

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 A.M.

January 3, 2007

MINUTES

STAFF MEMBERS PRESENT

Derek B. Miller, Division Director
Dee Johnson, Chief Investigator
Mark Fagergren, Education/Licensing Director
Dan Lau, Assistant Attorney General
Shelley Wismer, Assistant Attorney General
Blaine Ferguson, Assistant Attorney General
Renda Christensen, Board Secretary
Charles Smalley, Investigator
David Mecham, Investigator
Craig Livingston, Investigator
Jim Bolton, Investigator
Van Kagie, Investigator
Jody Colvin, Licensing Supervisor
Kristen Fry, Division Staff

COMMISSION MEMBERS PRESENT

Pierre Alley, Chair
Alan Bowyer, Vice Chair
Julie McCan, Commissioner
Rodney "Butch" Dailey, Commissioner
Heather MacKenzie, Commissioner
Maralee Jensen, Alternate Commissioner

GUESTS

Ron Duyker	Michael Welker
Paul Naylor	Lance Miller
John Norman	David Luna

The meeting on January 3, 2007 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Chair Alley conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes - The minutes from the December 6, 2006 meeting were approved as written.

DIVISION REPORTS

Director's Report – Derek B. Miller

Director Miller said as a follow-up to the conversation last month regarding the issue of whether or not people are exempt from being paid as an individual in the name in which they are licensed. The conversation dealt specifically with a reference in the mortgage statute to some exemptions in both the Professional Corporations statute and the Limited Liability statute. The Chairman of this Commission was wise enough to ask the question of the Attorney General's office as to where those exemptions exist. After looking them up, we discovered the exemptions don't exist. The mortgage statute refers to two exemptions, but those two exemptions actually don't exist in the law.

Director Miller spoke with the Director of Corporations and Corporate Code, and she confirmed to him those two statutes had not been modified or amended to include mortgage lending. When you look at the statute under the PC and LLC law it allows for exemptions for a number of professions, but there is nothing in the code about mortgage lending. Basically, what we have in our statute is something that allows for an exemption that doesn't exist.

This leaves the fact that regardless of how the licensee was paid the statute and administrative rules under that statute are very clear that you have to do business in the name in which you are licensed, and in the name in which your PLM is authorized to do business. The rule in question is R162-205-1(a) Unprofessional Conduct, and the statute is R61-2c-201(9) on conducting business in the name on your license, or the name in which the PLM is doing business.

Comments from the guests and the Commission agree the statute should be returned to its original wording. The way it is now is very confusing because it is referring to an exemption that doesn't exist. Chair Alley said we need to get this information out to the industry because there are some being paid under the non-existent guidelines. There should be an article in the upcoming newsletter to explain there are no exemptions to being paid under PC or LLC. The Commission felt there should be a "clean-up" bill to remove the language that is confusing from the rule and statute. Director Miller said he will defer to the industry for their recommendations.

A motion was made to authorize Director Miller to create a bill to remove the wording to clean up this issue. The motion carried unanimously.

Enforcement Report – Dee Johnson

Mr. Johnson said the Continuing Education audits show 3 new cases opened for investigation, 6 cases closed, leaving the number of audit investigation files at 5. There was 1 Stipulation signed by the Commission.

Mr. Johnson reported in December the Division received 24 written complaints, opened 2 new cases, screened 2 complaints (no cases opened), closed 7 cases, leaving the number of open cases at 110. There were 2 Stipulations signed by the Commission, and 1 Cease & Desist order issued.

The current statistics show there has been an increase in the number of PLM's and ALM's in the month of December. The total number of these two licensees is now 1,340.

Vice Chair Bowyer asked about the ages of the complaints and how long they have been in the system. Mr. Johnson said the average time frame to close a case is approximately 12 months. The complaints received are not always reviewed in a first-in/first-out method. The complaints are strictly reviewed as to the seriousness of the facts in the complaint.

Education/Licensing Report – Mark Fagergren

Mr. Fagergren reported the applications and renewals being received by the Division are now current, or within one to two days. He brought up the matter of how it is mandatory for a licensee to have a copy of their license in their hands before they can start working. If the licensee uses the on-line renewal process, they can have a temporary license printed immediately upon completion of the renewal. It will take the Division one to two days to get an original license out to the licensee, but in the meantime, the licensee is able to continue working.

Mr. Fagergren said there have been new questions added this month to the mortgage exam. He also commented that the applicants and schools need to make sure they are using the most current version of the Mortgage Candidate Handbook. Some schools have purchased large quantities of these handbooks and they are not using the most current versions. The applicants need to have these current copies of the handbooks because there is new material on the outline for the exam.

Promissor is now using electronic fingerprinting in Utah. Instead of receiving two fingerprint cards, the applicant will now receive a document from Promissor showing the fingerprints have been scanned into the system and have been

sent to BCI for their records. The turnaround time on getting back the reports from BCI will be approximately 7 days, as compared to the several months turnaround time.

Mr. Fagergren said the Division now has a full-time employee to answer the incoming phone calls to the Division. This will help with getting incoming calls answered quickly and any calls that can't be answered quickly can then be transferred to the appropriate staff.

INFORMAL HEARINGS – CLOSED TO PUBLIC

10:04 Joshua Deal, Application for License
Jeremy Evans, Attorney
Mr. Evans has given the Commission a Motion for Continuance.
The Commission has allowed Mr. Deal to reschedule his hearing for next month's meeting.

10:40 Kathy Hopkins, Application for License
D. Bruce Oliver, Attorney
Mark Hopkins, Husband
Julie Bliss, Witness
Cherlynn Twitchell, Witness
Sherry Price, Witness
Chontae Thompson, Witness
Director Miller has recused himself from this hearing.
Charles Smalley will be the Acting Director.

Review of Stipulation

Brian Goodman

An Executive Session was held from 6:43 p.m. to 7:17 p.m.

EXECUTIVE SESSION

Results of Executive Session

Joshua Deal – Allowed to reschedule.

Kathy Hopkins – The PLM application has been denied. Ms. Hopkins will not be allowed to reapply for 2 years.

Results of Stipulation

Brian Goodman - Approved

A motion was passed to adjourn at 7:20 p.m.