Landscape & Management

Stephen Felt

Dean & Leininger, Inc.

Lee Gray

Great Northern Real Estate Brokers

Tara Harbin

Rocky Mountain Property Management

Steve Kenney

Coldwell Bankers Commercial – The Brokers

Steve Krutzfeldt

SK Realty

Kelly Michael-Resley

Town & Country Properties

Valerie Natale

Riskey Business

Robin Nation

Robin Martell Real Estate

Amy Quinn

National Parks Realty

Diane Rahdert

Re/Max of Bigfork

DISCIPLINARY ACTION (January-April 2010)

****All disciplinary action is now reported in the newsletter****

Thor Sichveland

A complaint was filed against Mr. Sichveland by a buyer alleging Mr. Sichveland did not present all offers from potential purchasers for her and her estranged husband's "Moose Lake" property. The complainant also alleged Mr. Sichveland was asking for a commission on the property without being the listing agent. The Screening Panel of the Board of Realty Regulation found reasonable cause to believe that Mr. Sichveland violated the following statutes and/or administrative rules:

MCA 37-1-316(18), MCA 37-51-301(2)(a), MCA 37-51-301(2)(b), MCA 37-51-301(2)(e), MCA 37-51-314(2)(a), ARM 24.210.641(1), (5), (5)(e), and (5)(m).

The following conditions shall apply to the continued licensure of the Licensee in the State of Montana: the licensee agrees that he shall be publically censured for the violations noted above. The Notice, Stipulation, and Final Order shall serve as the public censure, and these documents shall be permanently maintained in the Licensee's file with the board and made available to the public. Licensee will pay an administrative fine in the amount of \$500.00 no later than thirty days following the execution of the Final Order in this matter. Licensee will be required to complete an additional four hours of board-approved continuing education in the area of Agency.

Pam Bailey

A complaint was filed against Ms. Bailey by a seller alleging that Ms. Bailey advertised property owned by the complainant and her husband without a listing agreement signed by all property owners. The screening panel of the Board of Realty Regulation found reasonable cause to believe Ms. Bailey violated the following statutes and/or administrative rules:

MCA 37-1-316(18), ARM 24.210.601(8),

ARM 24.210.601(9), MCA 37-51-313(2)(e), MCA 37-51-321(1)(a) and (2)(a).

The following conditions shall apply to the continued licensure of the Licensee in the State of Montana: the licensee agrees that she shall be publically censured for the violations noted above. The Notice, Stipulation, and Final Order shall serve as the public censure, and these documents shall be permanently maintained in the Licensee's file with the board and made available to the public. Licensee will pay an administrative fine in the amount of \$350.00 no later than thirty days from the date of the signed Final Order.

Monica Gallegos-Laeupple

A complaint was filed by a tenant of property which Ms. Gallegos-Laeupple managed alleging that she refused to take care of maintenance issues, specifically unsafe tree limbs overhanging the tenant's trailer. Following the complaint process, the Screening Panel of the Board of Realty Regulation (BRR) found reasonable cause to believe Ms. Gallegos-Laeupple violated the following statutes and/or administrative rules:

MCA 37-1-316(14), MCA 37-1-316(18), ARM 24.210.805(4), (10)(d), (d), (iv), ARM 24.210.805(10)(d)(iv), , ARM 24.210.805(11), (12), (3)(a), (3)(b), (3)(i), and (3)(t).

Ms. Gallegos-Laeupple negotiated a Stipulated Settlement with Department Counsel. The Stipulation called for a public censure of her license. In addition, Ms. Gallegos-Laeupple must complete an additional four hours of Board-approved continuing education in the area of trust accounting. This education is in addition to the regularly required continuing education. Proof of completion shall be submitted to the Board office within one year of entry of the Final Order in this matter.

(continued on page 7)

DISCIPLINARY ACTION (January-April 2010)

****All disciplinary action is now reported in the newsletter****

Earl Solle

Mr. Solle was a supervising broker for Shana Stone, against whom a complaint was filed. Ms. Stone was acting as a property manager under his license and was found in violation of numerous statutes and rules regarding property management. The screening panel of the Board of Realty Regulation had previously found reasonable cause to believe Mr. Solle violated the following statutes and/or administrative rules:

MCA 37-1-316(18), MCA 37-51-321(1)(s), MCA 37-51-102(25), ARM 24.210.601(6), and ARM 24.210.601(7).

