



# REAL ESTATE LICENSEE UPDATE



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## In This Issue

Retention of Electronic  
Communications ..... 1

Commissioner Corner:  
Jeff Thompson ..... 2

Real Estate Market  
Roundup ..... 3

Social Media in Washington  
Real Estate ..... 5

Assumed Names and  
Team Names ..... 6

How to Avoid Real Estate  
Complaints ..... 7

Disciplinary Actions ..... 8

## Retention of Electronic Communications

*Adapted from an article with permission from California's Real Estate Bulletin (Spring 2013)*

Electronic Communications (EC), including emails, texts, tweets and the like, has become an indispensable tool for licensees in conveying vital information in real estate. EC is used by licensees to receive and send to various parties to the transaction copies of contracts, disclosures and other important documents and information. And like all other documents and writings obtained or executed by a licensee in connection with a transaction, EC must be maintained by the firm as part of the transaction file. However, maintaining EC goes beyond ensuring compliance with record keeping requirements. It is becoming more commonplace in the Real Estate Program's audits and investigations that firms or licensees are unable to produce crucial EC that would contain information that would demonstrate compliance with Real Estate Law. The purpose of this article is to remind real estate licensees of the importance of maintaining and retaining transaction records, including EC.



The Real Estate Law clearly defines what records must be maintained. The designated broker shall keep adequate records of all real estate transaction handled by or through the firm or firms to which the designated broker is registered. The administrative code specifically requires trust account records, up to date log of all agreements, legible copies of transactions or contracts for brokerage services, all agreements, receipts, documents, leases, closing statements and material correspondence. All records must be kept for a minimum of three years. All of these documents must be maintained at the firm's licensed location and available upon demand by the department.

For best practices and to ensure compliance in this EC age, every real estate firm should have written office policies and procedures. Office policies and procedures should set forth how EC is created, sent or received in connection with a brokerage services transaction. Maintaining EC goes well beyond simple record keeping compliance. EC often holds the key to proving whether a licensee disclosed a material fact or provided a required disclosure, and retaining and maintaining these important communications may reduce the licensee's need to defend against unwarranted allegations.

We are committed to providing equal access to our services. If you need special accommodation, please call (360) 664-6526 or TTY (360) 644-0116.

## Commissioner Corner: Jeff Thompson

# The Future of Real Estate Licensing

The Real Estate Commission has asked the Real Estate Program staff to move into the future concerning the ability to conduct licensing activities online vs. the current pen, paper and mail-in method. Since June of 2013 the Real Estate Commissioners and the Real Estate Program staff have been looking into converting our license process over to a complete online system. In late summer of 2013 Real Estate staff visited with our friends in Oregon in an attempt to learn from their recent experience of going online. Oregon's website promotes the following:



- renew your real estate license online
- change your mailing address or e-mail address online
- apply for a real estate license
- inactivate or re-activate your license online
- apply for a registered business license
- transfer a license online

All can be done instantly through Oregon's website. We hope to do the same if not more.

What will our website look like? Well, that is a good question. The Real Estate Commission's goal is for real estate licensees to be able to go online and access all of their information instantly. You want to know what classes you need to take or how many hours left to take, it's there! You want to know when your renewal date is, it's there! Looking at switching offices, your Designated Broker will be able to do this instantly online!

What do you need to do right now? Not much really, except make sure you have an up-to-date email address on file with the Real Estate Program. Having everyone's email address can be a huge benefit and time saver for both you and the Real Estate Program. You can also subscribe to the [Real Estate Program's ListServ](#). The ability to communicate to everyone instantly and educate everyone on any new laws or process changes is simply good for us and the public. We have the responsibility to the public to be the best informed professional possible.

When will this occur? We will need some patience. Current capabilities need to be assessed and new processes will need to be mapped. A change of this magnitude will take time. We are working on a timeline. One thing I have learned over the past 5 years as your commissioner is that the staff at DOL does so much more than just the issuing of your real estate license. If we all work together we will be a part of something that stands the test of time.

Jeff Thompson, Real Estate Commissioner  
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"Dedicated to Unlocking the power of ownership."



