

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 A.M.

February 6, 2008

TELEPHONIC MEETING

MINUTES

STAFF MEMBERS PRESENT

Mark B. Steinagel, Division Director

Mark Fagergren, Education and Licensing Director

Dee Johnson, Enforcement Director

Renda Christensen, Board Secretary

Laurie Noda, Assistant Attorney General

Marv Everett, Investigator

Elizabeth Beazley, Investigator

COMMISSION MEMBERS PRESENT

Rodney "Butch" Dailey, Chair

Maralee Jensen, Vice Chair

Lance Miller, Commissioner

Heather MacKenzie, Commissioner

Julie McCan, Commissioner

GUESTS

Michael Welker

The meeting on February 6, 2008 of the Utah Residential Mortgage Regulatory Commission began at 9:02 a.m. with Chair Dailey conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes - The minutes from the January 2, 2008 were approved as written.

DIVISION REPORTS

Director's Report – Mark B. Steinagel

Director Steinagel gave an update on the proposed rules that are in process. As a brief update, R162-210.4.20.1 deals with the disclosures education providers would be required to make to prospective students, and R162-207.6 has proposed modifications on renewing a license if a person has a finding by

any government agency of fraud that relates to activity specific to their mortgage license, they would be precluded from renewing their license. The other proposed rule covers advertising of continuing education courses that was discussed last month. Director Steinagel read the draft into these Minutes: The advertisement or marketing of continuing education courses where Division continuing education course credit(s) will be offered/provided to licensed attendees shall adhere to the following requirements: (a) All advertising, promotion or marketing of course(s) will include a current continuing education course certification approval from the Division. (b) All advertisement, promotion or marketing of course(s) will include the current course continuing education certification number. (c) Advertising, promoting or marketing a continuing education course with language which indicates that Division continuing education course approval is "pending" or otherwise forthcoming is prohibited.

Chair Dailey stated in the last meeting there were concerns by providers on delaying approval when providers were bringing in speakers from out of state. Mr. Fagergren said some providers may have been concerned, but reminded the Commission that not too long ago the Division decreased the turnaround time the Division used to take from 60 days down to 30 days. The consumers have been supportive of this rule and have questioned why someone would be marketing a course before they have it approved. Director Steinagel said the Division will move forward in getting the rule in proper form and the Commission will have another chance to vote and get the rule officially in the rulemaking process.

Director Steinagel gave the Commission an update on the legislative session. He said there is quite a bit of activity regarding mortgage fraud and he has been called up to several meetings with legislators saying they want to make mortgage fraud a priority for this session. There are two bills that Derek Miller mentioned last month which have some minor changes. The first one is the Division's bill which is primarily clean-up, and Director Steinagel highlighted the provisions of the bill that effect the mortgage industry. The Commission will now be permitted to establish education requirements from 20 hours up to 90 hours of pre-licensing education. The UAMB and the UMLA have both expressed support as long as it is left to the Commission for rulemaking so it may not jump up to 90 hours immediately. The bill will also increase the penalties for violating Chapter 2C, of the mortgage act, up to a Class A Misdemeanor for a first violation and a 3rd Degree Felony for a second or subsequent violation. This is the same wording as is currently in place on the real estate side. This would be a criminal process and would not have anything to do with what the Division does.

The third change is regarding the eliminating of the principal lending manager "grandfathering" provision. This would eliminate the second method so everyone would have to take the 40 hours of education and both parts of the exam.

The proposed mortgage fraud bill has changed a little. Representative Paul Ray's bill creates additional positions within the Attorney General's Office to investigate and prosecute mortgage fraud. It creates definitions of what is considered mortgage fraud and doesn't just target licensees, but also covers anyone that perpetrates those acts. Provisions have been included in the real estate, appraisal, and mortgage industries covering the violations of the act. There is an inclusion that states any person convicted of violations by a prosecutor in court will automatically have their license revoked.

The bill focuses on the fraud portions, and a key provision is that if a person commits the offense of mortgage fraud and does any of the following with the intent to defraud; or knowingly makes any deliberate misstatement, misrepresentation, or material omission during the mortgage lending process that is relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process; or knowingly uses or facilitates the use of any deliberate misstatement, misrepresentation, or material omission during the mortgage lending process that is relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process, files or causes to be filed with any county recorder in Utah any document that the person knows contains a deliberate misstatement, misrepresentation, or material omission and receives any proceeds or compensation in connection with those acts.

