

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building
Second Floor - Room 210

8:30 A.M.

March 1, 2006

MINUTES

STAFF MEMBERS PRESENT

Derek Miller, Division Director
Jon R. Brown, Enforcement Director
Mark Fagergren, Education/Licensing Director
Dee Johnson, Chief Investigator
Blaine Ferguson, Assistant Attorney General
Shelley Wismer, Assistant Attorney General
Ron Kunzler, Assistant Attorney General
Renda Christensen, Board Secretary
Marv Everett, Investigator
Amanda Orme, Mortgage Education Secretary
Jody Colvin, Licensing Supervisor

COMMISSION MEMBERS PRESENT

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

GUESTS

John Norman
Dave Luna
Paul Naylor
Howard Tolley
Al Bingham
Lance Miller

The meeting on March 1, 2006 of the Utah Residential Mortgage Regulatory Commission began at 8:33 a.m. with Chair Calder conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes - The minutes from the February 1, 2006 meeting were approved as written.

DIVISION REPORTS

Enforcement Report – Dee Johnson

Mr. Johnson reported in February the Division received 22 written complaints, opened 1 new case, and closed 9 cases. The number of complaints screened and closed (with no case opened) were 5, leaving the number of open case files at 127.

Mr. Johnson said the Division continues to have problems with advanced fees taken by mortgage people, and advertising violations. Those who don't have a history of violations were contacted and told to stop what they were doing. Those who continue to operate with violations will have action taken against them. The biggest problem happening is creative non-licensees inflating the value of properties, buying and selling them or getting a straw buyer involved. This process is getting our licensees in trouble. People who are outside of our jurisdiction are creative, and they come to Utah with money and see the Utah market prices increasing. These people shift from one licensee to another, most recently in new construction properties. They then inflate the values, and in some cases, without the properties even being built. These same people then get loans originated and move on, leaving the real estate and mortgage people holding the bag. There is usually an appraiser involved as well who got caught up in the middle.

Vice Chair Alley asked Mr. Johnson if he had heard recent advertisements that say if a person has a score over 700, they can make \$40,000 to \$50,000 in a short period of time with nothing out of pocket. Mr. Johnson said the Division has heard the ads and has made calls to see if we could find one of our licensees involved. If it looks like what they are attempting to do is entice people to create fraud or originate some kind of a loan on a property that may be a vacant lot now, or not even a lot, but has been found saying we can do the construction loan on it and guarantee a certain price. The Division has not found a licensee involved in this yet. The ads so far are all for new construction and what these people are saying is, you find the lot or we will help you find the lot, if you qualify financially we can show you how to make a considerable amount of money. It appears these people are saying they can get the appraisals up to where they are needed, no matter what the value of the lot or the value of the construction. Mr. Johnson said the Division is sharing our information with other enforcement agencies, the State Bureau of Investigations and HUD.

Review of Criminal Convictions List

Ada M. Hammon

Director's Report – Derek Miller

Director Miller said he believes the foremost concern the Division has is to be able to address people's questions when they call the Division. He said we are obligated first and foremost to process things (i.e., applications, renewals, change cards, etc.). These are things we can't ignore. The Division is finding ourselves the "victim" of the paperwork coming in and having to get everything processed, when we would rather be answering questions that are coming in.

The Division is trying to automate as many things as possible that deal with processing paperwork, so we are pushing on-line renewal to help the process. He showed the Commission and guests a sheet of paper with 4 postcard renewals on it. This is what each licensee will see when it is time for their renewal, rather than the envelope that has 4-5 sheets of paper in it. What the licensee will get is a postcard with information on it on how to renew. He is asking people to get the word out, particularly the education providers. This postcard renewal process started last month. Currently, the only licensees not being able to renew on-line are principal brokers and appraisers. We are working on the process to allow these two groups to be able to renew on-line.

The next challenge the Division will face is putting change cards on-line. We are backed up on entering them because of the volume. The Division receives over 50 per day for just real estate, because licensees seem to move around a lot. This means companies, entities, PLM's, changing brokers, etc. The change cards are a process that was developed for the 1960's, and the information needs to be updated on-line. It would be helpful to have the licensee go on-line, and with their broker or control person's approval, change their affiliation.

It also will be helpful because any errors will be user errors, because they have entered the information. As the Division moves forward on this self-servicing system, we will be coming back to the Commission for their input on the best way to get this done.