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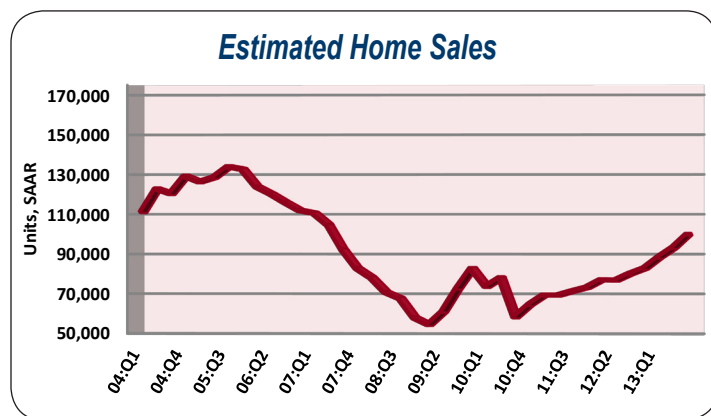
# Real Estate Market Roundup

Glenn E. Crellin, Associate Director for Research, Runstad Center for Real Estate Studies, University of Washington

The statewide housing recovery has accelerated throughout Washington during 2013, led by strong home sales in the greater Seattle market. Housing construction, which had been limited to apartments, has now begun to improve in the important single-family sector. Home price increases have outpaced expectations, and caused some to worry if a new bubble is forming. The recovery is uneven, however, and risks abound. Discussions now focus on increasing mortgage rates, whether the automatic conversion of home equity loans taken out during the boom into amortizing loans will spur a new wave of defaults, and whether the continuing stalemates in DC over budgetary issues will trigger future economic dislocations.

## Sales and Construction Activity

Home sales activity in Washington during the third quarter of 2013 increased 7.1 percent from the second quarter to a seasonally adjusted annual sales rate of 99,960 home sales. This is the highest sales rate since the second quarter of 2007, and markets the fifth consecutive quarter of increasing sales rates.



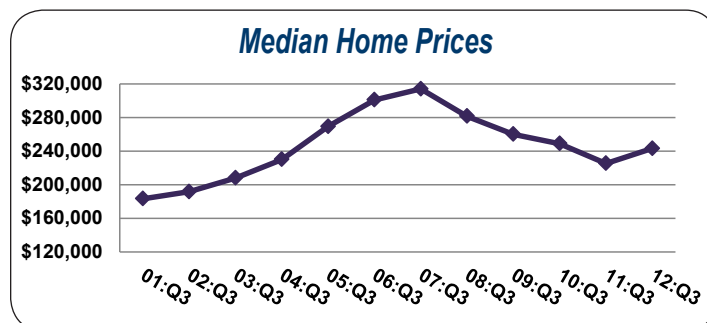
Despite the strong statewide performance, sales activity declined compared to the second quarter (using seasonally adjusted annual rates) in seven counties, while sales declined compared to the third quarter of 2012 in just two counties. The quarter-to-quarter sales rates declined in four metropolitan areas: Lewiston, ID-WA; Olympia; Walla Walla; and Wenatchee. By contrast, sales increased from the second quarter by more than 10 percent in 20 counties.

Construction activity, measured by the number of homes and apartments for which building permits were issued by those cities and counties reporting data monthly to the Census Bureau, totaled 7,626 in the third quarter, 2.2 percent above the number in the third quarter of 2012. Once again the multifamily sector saw an increasing

number of permits issued, while the number of single-family permits issued in the third quarter decline 0.4 percent from the same time last year. These building permit statistics are limited to the 32 counties where at least some of the permitting jurisdictions report to the Census Bureau. The value of single-family permits increased by 2.2 percent compared to a year ago, reaching \$1.1 billion throughout the state, and that is exclusive of land values. Since the total value went up while the number of units permitted declined a bit, the value per permitted unit clearly increased.

## Home Prices

Reporting home prices has changed dramatically in the last few years. The most common statistics are median and average sales prices, with most analysts preferring medians (half higher, half lower) as more indicative of market conditions, especially since average prices tend to run about 20 percent higher than medians. However, both medians and averages depend on what sold during the period, and are influenced by changes in composition, meaning they are not measures of appreciation or depreciation in the values of individual homes. During the third quarter of 2013 the median price in Washington was \$263,400. This represented an increase of 8.4 percent (\$20,500) compared to a year earlier.



Local medians ranged from a high of \$438,000 in King County to a low of \$70,000 in rural Lincoln County. Only five counties reported a lower median price than a year ago, and only one of those (Chelan) was in a metropolitan area. Double-digit increases in medians were reported in 12 counties, four more than during the third quarter of 2012.

