

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building

Room 2B

9:00 a.m.

June 3, 2009

TELEPHONIC MEETING

MINUTES

STAFF MEMBERS PRESENT

Mark B. Steinagel, Division Director

Mark Fagergren, Education and Licensing Director

Dee Johnson, Enforcement Director

Traci Gundersen, Assistant Attorney General

Dave Mecham, Chief Investigator

Renda Christensen, Board Secretary

Amanda Orme, Mortgage Education Coordinator

Marv Everett, Investigator

Elizabeth Beezley, Investigator

Jody Colvin, Division Staff

COMMISSION MEMBERS PRESENT

Rodney "Butch" Dailey, Chair

Heather MacKenzie, Vice Chair

Lance Miller, Commissioner

Brigg Lewis, Commissioner

GUESTS

J.R. Thompson

Irene Kennedy

Ron Duyker

Kevin Swenson

David Luna

Tyler Camp

Don Downing

Paul Naylor

David Bornemeier

The meeting on June 3, 2009 of the Utah Residential Mortgage Regulatory Commission began at 9:04 a.m. with Chair Dailey conducting.

Commissioner Jensen was not able to attend the meeting today.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes - The minutes from the May 6, 2009 were approved as written.

DIVISION REPORTS

Director's Report – Mark B. Steinagel

Director Steinagel said the rules on abandoned records will be made effective June 1, 2009. The Division can now take action not only for failure to keep records within the time specified by the rules and statutes, but we now take action if somebody fails to dispose of the records in a way that protects personal identifying information.

The education rules adopted a few weeks ago have been submitted and within the next week we will be able to set an effective date for them. There will need to be more discussion as the Commission decides what they would like those hours to look like.

Mr. Fagergren will discuss SAFE in his report in more detail. Director Steinagel wanted to report a few items. The Division participated in a phone meeting with NMLS&R yesterday, and is making sure we are in compliance with everything. Director Steinagel is going through our matrix that compares the state law passed this year against the model law, and the Division will be submitting it before the end of the week. He will go before the legislature on June 17, 2009 and report on the implementation of this bill, and the Division will give them an update at that time.

Director Steinagel and Mr. Fagergren made a list of all the things they have been able to achieve in participating in the SAFE working group. The Division was the one that got them to exempt existing licensees from the pre-license education requirements. No other states were particularly distressed about this issue, which was a surprise to the Division. We were also the first state to raise the issue of receiving credit for passage of the state portion of the exam. The Division wanted the CSBS to waive the exam for existing licensees, fought for that issue for a long time and lost, but we were able to succeed in getting a grandfathering provision for the state portion of the exam. We will be able to certify for those who passed with at least a 75% test score. Another item the Division succeeded on dealt with the first time a licensee came onto NMLS&R. Initially licensees had to comply with their CE requirements. The NMLS&R conceded, so that licensees are allowed to use the CE they are currently taking to count for their renewal at the end of 2010.

Currently 42 of the states are going to the use of a bond. Because of the Division establishing a recovery fund, licensees are not going to be required to get a bond.

Mr. Fagergren said after last month's meeting regarding fees, a large number of people called from Utah to complain, and it seemed to have a great impact. The Division received several phone calls from NMLS&R about the issue, and we were able to provide them with the list of fees we are currently using. We don't know how much will change, but Mr. Fagergren thanked those who had called and got the word out about the issue.

Director Steinagel announced he is leaving the Division and will now be the Director of the Division of Occupational and Professional Licensing. He thanked the Commission and said he has the utmost respect for those in this industry. Director Steinagel said the Division is admired by other divisions and agencies for the relationship we have between the Division and the industries we regulate. Chair Dailey asked Director Steinagel when his new job would take affect, and the answer was tomorrow. The Commission is sorry to see Director Steinagel leave, thanked him for his hard work, and wished him well on his new position. Chair Dailey asked who would be replacing Director Steinagel. Mr. Johnson will be the new Director of the Division

Enforcement Report – Dee Johnson

Mr. Johnson said there are several in attendance from the enforcement side of the Division. There are two stipulations being presented today. Each respondent was given the opportunity to come before the Commission to answer any questions, but each has chosen not to appear.

Review of Proposed Stipulations:

Jeremy Hunt-Loveless
Steve Honeywell

Mr. Johnson said statistics for the month of May show the Division received 13 complaints; screened 25 complaints; opened 2 cases; closed 5 cases; leaving 51 open cases. Mr. Johnson said the severity of the cases that are still open, and many of those the Division has been receiving are serious in nature. He expects in the future the numbers on the Enforcement report will be increasing.

It might take a little longer because of the nature of the cases for those who do not wish to stipulate with the Division.

Education/Licensing Report – Mark Fagergren

Mr. Fagergren thanked those in attendance for their response to last months meeting regarding the fees.

