

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building
Second Floor - Room 210

9:00 A.M.

April 6, 2005

MINUTES

STAFF MEMBERS PRESENT

Dexter Bell, Division Director
Mark Fagergren, Education/Licensing Director
Jon Brown, Enforcement Director
Dee Johnson, Investigator
Ron Kunzler, Assistant Attorney General
Renda Christensen, Board Secretary
Amanda Orme, Mortgage Education Secretary

COMMISSION MEMBERS PRESENT

A Thompson Calder, Chair
Pierre Alley, Vice Chair
Eva Rees, Commissioner
Alan Bowyer, Commissioner
Julie McCan, Commissioner

GUESTS

Kevin Swensen	Ron Winterton
Howard Tolley	Lance Miller
David Luna	Al Bingham
John Norman	

The meeting on April 6, 2005 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Chair Tom Calder conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The minutes from the March 2, 2005 meeting were approved as written.

DIVISION REPORTS

Enforcement Report – Dee Johnson

Mr. Johnson gave the Enforcement report for this month.

In the month of March there were 40 written complaints logged, 12 new cases opened for investigation, and 4 files closed, leaving 116 open case files. The field trip the investigators took to St. George and the audits in Salt Lake and Utah County have produced many cases, and it seems to be a trend in the system.

Mr. Brown stated every time the Division car is sent out to audit a real estate or appraisers office the investigators will audit mortgage pipelines for unlicensed activity as well. These reports show the most used lenders, title companies used, and who is working without a license.

There is still a hiring freeze in the Division so we are still short two investigators.

The Real Estate CE audits the Division is conducting are increasing the case load. So far 35 cases are opened, which is approximately an 18% cheat rate. Ms. Christensen stated these cases are only from January and February, and more will be coming from the March audit. Mr. Fagergren said these actions will be listed in the newsletters for all three professions.

Director's Report – Dexter Bell

Director Bell said the FBI is trying to get Congress to extend the bank secrecy act to include other parts of the industry beyond federally chartered institutions. This would include those that make mortgage loans. If this act were enacted, it would then require people to report "suspicious" activity. Director Bell thinks this would be a good change.

Director Bell mentioned the hiring freeze still in place for the Division. He has been pressing to get two of the four positions filled as soon as possible. These would be the mortgage licensing technician and the mortgage investigator position.

Director Bell, Mr. Fagergren, and Ms. Orme are working on a reciprocal licensing agreement for mortgage and have found a few things which will need to be changed. He asked for a consensus from the Commission to have Ms. Wismer draft a rule which would specifically state that on reciprocities, the applicant would still need to be fingerprinted. As the rule stands now, it requires applicants to take the 20 hours of pre-licensing education. The point

of reciprocity is that there would be substantially equivalent licensing requirements in other states, so the rule must be changed to eliminate the 20 hour requirement.

Director Bell brought up the issue of the Commission delegating licensing decisions to the Division staff. These could include initial hearings, criminal violations, renewals, etc. He encouraged the Commission to delegate the initial application hearings to the Division. If there is an appeal, it would then come before the Commission. Chair Calder suggested having a Commissioner volunteer to review the decisions of the Division and report back to the Commissioners at the next meeting. He asked Director Bell to come back to the Commission at the upcoming May meeting with a schedule.

Director Bell pointed out the difference between a public input session, where an agency asks for comments on a general question and a public hearing where an agency has formally proposed a rule and invites the public to attend to discuss the proposed rule. The Division proposed a rule on mortgage advertising and submitted it to the Executive Director of the Division, Russell Skousen, for his review. As of now, Mr. Skousen has not approved the rule, so it has not been published. Director Bell, therefore, suggested postponing the upcoming public hearing scheduled on April 27, 2005, and rescheduling it when we have an approved rule. The Commission agreed.

Education/Licensing Report – Mark Fagergren

Mr. Fagergren called the Commission's attention to the black binders they have been given containing all three profession's current statutes and rules. He showed them at the end of any statute or rule there is the date on which the rule has become effective. Mr. Fagergren announced to those guests in the room that all this material is available on the Division website.

Mr. Fagergren said the number of licensees have been steadily increasing. The numbers also show that approximately 500 licensees that have been inactive, have taken the test to become active.

The exam statistics for March show the average pass rate of all new test takers was 67%, and the pass rate of those that have re-taken the test is 64%, with an overall pass rate of 66%.