Several groups, especially S&P Case-Shiller and the Federal Housing Finance Agency (FHFA), report repeat-sales measures which are a better measure of appreciation. Those measures use only properties where they have access to at least two sales, adjust the sales prices for changes in quality (e.g. substantial rehabilitation or

continued on page 4



## Real Estate Market Roundup, continued from page 3

additions), and focus on monitoring changes over time. The data are reported as indexes and changes, not prices in dollars. Because of the sophisticated statistical modeling involved, the data are often released with considerable delays (especially Case-Shiller). No data on non-urban markets are available from either source. Case-Shiller only reports 20 markets while FHFA reports all metropolitan areas and statewide measures. FHFA reported that the appreciation in Washington home prices was the fifth highest among the states in the third quarter at 11.92 percent. The four states with more rapid appreciation were hit much harder during the recession. Even after the rapid run-up, FHFA indicated prices remain 8.2 percent below their third quarter 2008 level.

### Affordability

Housing affordability is not defined exclusively by prices, although they are a significant component of affordability's three legged stool. The other legs are the mortgage interest rate (since relatively few homes purchased by owner-occupants are cash sales) and the purchaser's income. Mortgage interest rates jumped early in the quarter, then stabilized at a new higher plateau. Incomes continued their gradual improvement, but the increases were less the overall inflation.

The Runstad Center produces two measures of housing affordability, following the model developed in 1982 at the National Association of Realtors®. The All-Buyer Housing Affordability Index (HAI) compares the mortgage payments on a median price home to median FAMILY income (2 or more persons, related by blood, marriage or adoption) assuming a 20 percent downpayment and allocating 25 percent of gross income to principal and interest payments. An index of 100 means the family can just afford the median price home, and higher values are more affordable. The statewide HAI in the third quarter was 144.4, meaning the typical family has 44.4 percent MORE income than the minimum required to qualify for a mortgage on the median price home. Only San Juan County reported an index level below 100. While this



affordability level is high by historic standards, it must be noted that it declined by 24.4 points from a year ago, and 22.2 points from only three months ago. Such rapid reduction in affordability is worrisome. Among urban markets the affordability indices ranged from a low of 106.8 in King County to a high of 183.8 in Benton County (Kennewick/Richland).

Renters generally confront greater challenges becoming home owners. Accordingly, the Runstad Center's First Time Buyer Affordability Index (FTBHAI) assumes a less costly home (85 percent of area median), a lower down payment (10 percent) and a lower income (70 percent of median household income, which includes often lower-income single person households). The statewide FTBHAI in the third quarter was 80.6, down from 92.6 in the second quarter. That is a 13 percent reduction in affordability in only three months! First-time buyer affordability indexes ranged from 48.8 in San Juan County to a high of 264.0 in rural Lincoln County. The range is metropolitan counties was from 58.9 in King County to 120.5 in Benton County. For reference, it is always challenging for such income-restricted households to afford a home of their own, and the Runstad Center believe a FTBHAI of 80 represents a reasonable opportunity for a well-qualified first-time homebuyer to find an acceptable home they can afford.

### Foreclosure Update

Foreclosure statistics in 2013 have seemed a bit contradictory. Why, when the housing market is clearly improving are completed foreclosures rising? What about the "shadow inventory" and remaining distressed properties?

RealtyTrac reports that during the first 10 months of 2013 a total of 13,531 Washington homes completed the foreclosure process and were returned to the lender. That is more than the 11,544 home reported for full-year 2012. Why? The reason is largely due to the Foreclosure Fairness Act passed by the state legislature which mandated that properties in jeopardy of foreclosure go through a period of mediation where the borrower and lender attempted to negotiate equitable repayment terms which would allow the family to remain in their home. Unfortunately, many of those loans were too far underwater to benefit, and the foreclosures ultimately resumed.

More encouraging was progress in terms of seriously delinquent mortgages. While several sources of this type data exist, the Runstad Center uses information compiled by the Mortgage Bankers Association of America. They report the number of outstanding mortgages and the share of those mortgages that are at least 90-days past due or at some stage of the foreclosure process (but not yet REO). As of the end of September, there were still 55,900 mortgages in the state which were seriously delinquent. As bad as that number is, it is 20,000 fewer than a year ago.



# Social Media in Washington Real Estate

Glenn E. Crellin, Associate Director for Research, Runstad Center for Real Estate Studies, University of Washington

There is no question the real estate brokerage industry has been transformed by technology. Early in my career, when I was on the research staff at the National Association of Realtors we began asking members about their use of technology, especially personal computers. Significantly less than half indicated they had access to PC's. A follow up question asked those respondents who had a computer how they used the technology. My favorite response: "It's a great paperweight."