Mr. Fagergren announced this will be the last meeting for two of the key employees for the Division: Director Steinagel, and Amanda Orme. He was thinking back on the changes that have taken place over the last five years since Ms. Orme has been with the Division. There was one person doing data entry for mortgage officers when she started. Ms. Orme has enhanced the Division's database in the accuracy of the information. The Division used to require bonds, as many of you may remember, and now the Division has established a Recovery Fund to replace those bonds. There are no longer any control persons for each company. Ms. Orme and Ms. Colvin are primary contributors for the principal lending managers in approving all the applications. Ms. Orme has also been active in all the educational and exam changes that have taken place. The Division wishes her well in her life with her young family. Ms. Orme thanked everyone and said good-bye.

Mr. Fagergren said there are 11 mortgage schools, and last month there were 80 individuals who took the mortgage loan officers exam. From those 11 schools, and the breakdown is that one school had 26 of those students, down to two schools who had one student each. The pass rate ranged from 100% at four schools, to zero percent (of course, that was one student at one of the schools). It is a hard time for the economy at present, and he admires the staying power of the schools.

Mr. Fagergren said there was a transition meeting phone call yesterday with some of the key people at CSBS. The Division spoke of our goal on going onto the system at the first of next year for new licensees, and the following year for existing licensees. CSBS explained if this is going to happen the existing licensees will all have to go into this system and create their own account between January through July 2010. They won't have to pay their fees yet, but they will have to set up their accounts on the NMLS&R. This isn't something they can do on a spur of the moment on December 31st. For the larger entities that are licensed in multiple states, they will have to make a decision on what their unified address will be.

The Division's staff will have approximately three months to review about 10,000 submissions to determine, from Utah's perspective, if these are acceptable to go on and prepare to license with SAFE beginning in November of 2010. The people will have to be licensed no later than February 28, 2011. So between November 1st and to the end of February, 2011, every existing licensee will have to set up their account. The latest they can restore their record would be the end of February, 2011, otherwise, they have to start over entering new information because their account has been terminated.

This was the first phone meeting where Utah had a chance to go through what our game plan was, and there will be another call today at 11:30 a.m., to go through the education and exams. The Division has already been in touch with the IT people, accounting, and legal staff so we can gear up to move onto the new system. There are a few challenges addressed in yesterday's meeting. SAFE mandates eight hours of CE. We are waiting for this Commission to decide as to whether or not they agree with this number, or if the number should be increased. Director Steinagel said it will still be the 14 hours due at the renewal cycle at the end of 2010. The Division will need to know if the Commission decides to change the hours by 2011. Another issue is SAFE requiring FBI report on fingerprints, and Utah requires both the FBI and a BCI report on fingerprints. Another large issue is the education. SAFE requires 20 hours and the Commission has approved 60 hours, with 40 hours being state specific.

Mr. Fagergren reminded everyone to continue to check www.stateregulatoryregistry.org. There are several items that should be reviewed; one is the two-page course provider application; another is the tentative list of what is and is not appropriate for course topics.

COMMISSION AND INDUSTRY ISSUES

Chair Dailey started the discussion on R61-2c-301(1)(i), "Prohibited Conduct." Mr. Johnson said the rule states what a mortgage licensee may not do as far as professional functions that apply under the rule (i.e., appraiser, escrow agent, real estate agent, general contractor, and title insurance agent) in the same transaction. The Division's application of this rule has always been individual specific.

Chair Dailey gave an example: A real estate agent has a dual license as a mortgage licensee, and this agent is on a team and acting as a realtor. This same realtor has several people under him on his team. The team members get leads which are provided by the marketing this team leader/mortgage licensee does, and they procure a buyer. The team takes that buyer to the team leader/mortgage licensee, and this team leader does the mortgage for the buyer, but also receives a portion of the compensation on the real estate side of that transaction. He asked what the Division's interpretation of that situation would be.

Director Steinagel asked if the real estate transaction and the mortgage loan origination are done under the same entity. The answer is no, but Chair Dailey asked more specifically if the individual can be linked to the buyer's agent so

the buyer's agent goes out and gets a buyer; directs that buyer to his team leader so he can do the mortgage side; and, then receives a portion of the compensation through the real estate team. It doesn't seem to be an arms length transaction.

Mr. Johnson said if the real estate licensee who was the team leader, and also did the mortgage, and is then going to collect a referral fee from one of his team members (I'm assuming he would keep his name off of the REPC because that would become too obvious), our interpretation of that situation would be that he has violated the statute.

Director Steinagel said this situation was brought up on the real estate side last year. The example they gave was about spouses with one on the real estate side and the other on the mortgage side. Director Steinagel said the situation would have to be handled by changing the wording in the statute. Commissioner Miller said as soon as the person receives compensation on both sides, it would be a violation of the mortgage statute.

Chair Dailey suggested the Division address the issue in an upcoming newsletter. Director Steinagel suggested we have a follow-up discussion next month and get an answer to the questions being asked.

The Commission has decided to postpone elections until the new Commissioner has been approved.

A motion was made to go into Executive Session from 10:00 a.m. to 10:03 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:

Jeremy Hunt-Loveless - Approved

Steve Honeywell - Approved

A motion was passed to adjourn at 10:04 a.m.