Director Miller gave a quick legislative update. Today is the last day of the session, and we will see if they will be required to come back for a special session. Representative Gordon Snow had a bill that included a number of elements affecting the industries. None of them were specifically mortgage, but for their own edification, it would be interesting for the Commissioners to know. The Division was pleased to see the bill increases the fines on the real estate side from \$500 up to \$2500 per violation, which is the level of the

mortgage fines. There was a main mortgage bill this session was from Representative Paul Ray. It would have included a special prosecutor, but the bill did not advance out of the House. Director Miller has spoken with Representative Ray and will discuss ideas over the summer about working with the Division to advance some of his ideas.

Director Miller gave an update on hiring within the Division. We are in the process of hiring another investigator and an education coordinator. The education coordinator will work with Mr. Fagergren and will be in charge of continuing education, setting up the instructor workshops, setting up the Caravan trip, etc. Last week we hired a new licensing specialist which will be very helpful. She is an outstanding resource to the Division and has already helped out a lot and is a quick learner.

Director Miller discussed informal proceedings for investigating cases. One of the cases being heard today is a good example of what can happen when the investigators have a case, but in order to bring it before the Commission, it typically occurs during the renewal process. The reason is because in our rules we say an investigation case is done as a formal proceeding. The Administrative Law Judge will preside, and by definition, the hearing is much more formal and can be very time consuming.

Mr. Johnson said this new process would take 60-90 days to complete the investigation, bring the case before the Commission, and have a decision made. If the person appeals the decision and asks for Agency Review, they are still out of business. On a formal hearing, the person is able to work and take advantage of the public. The Division would like to speed up the process and bring these types of investigations before the Commission in 3-6 months, versus over 2 years with a formal hearing.

The Division is changing this in the Real Estate Commission so when Mr. Brown or Mr. Johnson have an investigation they want to bring before the Commission, they can do that as an informal proceeding. The Division believes it would be a good idea to bring the case before the Mortgage Commission as well. Per statute, the Division is the rulemaking body, but this is something Director Miller wanted to bring before the Commission to let them know it was our intention and to seek counsel and feedback. The Commission supported this rule change.

Education/Licensing Report – Mark Fagergren

Mr. Fagergren listed 8 different items that have been implemented since Director Miller has been involved. One, on-line renewal, started with his

predecessor. Director Miller is negotiating with Utah Interactive to really improve the on-line process from a basic function to a process that will be clean and run smoothly. Other items that have been implemented are postcard renewals, moving all the boxes of storage downstairs to give us more room, website improvement, developing change cards on-line, a phone tree, scanning of our documents, and staff upgrades and career path improvements.

Mr. Fagergren said Dr. John Stall, a psychometrician, is the person who is closely watching the PLM test performance. The Division gave Promissor a detailed outline for the exam, and Promissor was very complimentary about the questions we provided. The cut score study was based on 30 people who took the test last week, and will be compared to 30 more people this week. The cut score has been modified to reflect the statistics, or the real numbers. Mr. Fagergren gave some examples of people that have failed the test the first time, and re-tested 10 days later. The first numbers are the first test, second set show the re-test numbers: 16/20, 15/19, 15/19, 10/18, 15/19, and 15/19.

Mr. Fagergren said 600 PLM applications have been processed now, 500 of those in the last 10 days. There are only 48 applications that have not been processed yet, and these will be done today. Out of those who have applied, 46 have been denied outright. Approximately 40% of those who have applied fall under the 3 year category.

Mr. Fagergren said there will be an article in the upcoming newsletter about the reality of waiting until the last day to apply. Promissor has said they will expand their hours and testing centers, but people need to understand not to wait until the very last day to apply.

INFORMAL HEARINGS

9:45 Adam Catmull – Continuance of Hearing
Lester Perry, Attorney

OTHER BUSINESS

Director Miller said AmeriQuest Mortgage has asked to have their decision remanded back to the Division. After speaking with the Administrative Law Judge Masuda Medcalf and Paxton Guymon, attorney for AmeriQuest, it has been agreed to remand the case back to the Division.

An Executive Session was held from 9:57 a.m. to 10:10 a.m.

EXECUTIVE SESSION

Results of Executive Session

Adam Catmull – Approved to have previous Order stand with modifications. Granted but on suspension until the fine of \$8,000 has been paid, then the licensee will be on probation for two years.

Criminal Convictions List

Ada M. Hammon – Schedule for hearing

The Commission has granted the license for AmeriQuest Mortgage to be issued without probation. Let the record show Commissioner Bowyer abstained from voting.

A motion was passed to adjourn at 10:20 a.m.