Obviously times have changed, our telephones have more computing power than those early PCs, and the industry is looking for ways to leverage that power in serving customers and clients, often using social media. Accordingly, a portion of the 2013 Washington Real Estate Licensee Profile conducted by the Runstad Center for Real Estate Studies asked real estate licensees about their use of various social media.

Somewhat surprisingly, a third of responding licensees indicated they do not use social media for business purposes. This proportion was fairly consistent across license levels, although brokers were a bit LESS likely to use social media than either managing or designated brokers. Differences in use across the business specialties was more striking, with commercial real estate specialists reported social media usage less than half the time, while only three in 10 residential specialists were not users. As expected, Facebook was used more heavily than other outlets, followed closely by LinkedIn. Commercial specialists used LinkedIn far more frequently than Facebook in their businesses.

Among real estate licensees who use social media, they usage varies considerably. Over a quarter of the users say they almost never update their information and another 19 percent say their update frequency is "seldom". At the other extreme, six percent of users say they update their social media presence at least daily.



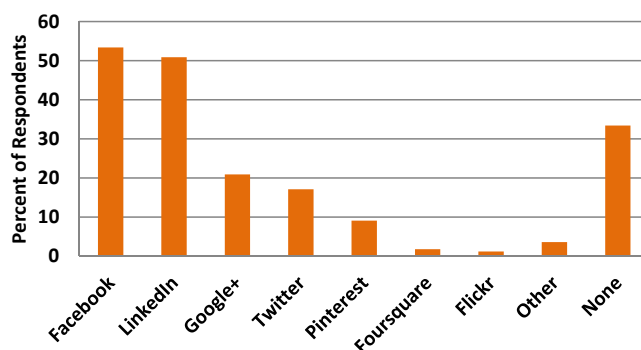
This infrequency of updates is inconsistent with the reason many if not most licensees say they use social media: to raise awareness of the brand and to advertise to potential clients. Marketing research indicates that successful brand awareness and advertising is dependent on frequent exposure to the message. This inconsistent application of the technology may also influence the responses received to an open-ended question from the survey, where 58 percent of respondents who actively use social media responded that use of the technology has affected their business very little, if at all.

In addition to social media, the industry professionals have turned to public listing website in addition to their individual, team, firm and MLS visibility. Craigslist.org, Zillow.com and Trulia.com were identified by over half of respondents as sites they use to promote listings. Among commercial specialists, only Craigslist was widely used (although it should be pointed out that CoStar and LoopNet were not identified on the survey as options). A significant majority of property management specialists (73 percent) indicated they used Craigslist.

The extensive use of these tools and their potential for abuse and misleading the public is a reason the Washington Real Estate Commission and staff and the Department of Licensing continue to review and refine guidelines and regulations pertaining to Internet Advertising and Social Media.



**Social Media Websites Used**



# Assumed Names and Team Names

*Adapted from an article with permission from California's Real Estate Bulletin (Spring 2013)*

The Real Estate Program routinely receives inquiries from real estate licensees requesting clarification and guidance regarding the usage of “assumed names” and “team names” in advertisements and other forms of solicitations. This article is intended to offer licensees guidance on the use of these names.

An assumed name is a name that the real estate firm must pay and apply to the real estate program prior to using. Assumed names belong to the real estate firm and it is up to the firm (Designated Broker) to release the assumed name. The firm must also have the assumed name registered with the Secretary of State under the firm's Unified Business Identifier (UBI) number. A firm can have multiple assumed names. The advantage of having an assumed name(s) allows a real estate firm to advertise or do business under different names without the expense of forming different companies. Examples: 1. A licensed real estate brokerage named “Eugene's Real Estate” has several divisions, namely residential, commercial and property management. After registering with the real estate program, Eugene's Real Estate could do business as “Eugene's Residential Real Estate”, or “Eugene's Commercial Real Estate”, or “Eugene's Property Management”. All three names have the same UBI number. 2. A licensed real estate firm named “Mint Realty” has two business models, full service and limited service models. With an approved assumed name of “Green Mint Realty” for the full service model and “Red

Mint Realty” for the limited service model. Please note that assumed names are for one company (UBI#).

The use of “team names” in advertisements and marketing materials has become a popular and pervasive practice amongst real estate professionals. In fact it is quite common on the West coast of United States. Throughout Washington “team names” such as “The Smith Team”, “The Brown and Smith Team”, or “The Robert Brown and Sarah Smith Team” are often included on “For Sale” signs, billboards, business cards, promotional flyers, emails and brochures. The team name is considered by many as a way to brand a licensee's professional service.