Mr. Fagergren said the on-line courses being used in Real Estate have been approved by ARELLO. They have the resources and manpower to verify and substantiate the on-line course meets their strict standards. The Commission has delegated to the Division approval of mortgage on-line pre-licensing

courses to make sure they have the computer expertise and integrity to meet the guidelines. He believes correspondence courses provide inadequate proof that a person has actually spent the required 20 hours for the course. Chair Calder said Montana used the correspondence courses for about two years and then discontinued using them because of common abuse.

The schools that have submitted on-line courses are being held to tight guidelines. The approved courses must have a built-in safety net to make sure the student sits through all the required 20 hours. The Commission agreed.

Mr. Fagergren called attention to two rules. R162-208-10, Continuing Education Course Certification, states that a provider must apply to the Division for certification of the course within at least 60 days before the course is being taught. R162-208-14, Individual Application for Continuing Education Credit, says a licensee may apply for credit for a non-certified CE course if the licensee believes the course will improve his ability to better protect or serve the public provided the course was taken from a national education provider. The subject matter of the course may not relate exclusively to the practice of the residential mortgage business in a state other than the state of Utah. There is a specific form for a licensee to use to apply for credit on this non-approved course, available on the Division website.

Mr. Fagergren said sometimes a course provider will neglect to get a course approved in Utah, and will instruct the students to use R162-208-14 to bypass the provider's failure to get the course approved first. This overburdens the Division with individual requests to approve a certain course, after it has been taught. R162-208-14 was not intended to bypass R162-208-10. The Division will ask Ms. Wismer to draft a rule to distinguish between the two rules, because there currently appears to be a "back door loophole." Director Bell suggested the wording say that R162-208-14 may not be used to circumvent R162-208-10.

Director Bell mentioned the Attorney General has suggested to the Division that it would be more efficient if the Commission would allow the AG to make an opening statement, before the applicant's opening statement, and then proceed to questions. Chair Calder said as long as the statement was kept to only pertinent, new information, and was brief. All the information has been provided in the Commissioner's packets. He is concerned the hearings could easily be stretched to 2-hours instead of 30 minutes. Chair Calder said he would like to have Blaine Ferguson come down and explain what he had in mind at the next Commission meeting.

INFORMAL HEARINGS

10:30 Keith Black – Application for License
Dennis K. Poole, Attorney
Commissioner Rees had recused herself for this hearing.

11:00 Gary Harrison - Cancelled

11:30 James Christensen – Application for License

REVIEW LIST OF LESSER CRIMINAL CONVICTIONS

Erica Chairez
Tyler Cherry
Ramon Correa
Bryce Dyson
Megan Ford
Stanton Furness
Matthew Heward
Curt Hoekstra
Christopher Janik
Dale Knott
Stan Miles
Douglas Shaw
Joshua Springer
George Watkins
Lawrence Whetman

Executive Session was held from 12:12 p.m. until 1:05 p.m. This was a working lunch.

1:20 Denise Critchlow – Application for License
Did not show for hearing.

1:35 Angie Scroggin – Application for License

Executive Session was held from 2:26 p.m. until 2:40 p.m.

EXECUTIVE SESSION

Results of Executive Session

Keith Black – Denied
James Christensen – Denied
Denise Critchlow – Denied
Angie Scroggin - Denied

Lesser Criminal Convictions

Erica Chairez - Approved
Tyler Cherry - Approved
Ramon Correa - Approved
Bryce Dyson - Approved
Megan Ford - Approved
Stanton Furness - Approved
Matthew Heward - Approved
Curt Hoekstra - Approved
Christopher Janik - Approved
Dale Knott - Approved
Stan Miles - Approved
Douglas Shaw - Approved
Joshua Springer - Approved
George Watkins - Approved
Lawrence Whetman - Approved

Stipulations

Layton Hills Mortgage, Inc./William M. Ray – Approved
Shaun Stevenett – Approved
Krehl Cook – Approved
Donald H. Petersen - Approved

OTHER BUSINESS

It was decided to allow Carl Rogers and Kyle Washington to have post-revocation license hearings.

This was the last meeting for Commissioner Rees, and the Division and Commission have expressed their thanks for her service.

A motion was passed to adjourn at 2:40 p.m.