

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building
Room 2B
9:00 a.m.
April 7, 2010
TELEPHONIC MEETING

MINUTES

STAFF MEMBERS PRESENT

Deanna Sabey, Division Director
Mark Fagergren, Education and Licensing Director
Traci Gundersen, Assistant Attorney General
Dave Mecham, Chief Investigator
Renda Christensen, Board Secretary
Jan Buchi, Mortgage Education Coordinator
Jody Colvin, Mortgage Licensing Specialist
Pam Radzinski, Assistant Board Secretary

COMMISSION MEMBERS PRESENT

Lance Miller, Chair
Maralee Jensen, Vice Chair
Rodney "Butch" Dailey, Commissioner
Holly Christensen, Commissioner

GUESTS

J.R. Thompson	Chris Markosian
Irene Kennedy	Pamela Metcalf
Ron Duyker	David Moffitt
David Luna	Matthew Caldwell

The meeting on April 7, 2010 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Chair Miller conducting.

Mr. Mecham is covering the Enforcement Report today because Mr. Johnson is out on a medical leave.

Commissioner Lewis was absent from the meeting today.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes - The minutes from the March 3, 2010 meeting were

approved as written.

DIVISION REPORTS

Director's Report – Deanna Sabey

Director Sabey informed the Commission that the Division bill, HB-275, was signed by the Governor on March 30, 2010. The bill will be made effective on May 11, 2010. Also, HB-53 on loan modifications has also passed, and should be made effective on May 11, 2010 as well.

On March 24, 2010 the U.S. Department of Labor issued an administrator's interpretation. This interpretation is significant because it states that mortgage loan officers can't be exempted under the administrative exemption of the Department of Labor laws. Any mortgage loan officer who is now considered exempt under the federal wage and hour act will only be able to look at being exempt under the outside sales exemption. What this will require is that mortgage lenders can now go and look at their employees, review what they do, and see if a reclassification needs to occur. If they do not reclassify there can be significant penalties.

Director Sabey reported that the federal "HAMP" program (Home Affordable Modification Program) is HUD's opportunity to try and get some loans modified to be able to help homeowners who are underwater with their mortgages. The February report has come out, and HUD claimed they have granted permanent modification to 170,000 homeowners, and have an additional 92,000 permanent modifications that are pending. Just recently, they have changed their program slightly. There will be a mortgagee letter coming out soon on this issue that has come from HUD's website. It will give some mortgage lenders another tool to be able to refinance people who are currently not FHA insured mortgagees, so they can refinance under FHA. There are some qualification issues. The total mortgage debt can not be greater than 115% of the current value of the home, and there has to be at least a 10% mandatory principal write-down. This does afford borrowers who are in trouble on the mortgages to be able to have another facility to be able to get some relief by refinancing through HUD.

Because Ms. Jonsson is out today, Director Sabey will give an update on the rules. There are new mortgage rules which can be made effective as of today. There have been no public comments. There were a few non-substantive errors that were fixed. A motion was made to make the new rules, including the non-substantive changes, effective and the motion was passed unanimously.

The second item is an item for consideration for the Commission. There are a

number of licensees who are facing the possibility of being unable to license because they have received automatic revocations in the past. The new statute which will be effective on May 11, 2010 will allow these revocations to be converted to suspensions. The procedure will involve petitioning the Division for a change from automatic revocation to suspension. The statute that will become effective on May 11, 2010 states that the Commission may delegate to the Division the authority to make a decision on whether to convert a revocation to a suspension. If the Commission is comfortable with delegating this decision to the Division, the Division can take action on those particular issues. There is an appeal process where if the person does not agree with the Division's decision, the person can then appeal it to the Commission. These standards are set forth in a letter sent to the Commissioners for their review. A motion was made to allow the Division to delegate the authority to convert revocations in certain instances as outlined in the letter referenced. The motion was approved unanimously.

Enforcement Report – Dave Mecham

Mr. Mecham reported in March the Division received 24 complaints; screened 10 complaints; opened 10 cases; closed 5 cases; leaving the total number of open mortgage cases at 46.

There is one stipulation being presented today. The respondent was given the opportunity to come before the Commission to answer any questions, but each has chosen not to appear.