Teams cannot form corporations or companies as that would require a designated broker license and a firm license. Teams cannot pay other licensees for brokerage services. Teams cannot list their name on brokerage service contracts as selling or listing agent. Teams cannot be paid for brokerage services activity. The “team name” must always include the licensed firm name or assumed name. The firm name must be represented or used in a manner that is of such color, contrast, size, or audibility and presented in a manner as to be readily noticed and understood and not be confused with a team names. Best practice is to ensure if you are advertising a “team name” make it a much smaller font than the firm or assumed name. Secure your designated broker's approval in writing prior to using a team name.

## Websites and Advertising

The current economic situation can kindle an innovative and creative entrepreneurial spirit in real estate licensees to generate new leads for their business. Along with this entrepreneurial spirit, you have new tools at your disposal. However, you must remember the laws and rules that apply to your activities.

Real Estate licensees are also subjected to media, such as YouTube videos that may encourage licensees to generate leads without identifying the firm name. Failing to include the firm name would be an advertising violation.

The Washington Real Estate Licensing Law ([WAC 308-124B-210: Advertising](#)) requires advertising in any manner to include the firm's name, or assumed name as licensed, in a clear and conspicuous manner. In addition, advertising can't be false, deceptive, or misleading. A real estate licensee who uses an “unbranded” or misleading website not only subjects their license to disciplinary action, but also the licenses of their delegated managing broker, designated broker, and even the firm.

We're occasionally asked, “Are URL's advertising?” The website URL is an internet address and we don't consider it advertising. However, once the website opens up, the firm name or assumed name must be clear and conspicuous.

Before employing or using a website, we highly recommend you have your delegated managing broker or designated broker review and approve it.

For details about using advertising on the internet and social media see, [Washington State Guidelines for Internet Advertising and Social Media on the Internet](#).





# How To Avoid Real Estate Complaints

*Adapted from an article with permission from the Rice Insurance Services Company, LLC*

While even the most diligent licensee may be the victim of a frivolous claim, diligent business practices help decrease risk. Even if these procedures do not prevent a complaint, they may greatly enhance the chance of a successful defense.



- Resolve problems far before the closing date. Don't wait until the last minute to address problem issues. When people are rushed to resolve matters they are more likely to make mistakes or overlook items.
- Don't try to be an expert at everything. Involve key licensed professionals, such as attorneys, home inspectors, appraisers, lenders and surveyors when needed. Provide a list of several names. Keep a copy of the list you provide.
- Disclose in writing to all parties to whom the licensee renders real estate brokerage services, before the party signs an offer in a real estate transaction handled by the licensee, whether the licensee represents the buyer, the seller, both parties or neither party.
- Document conversations, recommendations, and activities in a log. It is also often helpful to document conversations by sending a brief follow-up email. Keep organized, detailed records of all real estate transactions. This will be helpful if a complaint is filed with the department.
- Designated brokers should have regular meetings with their firms' licensees and remain informed as to their transactions. Establish written guidelines and make sure everyone in the firm understands and complies with them.
- Listing agents should have the seller complete the seller property disclosure form. The form should never be filled out by the real estate licensee. Additionally, if any issues arise while the property is listed advise the seller to update the disclosure form and advise the buyer or the buyer's agent of the change.
- Recommend that buyers obtain a home inspection from a licensed home inspector. If they decline, have them sign a form confirming this decision.
- When information is obtained from a third party it is often a good idea to disclose the source when making representations because sometimes information from what appears to be a valid source turns out to be inaccurate. For example, if you believe a property is on city sewer based on a prior listing or a statement by the city utility office, disclose the source of your representation.

Disciplinary Actions, continued from page 8

## September 2013

### Ronald W. Conard — Spanaway

Finding: Unprofessional conduct —

- Falsely answered questions on license applications.
- Failed to report complaints, indictments, or convictions filed within 20 days of their filing dates.

Action:

- Real estate broker license suspended 1 year, stayed (not imposed) for 3 years.
- Fined \$1,500.

### Ross S. Papa — Federal Way

- Finding: Unprofessional conduct — Misappropriation of funds.
- Action: Real estate broker license revoked for 5 years.

## October 2013

### Camille Besset — Kirkland

Finding: Unprofessional conduct — Emptied client's trust account for personal use.

Action: Real estate broker license revoked for 10 years.

