

**UTAH RESIDENTIAL MORTGAGE REGULATORY  
COMMISSION MEETING**

Heber M. Wells Building  
Second Floor - Room 210

9:00 A.M.

May 4, 2005

**MINUTES**

**STAFF MEMBERS PRESENT**

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

**COMMISSION MEMBERS PRESENT**

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

**GUESTS**

Shannon Taylor	Harold Grimes
Leslie Petersen	Mark Schow
Harold Grimes	Michael Welker
Howard Tolley	John Norman
Al Bingham	Lance Miller

The meeting on May 4, 2005 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Chair Calder conducting.

**PLANNING AND ADMINISTRATIVE MATTERS**

Approval of Minutes

The minutes from the April 6, 2005 meeting were approved as written.

## **DIVISION REPORTS**

### Enforcement Report – Jon Brown

The report was given by Mr. Johnson. In April there were 30 cases logged with the Division, 19 opened for investigation, 13 cases closed, leaving 122 cases open. Mr. Johnson said Mr. Everett should be given credit for the 13 cases closed this month.

Mr. Johnson reported the Division the hiring freeze was over for the Division, and we are now advertising for two new investigators.

### Director's Report – Dexter Bell

Director Bell commended Mr. Everett for his good work closing investigative cases.

Director Bell stated he has been interviewing for the open position on the Commission, as well as for an alternate. He said the list was long, but it was good to see the applications coming in.

The new legislation went into effect on May 2, 2005 that will now allow for an alternate Commissioner. Director Bell noted the Commission did not show much enthusiasm for an alternate. After much discussion, it was decided to wait six months to see how an alternate works for the Real Estate Commission.

Director Bell presented for consideration an advertising rule on unprofessional conduct. He said approximately 25-30 individuals showed up for a public input session scheduled for April 27, 2005 that had been cancelled. Director Bell met with them, unofficially, to hear their concerns. He suggested a proposed rule making it unprofessional conduct to perform acts which would require a real estate license. Ms. Wismer said this would make the conduct an offense which would subject a mortgage license to disciplinary action. This could mean a fine, suspension, etc., not just issuing a cease and desist order against the licensee.

Commissioner Alley asked how we can educate the mortgage industry so they understand what is acceptable advertising and what is not. Ms. Wismer handed out a draft of the rule marked "05-03-05 Draft" for discussion.

Chair Calder was concerned that 25-30 people showed up to express their concerns, and wants to have another meeting scheduled so the Commission can hear and discuss all the issues. Director Bell said he would like a hearing to

propose the rule on what is permitted and not permitted to do in advertising. This would give us a specific proposal, and then have a public hearing. Chair Calder wants a rule that is clear cut, and must cover the issues of advertising, referrals, and separate signs.

#### Education/Licensing Report – Mark Fagergren

Mr. Fagergren said there is now a second educational provider offering distance education.

He reminded the Commission there is a deadline of getting a committee together to prepare for the Principal Lender Manager exam. The committee must come up with a curriculum for 40 hours of pre-licensing education, and he recommended reestablishing the committee used when to prepare the mortgage pre-licensing curriculum. The second step will be to create an exam committee to prepare questions for the exam. Chair Calder suggested using the same committee instead of having two separate committees. Commissioner Bowyer said the same committee could be reconvened. Chair Calder expressed the desire to start the committee and come back next month with a curriculum.

#### OTHER BUSINESS

Ms. Wismer said last month the Commission asked for a rule draft to close the “back door” loophole on getting courses approved for CE credits before the course was taught. She presented a “05-02-05 Draft” of proposed changes in R162-208.10.5 to close the loophole.

She handed out a second rule draft covering the conflict between the wording on reciprocity in R162-202.8.2, and the statutory language. The current rule requires licensing applicants to complete the pre-licensing course, which conflicts the idea of reciprocity.

Mr. Ferguson spoke about the procedures followed for informal hearings. At the top of the list is the decision maker, which would be the Commission Director or Acting Director. Under the Commission would be the Division staff and the applicant. The Attorney General’s office is counsel to the Division and would like to ask the applicant relevant questions at the beginning of the hearing. Chair Calder suggested the Commission change the present way of asking questions, and allow the Attorney General’s office to begin the hearing, keeping in mind the time constraints of a 30 minute hearing.

Chair Calder said the open session of the meeting will continue after the scheduled hearings, at approximately 12:15 p.m.

## **INFORMAL HEARINGS**

10:30 Kevin Thompson – Application for License  
Commission postponed hearing until 2:30 after last hearing to see if he appears.

## **REVIEW LIST OF LESSER CRIMINAL CONVICTIONS**

Ryan Brunatti  
Sandra Cave  
Eric Nielson

11:00 Marci Hofhine – Post-Revocation Hearing

Executive Session was held from 11:20 a.m. until 12:20 p.m. This was a working lunch.

## OTHER BUSINESS

The public portion of the open meeting was opened to continue discussion of the draft rules. R162-208.10.5, would make it clear that course providers must have the course pre-certified before being taught, or CE can be denied. The draft will provide for national providers not having to be pre-certified, because it may have only a few people attend the class.

The second rule draft is R162-202.8.1, which deals with a conflict in wording for reciprocity applicants. The draft will eliminate the mandatory requirement to take pre-licensing education before applying. Also, it may be waived if the individual has at least 5 years education in mortgage obtained with substantially equivalent similar licensing procedures.

Ms. Wismer noted there needs to be a small change in R162-202.1 so the wording will refer to the reciprocity changes being made. A motion was passed to accept both of the rule changes with the insertion of the provision to R162-202.1. Director Bell noted for the record the Division concurs with the motion.

Director Bell provided a new draft of R162-205.1, unprofessional conduct. Chair Calder would like the term "REPC" removed from subsection (h), and add in its place "terms of a purchase." Subsection (k) needs to have the word "and" at the end. Subsection (l) needs to say the sign will clearly advertise mortgage services and not advertising a property for sale. Director Bell will work on these changes for a new draft.

- 1:00 Gloria Salazar – Post-Revocation Hearing  
1:30 Carl Rogers – Post-Revocation Hearing  
Kevin Swensen, Attorney
- 2:04 Kyle Washington – Post-Revocation Hearing  
Mr. Washington was not present. He was represented by  
Andrew McCullough, Attorney.
- 2:33 Kevin Thompson – still has not appeared for his hearing.

Executive Session was held from 2:36 p.m. until 2:54 p.m.

### **EXECUTIVE SESSION**

#### Results of Executive Session

Kevin Thompson – Allowed to reschedule to reinstate his license.  
Marci Hofhine – Revocation has been upheld and may not apply for 12 months.  
Gloria Salazar – Revocation has been upheld and may not apply for 12 months.  
Carl Rogers – Revocation has been upheld and may not apply for 12 months.  
Kyle Washington – Allowed to reschedule.

#### Lesser Criminal Convictions

Ryan Brunatti – Approved  
Sandra Cave – Approved  
Eric Nielson – Approved

#### Stipulations

Beehive Mortgage – Approved  
Pioneer Mortgage Services, LLC – Approved

### **OTHER BUSINESS**

Director Bell noted that under the Open Meetings Act, the Commission and Division will only brainstorm and send drafts on the professional conduct draft rule. He said the wording needs to be clarified as much as possible.

Commissioner Bowyer wanted to recognize Commissioner Eva Rees for her great work done on the Commission. The Commission and Division unanimously concurred.

A motion was passed to adjourn at 3:00 p.m.