Mr. Solle agrees that he shall be publically censured for the violations noted above. The Notice, Stipulation, and Final Order shall serve as the public censure, and these documents shall be permanently maintained in the Mr. Solle's file with the Board and made available to the public.

Catherine Tuell

A complaint was filed by tenants of a property managed by Ms. Tuell alleging that, upon termination of their rental agreement, Ms. Tuell failed to return both rent due and the security deposit. A check was issued for the security deposit but was returned for insufficient funds. Following the complaint process, the Screening Panel of the Board found reasonable cause to believe Ms. Tuell violated the following statutes and/or administrative rules:

MCA 37-1-316(13), MCA 37-1-316(18), MCA 70-25-201(1), (3), and (4), ARM 24.210.805(6)(a) and (6)(b), ARM 24.210.828(2), (3)(a), (3)(b), (3)(h), (3)(i), and (3)(k) MCA 70-25-201(1), (3), and (4).

Ms. Tuell did not request a hearing or enter into a stipulation. The Adjudication Panel accepted the Order Granting Entry of Default and issued a Final Order. Ms. Tuell's property management license was revoked with the stipulation that she may not reapply for a license of any kind for a period of four years after the date of the signed Final Order.

Jeffrey Forster

After Mr. Forster's Trust Account and related documents were audited on June 11, 2009, the Board of Realty Regulation filed a complaint alleging that Mr. Forster had non-compliance with the following Board rules: the auditor found no personal funds ledgers for either trust account, funds in owner's ledgers were comingled, no tenant ledgers were available, and an owner's ledger entry did not match the entry on the check register and bank statement. The screening panel of the Board found reasonable cause to believe Mr. Forster violated the following statutes and/or administrative rules:

ARM 24.210.805(4), ARM 24.210.805 (5), ARM 24.210.805(11) and ARM 24.210.805(12).

The Department and Mr. Forster agreed that he would voluntarily surrender his real estate property manager license within ten days of the Final Order; Mr. Forster may not renew or reapply for a license for a period of two years.

Perry Deschamps

The Board of Realty Regulation filed a complaint against Mr. Deschamps alleging that he failed to comply with the Final Order of the board in cause no. CC-09-0001-RRE. Mr. Deschamps signed a stipulated agreement on March 20, 2009, in which he agreed to either pay an administrative fine of \$300.00 or complete an additional 5 hours of Board-approved education classes in the area of contracts and agency. To date, no payment has been made by Mr. Deschamps, nor has he submitted proof of completion of the continuing education (continued on page 8)

DISCIPLINARY ACTION (January-April 2010)

****All disciplinary action is now reported in the newsletter****

(Perry Deschamps continued)

classes. The screening panel of the Board of Realty Regulation found reasonable cause to believe Mr. Deschamps violated the following statutes and/or administrative rules: MCA37-1-316(8).

On January 15, 2010, and again on January 26, 2010, the Department attempted to serve a *Notice of Proposed Board Action and Opportunity for Hearing* on Mr. Deschamps through certified mail, but he failed to accept the certified mail.

On March 5, 2010, Mr. Deschamps was duly served by publication in the Helena Independent Record and the Missoulian, but did not respond to the Notice of Proposed Board Action.

Therefore, Mr. Deschamps' real estate broker license #14143 has been REVOKED and no new application for licensure will be considered by the Board for a period of five years.



BRR CALENDAR

JULY

5th: State Holiday

15th:

9:00am Rules Committee
(Open)

1:00pm Screening Panel
(Closed)

2:00pm Education
Committee (Open)

16th:

9:00 Full Board Meeting
(Open)

AUGUST

9th: 1:00pm Core Course
Committee (Open)

19th-20th: Rookie Course in
Missoula

26th:
9:00am Rules Committee
(Open)

1:00pm Screening Panel
(Closed)

2:00pm Education
Committee (Open)

27th:

9:00 Full Board Meeting
(Open)

SEPTEMBER

1st: **Renewal Notices
Mailed!**

6th: State Holiday

21st: Trust Accounting for
Property Management
CE - Helena

23rd-24th:

Rookie and
Supervising
Broker Course--
Billings