

UTAH RESIDENTIAL MORTGAGE REGULATORY COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 A.M.

February 7, 2007

MINUTES

STAFF MEMBERS PRESENT

Derek B. Miller, Division Director

Dee Johnson, Enforcement Director

Mark Fagergren, Education and Licensing Director

Dan Lau, Assistant Attorney General

Shelley Wismer, Assistant Attorney General

Renda Christensen, Board Secretary

Jody Colvin, Licensing Supervisor

Kristen Fry, Division Staff

COMMISSION MEMBERS PRESENT

Pierre Alley, Chair

Alan Bowyer, Vice Chair

Julie McCan, Commissioner

Maralee Jensen, Alternate Commissioner

GUESTS

Eva Rees

Dave Luna

John Norman

Tarl Booth

Michael Welker

Lance Miller

Einar Schow

Patty Esch

Chad Ahearn

Cory Martin

Paul Naylor

Howard Tolley

The meeting on February 7, 2007 of the Utah Residential Mortgage Regulatory Commission began at 9:05 a.m. with Chair Alley conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes - The minutes from the January 3, 2007 meeting were approved as written.

Commissioner Dailey will not be in present because he is attending the NAR meeting in Florida.

DIVISION REPORTS

Director's Report – Derek B. Miller

Director Miller gave the Commission an update on the legislative session. There are two main bills the Division is focused on one of which is the bill that we have been moving with the help of the mortgage, real estate, and appraisal industries. The SB199 has passed out of the senate committee last week and is on the calendar to go before the entire body of the senate sometime this week. It was favorably received and Director Miller said he appreciated the industry members being there and speaking in support of the bill. The bill does two main things one of which is to allow the Division to investigate and prosecute unlicensed activity, and the second is allow the Commission to issue fines that are equal in amount of the violation of the fraud perpetrated on the victim.

HB25 sponsored by Representative Paul Ray has the support of the Division in concept because it was recently amended by Representative Ray to have the funding from the Mortgage Education and Recovery Fund. Director Miller said it took everyone by surprise. Representative Ray is amenable to changing this in the bill. His position is that although having the prosecutor to help fight criminally mortgage fraud the Division doesn't believe the cost should be born solely by the mortgage industry, in particular mortgage brokers who are the only ones that pay into the fund. The Division believes the funding should come from the general fund, and if not, it should be spread out equally between all the industries. Director Miller asked for feedback from the Commission and guests on this topic. Chair Alley and Vice Chair Bowyer both said they do not feel the funding should come from solely from the mortgage industry.

Director Miller asked Commissioner Jensen to speak to the Commission on behalf the Real Estate Commission on this next subject. She was on the Commission when the rule was created which would set up as a qualification for licensure that the person could not have been convicted of a felony within five years of application, and could not have been convicted of a misdemeanor that involved misrepresentation, fraud, theft, or dishonesty within three years of their application. The renewal applications include the stricter felony clause, and it would be the Commission's decision on any misdemeanors regarding fraud, misrepresentation, etc. It is a good rule for real estate. The biggest advantage the Division saw from implementing the rule on the real estate side was that the Division just didn't see any of those applications anymore. Director Miller said the educators were doing a good job of getting the word out in real estate schools telling students that if they don't meet the qualifications of the rule they might would not qualify.

An interesting thing happened and Ms. Christensen shared it with Director Miller. People were calling in and saying they had found out they would not qualify for a real estate license because of their criminal background, but what about mortgage? They would then send in their applications for mortgage officers because they would not be automatically denied. Director Miller welcomed any comments from the Commission or the public. Commissioner Jensen said she was in favor of the rule. The public comments were also in favor of the rule. Ms. Wismer said the rule now will go before the Executive Director of the Department of Commerce for review and to be signed off, and then the rule would go into the public comment period. A motion was made to support the draft as written and ask it be expedited. The motion was passed unanimously.