The penalties are defined based on how much money the perpetrator obtains through the transaction. It is a Class A misdemeanor if the value exceeds \$300 but is less than \$1000, a 3rd Degree felony when the value is over \$1000 but less than \$5000, and a 2nd Degree felony when the value is or exceeds \$5000. The primary benefactor of the bill is the Attorney General's Office. The four new full-time employees provided under this bill would be housed in the Attorney General's office, but it is recognized the Division still has a key role since we are the frontline agency to receive licensee complaints against those acting as licensees. The Governor requested these changes in his budget rather than in a bill. We support the concept of prosecuting mortgage fraud and increasing the ability of the Attorney General and others to prosecute.

Chair Dailey asked what the status of the bill was, and Director Steinagel said yesterday the bill passed second reading in the Senate, and it is twenty-first on

the Senate third reading calendar. It has a fiscal note of nearly one-half a million dollars to pay for the four new positions. The Division has a budget request that will be voted on tomorrow in the Appropriations Sub Committee for an additional mortgage investigator.

Chair Dailey asked if the Division now has the ability to fine someone up to the amount of gain they have obtained off transactions that involve fraud. He questioned if these civil fines would be in addition to if they are prosecuted criminally. Director Steinagel said they are two separate processes. The criminal process doesn't depend on the administrative process for anything. The Division has to be careful when we share information. Mr. Johnson said that just because there is a criminal investigation it wouldn't hinder the Division's administrative investigation.

Enforcement Report – Dee Johnson

Mr. Johnson reported in the month of January the Division received 31 complaints, screened 25 complaints, opened 9 cases, closed 11 cases, leaving 60 open cases. He said there will be an increase in the number of cases being opened shortly.

Mr. Johnson said the Division's mortgage investigators, Marv Everett and Elizabeth Beazley, went out yesterday and visited an office to collect documents to see if there was any unlicensed activity taking place. Upon checking the files, they ran across some major problems which will result in two open cases.

There are three stipulations being presented today. Each respondent is given the opportunity to come before the Commission to answer any questions, but each has chosen not to appear.

Review of Proposed Stipulations:

Max Clark

Adam Martinson

Jodi Miller

Mr. Johnson commented that he and Mr. Fagergren are impressed with Director Steinagel and how quickly he has jumped in and addressed issues. With his background on the legislative side and writing bills, it has been interesting and invaluable. Both Mr. Johnson and Mr. Fagergren said the Commission will be pleased with our new Director.

Education/Licensing Report – Mark Fagergren

Mr. Fagergren said he would like to briefly mention again the rule that has already been discussed. The Division felt it was appropriate that the bill should

be voted on in a hearing where the public is more readily available. It was not the Division's intent to have a vote today, but we did want to bring the information to the Commission today.

The statistics show between December and January the number of mortgage loan officers has dropped by 37 and the number of PLM's dropped by 36, although approximately half of those became ALM's whose number has increased by 15. Mortgage companies dropped from the previous month and branches increased by 5. There was a decrease in 83 inactive individuals between December and January, and a decrease of 127 inactive entities. Mr. Fagergren wanted to comment on the expired/reinstated individuals. In December the number was 1704. Both he and Ms. Christensen believe the numbers being pulled from the system were not accurate on the expired licensees. Ms. Christensen pulled the print-out of actual expireds done last month to come up with the hard number of actual licensees. The change is more in the way the numbers were being reported and not in a huge change in the marketplace. Commissioner Jensen commented the actual numbers are the 8,579 in active licensees and the 1,776 in active companies and schools, or 10,355.

A motion was made to go into Executive Session from 9:52 a.m. to 10:00 a.m.

CLOSED TO PUBLIC

There was a motion passed to allow Director Steinagel to sign the Stipulations on behalf of the Commission.

Results of Executive Session

Stipulations:

Max Clark - Approved

Adam Martinson - Approved

Jodi Miller - Approved

A motion was passed to adjourn at 10:02 a.m.