### Ivanhoe U. Keo — Woodinville

Finding: Unprofessional conduct — Convicted of 4 felony charges in Kitsap County Superior Court.

Action: Real estate broker license revoked for 5 years.

### Stacey J. Price — Port Angeles

Finding: Unprofessional conduct —

- Accepted money and deposited in personal account instead of turning over to firm for deposit into a trust account and/or paid as commission.
- Untimely delivery of customer/client funds or property.
- Didn't maintain proper records and maintain for 3 years from the conclusion of transactions.
- Didn't exercise reasonable skill and care in fulfilling broker duties.

Action:

- Real estate broker license suspended 1 year, stayed (not imposed) for 3 years.
- Fined \$2,000.

# Disciplinary Actions

## JUNE 2013

### Chun Y. Choi — Bellevue

Finding: Unprofessional conduct — Pled guilty in US District Court Western District of WA in Tacoma to Conspiracy to Engage in Money Laundering Count 1.

Action: Real estate broker license revoked 10 years from 06/10/13.



### Youssef Elrais — Redmond

Finding: Unprofessional conduct — Failed to cooperate with Dept. of Licensing during an investigation.

Action: Real estate broker license suspended 1 year or until the Dept. of Licensing receives response to an investigation, whichever is longer.

### David Emerson — Lynnwood

Finding: Unprofessional conduct:

- While acting as leasing agent, personally leased subject property and failed to pay rent;
- Default judgment was entered in Superior Court for Snohomish Co. for monies owed; and
- Failed to report judgment to the Dept. of Licensing with 20 days per licensing law.

Action: Real estate broker license revoked for 5 years from 6/12/13.

## JULY 2013

### Craig Dieffenbach — Seattle

Finding: Unprofessional conduct — Guilty plea entered in U.S. District Court, Western District of WA in Seattle, to Conspiracy to Distribute Marijuana and Conspiracy to Commit Money Laundering.

Action: License revoked for 10 years from July 11, 2013.

### Winston H. Dunkley — Seattle

Finding: Unprofessional conduct — Pled guilty in 2008 for intimidating a public servant in Superior Court of WA for Pierce County, and failed to notify us of the charge within 20 days as required by WAC 308-124C-040(1).

Action: Real estate broker license suspended until proof provided for successful completion of several requirements. After proof for all requirements has been received and license is reinstated, will be on probation for 3 years.

### Kelli A. Johnson — Port Orchard/Bremerton

Finding: Failed to resubmit another fingerprint card and additional fingerprint fee after an original card was rejected by the Washington State Patrol.

Action: Broker license suspended until a new fingerprint card and fee is received.

### Chris McCain — Kent

Finding: Unprofessional conduct —

- Judgments entered in King Co. Superior Court in 2002 and 2003 that weren't reported within 20 days.
- A criminal case naming McCain filed in 2012 that wasn't reported within 20 days.
- False answers on applications to transfer or reactivate license.

Action:

- License suspended for 1 year, with 60 days imposed and 305 days stayed (not imposed) for 3 years.
- Fined \$1,500, due by July 29, 2013.

### Dana W. Richards — Ocean Shores

Finding: Unprofessional conduct —

- Didn't disclose she was owner of the construction company she recommended for building a home on a lot she had an agreement to sell.
- Breached contract of same construction company.
- Hindered the ability of subject properties to be sold.
- Didn't report civil complaints or judgments within 20 days.
- Answered license renewal questions falsely.

Action: Real estate broker license revoked for 3 years.

## AUGUST 2013

### Madaline Desmet — Des Moines

Finding: Unprofessional Conduct — Conviction for stalking, a misdemeanor offense, in King County District Court.

Action: Real estate broker license revoked until October 4, 2015, when she may reapply for a real estate license.

### Sarah Lieu — Bellevue

Finding: Failed to disclose foundation issue as co-owner of subject property and falsely answered question G on Form 17.

Action: Real estate broker license suspended for 1 year, with 90 days imposed and the balance stayed (not imposed) for 3 years, and fined \$1,500 due by May 6, 2014.

### Al B. White — Southworth

Finding: Unprofessional conduct —

- Owned property that was foreclosed, yet continued to place tenants in the property he no longer owned.
- Failed to disclose judgment in King Co. Superior Court against him from 2009.
- Falsely answered questions during 2011 audit regarding any order, verdict, or judgment against himself or the licensees under him in his firm.
- Falsely answered questions regarding firm or its licensees doing property management activities or trust accounts.

Action: Real estate broker license revoked for 5 years.