

LENDERS UPDATE™

ALT & ASSOCIATES NEWSLETTER

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THE NEW DRE REQUIREMENTS FOR REPORTING DISCIPLINARY ACTIONS

As we know, effective the first of this year California real estate law was amended to require a real estate licensee to submit a report to the California Department of Real Estate ("DRE") of the following:

- a) filing of an indictment or information charging a felony against the licensee,
- b) the conviction of the licensee of any felony or misdemeanor, or
- c) disciplinary action taken by another licensing entity or authority of California or any state.

On September 27, 2012, in its Fall Real Estate Bulletin, DRE in an article by its chief counsel, Wayne Bell, added some color to this basic statute.

Mr. Bell's article points out that the requirement to report convictions is wide and inclusive in its scope. The requirement to report any felony or misdemeanor conviction within the relevant 30 day window does not permit the licensee to exclude what he or she considers minor, insignificant or non-related convictions. The word "any" clearly includes "any", "every" and "all" misdemeanor and felony convictions, including those following the entry of a no contest plea.

As to reporting the filing of an indictment or information, there does not need to be conviction to trigger the reporting requirements.

Further as to disciplinary actions there does not have to be a final discipline imposed to trigger the report. Mr. Bell's article points out that a plain reading of the statute suggests disciplinary action includes, as the commencement of disciplinary actions such as where there has been the filing of pleadings such as an accusation by a licensing authority even where the licensee believes the action has no merit and even if the action is unsuccessfully prosecuted.

A “disciplinary action” does not have to have to completed to trigger the report. Disciplinary action against the licensee means filed, initiated, and/or completed.

What is a “disciplinary action” by another licensing entity or authority? This is an open question. The licensee will need to determine what is a disciplinary action by another licensing entity. If it is discipline it must be reported.

Mr. Bell’s full article may be found on the DRE website in the Fall Real Estate Bulletin.

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