

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building
Second Floor - Room 210
8:30 A.M.

February 1, 2006

MINUTES

STAFF MEMBERS PRESENT

Derek Miller, Division Director
Jon R. Brown, Enforcement Director
Mark Fagergren, Education/Licensing Director
Dee Johnson, Investigator
Shelley Wismer, Assistant Attorney General
Ron Kunzler, Assistant Attorney General
Renda Christensen, Board Secretary
Amanda Orme, Mortgage Education Secretary
Jody Colvin, Mortgage Licensing Technician
Craig Livingston, Investigator
Jim Bolton, Investigator
Carlos Alamilla, Investigator
Marv Everett, Investigator
Dave Mecham, Investigator
Chuck Smalley, Investigator

COMMISSION MEMBERS PRESENT

A. Thompson Calder, Chair
Pierre Alley, Vice Chair
Julie McCan, Commissioner
Heather MacKenzie, Commissioner
Alan Bowyer, Commissioner
Kay Ashton, Alternative Commissioner

GUESTS

Shannon Taylor	Howard Tolley
John Norman	Paul Naylor
Ron Winterton	Lance Miller
Dave Luna	Michael Welker
Al Bingam	

The meeting on February 1, 2006 of the Utah Residential Mortgage Regulatory Commission began at 8:30 a.m. with Chairman Calder conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes - The minutes from the January 4, 2006 meeting were approved as written.

DIVISION REPORTS

Enforcement Report – Dee Johnson

Mr. Johnson said in January the Division received 22 written complaints, opened 6 cases for investigation, closed 6 cases, screened and closed 2 cases, leaving the number of 135 open files.

In December, Mr. Brown and a few investigators, along with the forensics lab had gone out to audit a company. This month the investigators attended a forensics lab class sponsored by the Intermountain West Regional Forensics Lab. It's a joint venture between the federal government and the state government, and is organized by and paid for by the FBI with contributions from other state and local agencies by contributing manpower. They are capable of imaging someone's computer without destroying the information contained on it.

The Division had received a complaint against a certain individual and then received additional allegations that this person was scanning appraisals, verifications of deposits, and manipulating the figures by changing the names, and then printing out new documents. The only way the Division knew what happened was to go in and take the information off of their computer. The forensic lab collected the information and start a chain of evidence. When the Division receives the evidence, we know it was collected in a manner that no one could have altered the information, and that the information is still intact in the same condition. The forensics lab sends the Division the information we requested, and we then compare that information with what was submitted to the title company and are then able to trace the information. On January 18th, seven of the investigators attended a class with the forensics lab with the intent being to educate the investigators on what their requirements are, and the procedure under which these things are done. This process will probably be the future of all businesses.

Chair Calder asked Mr. Johnson how long the process took to gather the information. Mr. Johnson said it took approximately 5 hours to gather the information, and it will take about 6 weeks to compile it for the Division. Since the investigators have been trained, it will be possible to speed up the process

by using the forensic lab's computers and go through the information immediately on our time. Once the investigators have gone through the images we are looking for and report to the forensics lab what we have found, the lab will then go in and print off the information. This will cut down the time to probably two weeks.

Mr. Brown said the statute says the Division has the right to review a licensee's records any time during normal business hours. This includes their computers. If the Division needs to image their computer, we now have a way to accomplish it.

Mr. Johnson said in the newsletter recently sent out, there were 57 actions taken against licensees. Ten of those licensees chose to surrender their licenses. Mr. Norman said the conduct listed in the newsletter seems fairly serious and has other implications from a law enforcement standpoint. He asked what the Division does with the information it collects, and as to what other agencies were being notified. Mr. Johnson said our investigation is completed once the person has surrendered their license, but the Division does pass on the information on to other agencies if we find it is so serious that the criminal activity needs to be investigated. Mr. Brown said in the future the Division will be filing SARS reports (Suspicious Activity Report) to the IRS, if we see flipping going on. This would come under the Patriot Act under money laundering.

Director's Report – Derek Miller

Director Miller commented on the number of guests attending the open session of the meeting. He said the Division gets the largest number of guests for the Mortgage Commission meetings, and that it was a good sign to have the interest and involvement of the industry.

Ms. Wismer discussed three draft rules. The first draft is the change to the proposed rule about unprofessional conduct, R162-205-1, Residential Mortgage Unprofessional Conduct. This would state if the Principal Lending Manager fails to exercise reasonable supervision over the activities of any unlicensed staff of the entity, it would be considered unprofessional conduct and would be grounds for disciplinary action. A motion was made to accept the draft as written with this change. The motion was passed unanimously.

The second draft attempts to clarify the rule on record keeping requirements, R162-204.1.2, Principal Lending Manager Requirements. This draft states that the entity has the responsibility to maintain the records, but the Principal Lending Manager is responsible to make the entity's records available to the

Division when the Division is entitled to look at those records. Records need to be kept for four years, and this change would clarify whose responsibility it would be for record keeping. A motion was made to accept the change made to the draft. The motion passed unanimously.