Ms. Wismer handed out a change to Rule 162-205-2, Residential Mortgage Standards of Practice. This would require disclosure of who the mortgage officer is on an application and that a copy of the disclosure and a copy of the mortgage officer's license be provided to the underwriter. After discussion from the Commission and guests, it was decided to table the rule until next month.

Ms. Wismer distributed a draft of R162-204-1, Residential Mortgage Record Keeping Requirements. It would require a copy of the licensee's license to be kept in the file and it would clarify who is responsible for keeping the records of an entity that has gone out of business, not the former PLM but the entity itself. The caveat of Section 205.2.2 being finalized needs to be mentioned. A motion was made the draft be accepted as written with the caveat added. The motion passed.

Enforcement Report – Dee Johnson

Mr. Johnson reported in the month of January the Division received 32 written complaints, screened 4 complaints (no cases opened), opened 4 cases, closed 3 cases, leaving the number of open case files at 111.

The continuing education audit report shows there were 2 new cases opened, 3 cases closed, leaving the number of open audit files at 4.

Mr. Johnson said up until now the figures for these reports have been kept by hand and the data was collected from several different sources by the Enforcement secretary. The Division has met with the computer information providers and Director Miller has instructed them to create a number of reports that we have been working on. It may take another 30-60 days but the Division will be able to create reports on anything else needed.

Education/Licensing Report – Mark Fagergren

Mr. Fagergren said the newsletter has gone out in the mail. There are a number of articles specifically addressed to the mortgage industry. There will be an article in the next newsletter on CE banking discussing the ramifications to providers who take on the responsibility to teach a CE class yet fail to take the initiative to bank those credits that will be coming out next month. The Real Estate side has a 10-day rule in place now so the article will cover both industries. Commissioner Bowyer said he has had some problems getting the courses banked, and Director Miller suggested that an instruction page be mailed out to all CE providers. Other articles in the newsletter are about unlicensed activity, an entity needing both a PLM and an entity license, an article on the CSBS recommendations, etc.

Mr. Fagergren reported licensing is current on both new and PLM applications. Renewal applications are also zero backdate. It may take a couple of days because of state mail, but they are processed on a current basis.

The exam results show a range in the statistics from last month showing the highest pass rate for a school was 88.5% with the bottom score at 47.8%. The highest pass rate is a live instructor provider, the next two are distance education providers, the next 5 or 6 are live classes, and the last two are distance education providers.

The new electronic fingerprint process is now in place. One important component is that the Division is now receiving information on convictions on a person before the person has even submitted the application. The turnaround time is very fast and Mr. Fagergren stressed to the schools to emphasize the requirement for disclosure.

The 2007 Caravan is in the process of finalizing the details. It will cover St. George on April 10, Richfield on April 11, Moab on April 12, Park City on April 17, Brigham City on April 23 and Provo on April 24. This will be for all three professions.

INFORMAL HEARINGS – CLOSED TO PUBLIC

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| 10:00 | Merrill Blake Edwards – Renewal Application
Mr. Edwards did not show for his hearing. |
| 10:16 | Michael D. Nelson – Application for License
Paige Nelson, Wife |

11:13 Joshua Deal – Application for License
Jeremy Evans, Attorney
Heather Deal, Wife

Review of Stipulation

Rosa Robertson

PUBLIC SESSION

Training by Attorney General on Administrative/Hearing Procedures – Blaine Ferguson, Assistant Attorney General

Because of an Appraisal Board meeting scheduled at 1:30, the Executive Session was held from 1:35 p.m. to 2:00 p.m. in Director Miller’s office.

EXECUTIVE SESSION

Results of Executive Session

Merrill Blake Edwards – Denied.

Michael D. Nelson – Denied and must wait one year before applying again.

Joshua Deal – Denied and must wait one year before applying again.

Results of Stipulation

Rosa Robertson - Approved

A motion was passed to adjourn at 2:04 p.m.