Review of Proposed Stipulation:

Patrick Perko

Education/Licensing Report – Mark Fagergren

Mr. Fagergren said that Ms. Buchi did an excellent job covering for him last month in explaining where we are in the transition process. There are five people in the Division who are daily working on this process, and the Division will be fine to complete the process on time. As of last month's minutes, there have been 1,741 requests for transition. Year-to-date we have 3,091 that have submitted for transition. Out of the 3,091 the staff has completed 2,395 transition requests. Last month the number was approximately 19% of the licensees, and as of the end of March, the number has grown to 34%. We are now through the first three months of the five-month transition process. The concern now has shifted from the staff's abilities to process transition requests to the licensees meeting the May 31, 2010 deadline. The current newsletter was very candid and frank as to what happens, and our hope and encouragement to industry organizations is to underscore the importance of licensees submitting their NMLS transition information.

Also, in the minutes last month, Ms. Buchi has pointed out a problem that we have had with the Division ever since the first of the year. We had a concern with how NMLS treated DBAs compared to how our state handles DBAs. In Utah, we license an entity and a DBA as separate, free-standing units in our licensing system, each with a separate PLM. From a legal perspective, our system was somewhat out of synch. In NMLS our licensing system was out synch with the rest of the country. No other state regulated DBAs the same as Utah.

The licensing team met with Director Sabey and Mr. Johnson to explain the situation. The licensing system is out of step with the other states across the country and needed to be changed. The key component with the rules is the problem with DBAs and branches. The Division (including the licensing department) are proposing a change in our existing licensing structure. Previously, we have had an entity with a PLM, and a DBA with a PLM. Entities can have branches, and DBAs can have branches. The proposal now is that an entity can have up to six DBAs (according to NMLS). The entity can have DBAs and an entity can also have branches of the entity, or branches of the DBAs. If they are separate locations from the main office, then under NMLS they would be a branch. A DBA would become a branch of an entity. The biggest change would be a MLO who is licensed with an entity who also has DBAs and branches can do business under the name of the entity, or under the name of any of the DBAs of that entity, or branches of that entity. This causes some concern for Enforcement.

A MLO can still only be affiliated with one entity at a time. There will be an ALM at each branch who is responsible for each branch. Ultimately, the PLM will be responsible for the entire entity.

There was a discussion of the proposed rules. It was decided to remove the wording "due diligence" from the wording in 2(a) and 2(b) to tighten the rule. A motion was made to approve the rules with the modification discussed. The motion passed unanimously, and will now begin the public comment period.

The exam results show the national pass rate for the national component of the test was 68%. Utah's prior national portion pass rate was 75%. If these numbers hold true, the national test is about 7% pass rate more difficult for people. Nationally, in May, the states typically on their NMLS test were doing about 75% for passing. From the phone calls Mr. Fagergren has received, he finds that these numbers don't hold true. We have had a number of calls from providers saying their students are struggling, but we don't have any way to

track the outcome yet.

The test has merged two regulatory agencies on this exam, which we were required to do. DRE and DFI met in November on a weekly basis for approximately six weeks, and each exam question was reviewed. The test includes new information from each agency. Sometimes our statutes and rules are different from DFI's.

COMMISSION AND INDUSTRY ISSUES

Mr. Markosian addressed the Commission regarding the suspension of his license in the Order issued by the Commission on January 11, 2010. The Order granted the license, suspended it for a minimum of 60 days and thereafter until his back child support is brought current and all criminal fines have been paid. Once these have been addressed, the license will then be placed on a probation status.

Mr. Markosian stated that his criminal fines have been paid, but his child support is still in arrears. The appeal period had lapsed.

Ms. Gundersen stated that if Mr. Markosian is asking for agency action, he must do that with a formal motion and it would have to be in writing so the Division can consider his request. Technically, the Commission does not have the authority to hear an appeal after the deadline has passed. Ms. Gundersen has informed Mr. Markosian to seek legal counsel to see if he can file an order for reconsideration.

A motion was made to go into Executive Session from 10:10 a.m. to 10:20 a.m.

CLOSED TO PUBLIC

There was a motion passed to allow Director Sabey to sign the Stipulation on behalf of the Commission.

Results of Executive Session

Stipulation:

Patrick Perko - Rejected

In the matter of Chris Markosian the Commission recommends that Mr. Markosian hire outside counsel.

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