The third draft has added a new section, R162-202-10, Principal Lending Manager Experience Requirement. It defines equivalent experience in originating loans or directly supervising individuals who originate loans shall be considered to be "equivalent experience" for the purposes of Section 61-2c-206(1)(e). A motion was made and unanimously passed to accept the amendments made to the draft as written.

Director Miller mentioned the AmeriQuest settlement that has been mentioned in the news. Utah has elected to participate in this nation-wide settlement with AmeriQuest because of their lending practices. In the settlement, AmeriQuest did not admit to or acknowledge any wrong doing, but at the same time has made millions of dollars available to potential complainants in each state. He said there will be approximately \$2 million available to the state, in which a portion, \$125,000 will be paid to the state government as a recompense for costs associated with any investigations or legal work. This will leave approximately \$1.8 million for any settlements for potential victims.

Director Miller gave an update on legislation. Representative Paul Ray is sponsoring a bill which would affect the mortgage industry, along with other real estate related industries. The salient points are that it would require financial institutions (those exempt from regulation from the Division) to check on a license history from the Division before they hire someone to do mortgage loans. It would also create three positions in the Attorney General's office: one for a special prosecutor whose primary responsibilities would be to prosecute mortgage fraud cases, and two investigators; it would also amend the mortgage statute list of prohibited activities to include RESPA and Truth in Lending. There is also some language that says if you have a mortgage license and you work for a depository institution, the institution would be your Principal Lending Manager. This is a quick overview of the primary piece of legislation that might impact this industry.

Commissioner Alley said there are a lot of participants in the industry now particularly with the government loans (FHA type loans), that are not approved by the FHA to do loans. These companies have made arrangements with companies with who are FHA approved to funnel their loans through them. This is like third-party originators, but no one knows about them. He recently came across an example of a lender in Layton who is using a lender in Bountiful to

funnel their FHA loans. What they are doing is having the Bountiful company put the name of the application in their name, and have one of the Layton company's loan officers actually become employed by the Bountiful company for their FHA loans. It raises the question of the PLM and not being able to work for more than one entity. Commissioner Alley said this is happening in the industry a lot. He is concerned on how to get the message out that this is not an allowed activity. Comments from the guests include the loan officer can only be paid by only one PLM, someone who signs a loan that they don't originate can potentially be committing mortgage fraud, and if you are paying someone else to refer a loan to the other company they can W-2 the person.

Education/Licensing Report – Mark Fagergren

The statistics for licensing and education continue to grow. The number of phone calls, activity, licensing are steadily growing. Mr. Fagergren has asked his staff in licensing and education to keep track of the number of phone calls, license renewals, change cards, etc. they have processed for one week so he can give actual numbers to the Commission. For example, the Front Desk answered 980 phone calls, served 107 walk-in customers, and received 297 e-mails. The Division has implemented a phone tree to help handle the large amount of incoming calls.

The exam for the PLM is proving to be challenging. He will have more statistics on pass rates next month.

In January there were 44 new CE courses approved for mortgage. Real estate has over 500 CE courses, and many of these are being renewed. The challenge is many of these new courses are being reviewed multiple times. The course will be approved and a certificate issued, and the provider will then resubmit a revised outline as a "core course." Mr. Fagergren suggested perhaps the Commission designate one instead of many courses.

Commissioner Alley said since Commissioner Bowyer was head of the Education Sub-Committee, he suggested this group decide what constitutes the core class. Commissioner Bowyer said if this would make a PLM or licensed loan officer better at their job, it would make sense. He will reconvene the Committee and create a statement regarding continuing education. Chair Calder and the other Commissioners agreed.

INFORMAL HEARINGS

9:45 Adam Catmull
 Lester Perry, Attorney
 Dean Sommerville, Optimum Realty LLC, and

Optimum Mortgage LLC
Linda Irish, Optimum Realty LLC
Marvin Everett, Investigator, Division of Real Estate

Executive Session was held from 11:30 a.m. to 1:00 p.m.

1:00 Denny Stewart

Executive Session was held from 1:50 p.m. to 2:03 p.m.

EXECUTIVE SESSION

Results of Executive Session

Adam Catmull – The renewal is granted and immediately suspended until the fine of \$10,000 is paid, and then placed on probation for the remaining 2 years of any mortgage related license.

Denny Stewart – Denied

Stipulations

Michael Riley – Approved

Shelby Deher – Approved

Diana Tello - Approved

A motion was passed to adjourn at 2:08 p.m.

ADDITIONAL EXECUTIVE SESSION

An Executive Session was held by conference call on February 8, 2006 at 2:00 p.m. to discuss the outstanding order for Adam Catmull. The Commission discussed whether Mr. Catmull had received sufficient notice prior to his hearing based on the order that was determined at the last Commission meeting to include probation, suspension, and a fine. After some discussion a motion was made that the order would not be sent to Mr. Catmull and, instead, that he would be scheduled for a continuance of his hearing and notice will be sent to inform him of that hearing and that the Commission will determine appropriate action which may include fines/penalties, suspension, probation, denial, or approval of his renewal. The motion was seconded and approved unanimously.

The session adjourned at 2:28 p.m.