

UTAH RESIDENTIAL MORTGAGE REGULATORY COMMISSION MEETING

Heber M. Wells Building
Room 210
9:00 AM
May 5, 2010

MINUTES

STAFF MEMBERS PRESENT

Deanna Sabey, Division Director
Dee Johnson, Enforcement Director
Mark Fagergren, Director of Licensing and Education
Jennie Jonsson, Hearing Officer
Traci Gundersen, Assistant Attorney General
Renda Christensen, Board Secretary
Jan Buchi, Mortgage Education Coordinator
Jody Colvin, Mortgage License Specialist
Vee Kinnavongsa, License Specialist
Marv Everett, Investigator
Pam Radzinski, Assistant Board Secretary

COMMISSION MEMBERS PRESENT

Lance Miller, Chair
Maralee Jensen, Vice Chair
Brigg Lewis, Commissioner
Holly Christensen, Commissioner

GUESTS

John Norman	Mike Dixon
Chad Ahearn	Jason Karp
J R Thompson	David Moffitt
Ron Duyker	

The meeting on May 5, 2010 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Chair Miller conducting.

Commissioner Dailey will be excused from the meeting today.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes - The Minutes from the April 7, 2010 meeting were

approved as written.

DIVISION REPORTS

Director's Report – Deanna Sabey

Director Sabey wanted to bring to the Commission's attention the proposed rule by the FTC on mortgage relief providers. This rule was proposed in March, and the comment period was over at the end of March. We will need to compare this potential federal rule with what was passed in HB-53, which will go into effect on May 11, 2010. This is about licensing loan modification providers and foreclosure rescue providers. If this federal rule is passed, then it takes precedent over HB-53 and could be a potential issue. The definition of dwelling includes condominiums, mobile homes, and trailers. The prohibited representations are quite similar overall. Director Sabey wrote an article in the last newsletter covering the new statutory prohibition for foreclosure rescue services and loan modifications. There are many similarities between those prohibited practices and the prohibited representations in the proposed FTC rule.

FTC also has required disclosures that go beyond the state statute. The proposed rule prohibits advanced fees. The provider has to provide the range of services before he can be compensated. This is significantly different from our statute. There are also record keeping and compliance requirements, specific compliance requirements for monitoring people who are trying to sell the loan modification product ("sales presentations"). The attorney exemption in the proposed rule is significantly different from the Division's statute. The proposed rule is quite vague and ambiguous, and so far there have been 67 comments, many of which were from the American Bar Association, law centers, etc. Our statute states that attorneys can conduct loan modifications only in the ordinary course of business as attorneys.

This proposed rule also includes short sales, which prompted a comment from the National Association of Realtors. This means that every sales agent involved in short sales under this rule would be characterized as providing mortgage assistance relief and be captured under this proposed rule.

Enforcement Report – Dee Johnson

The Commission welcomed back Mr. Johnson from his medical leave. He thanked the Commission for all the kind letters and phone calls.

Mr. Johnson said the Division is about to the half-way mark in the Caravan. It has been well received and we have enjoyed traveling to each of the

places, and on to St. George, Richfield, and Moab.

Mr. Johnson reported in the month of April the Division received 51 complaints; screened 18 complaints; opened 12 cases; closed 4 cases; leaving a balance of 54 mortgage cases. The number of complaints in the last quarter has really increased, and Mr. Johnson said we are finding that licensees are turning in other licensees.

There are four stipulations being presented today for the Commission to review. All of the individuals were offered a chance to appear today, but all have chosen not to appear.

Review of Stipulations

CC Brown Law Offices
Community Lending Group, Inc.
Patrick Steven Perko
Miguel A. Cabrera

Education/Licensing Report – Mark Fagergren

Mr. Fagergren said the numbers on the statistics from January to April are incorrect because they don't take into consideration all of the licensees who have transitioned. We just discovered this glitch, and the IT people will work to resolve the problem so we can correct the numbers for next month.

Mr. Fagergren said that since our last meeting, the Division has lists posted on our website to show licensees if they are eligible to certify. The lists have thousands of names who are eligible to qualify for certification of both the exam and the education.

	<u>Qualify for Certification</u>	<u>Transition & Qualification</u>	<u>*Qualified, But Not Transitioned</u>
Education	6,980	2,056	4,924
Exam	7,180	1,781	5,399

	<u>Transitioned On To NMLS</u>
Individuals	2,056
Companies	<u>495</u>
	2,549 = 28%

*This window to transition is still open until May 31, 2010.

Commissioner Christensen asked Mr. Fagergren what the time frame was for

those who are applying for transition. Mr. Fagergren reminded everyone that the transition deadline is May 31, 2010. The next step is the certification process which opened up on May 1, 2010 and continues through June 30, 2010. He highly recommends for everyone to look at the chart in the last newsletter to see all the procedures and deadlines.

It takes NMLS approximately 2 to 2½ weeks to process each batch of approved transitions the Division submits. NMLS will then send an e-mail to the licensee. Currently, there is a backlog of approximately 900 transition requests.

Mr. Fagergren emphasized that every licensee in Utah has to re-take the NMLS national test. They are starting to see backlogs already. If you fail the test, NMLS will now allow you to re-register immediately to take the test, but you will still have to wait four weeks to retake the test.

Mr. Fagergren said that sometime between October 2010 until the spring of 2011, you will be required to authorize the Division to pull a copy of your credit report.

Industry and Commission Issues – Jennie Jonsson

Ms. Jonsson asked the Commission if it met their approval to move the discussion of Fiduciary Duty and Trust Accounts to the next meeting to allow more time today for discussion on the loan modification rule. The request was approved, and this topic will be on the June agenda.

Ms. Jonsson said the statute is going to change to clearly bring loan modification into our realm and to require licensure for people who offer loan modifications. This bill will go into effect on May 11, 2010. There is a provision in this bill that Chair Miller brought up that could be potentially problematic. It requires a mortgage licensee to refund a fee collected for a loan modification if the property is foreclosed within one year. People in the industry feel a refund should not be required if the licensee succeeds in obtaining modified loan terms and the borrower is foreclosed for defaulting on the new terms. The Commission asked Ms. Jonsson to draft some rule language for consideration next month.

The Commission approved the rule amendments presented and made a motion for Ms. Jonsson to publish them for public comment. These amendments incorporate the term “branch lending manager” into the rules and require DBAs to be registered with the Division, but not licensed.

Currently the rules require mortgage prelicensing instructors to pass the prelicensing exam. This is problematic under MNLS. The Commission will discuss next month whether to continue with this requirement.

A motion was made and unanimously passed to close the public portion of the meeting at 10:14 a.m. for the upcoming hearing.

CLOSED TO PUBLIC

LICENSE/RENEWAL HEARINGS:

10:20 Acceptance Capital Mortgage Corp. – Application for Renewal
This is a telephonic hearing.
Michelle Hazen, Branch Services Coordinator
Allen Ringer, President of Parent Company

OPEN TO PUBLIC

The Commissioner Training scheduled for today is being rescheduled for a later date.

OPEN TO PUBLIC

The public portion of the meeting continued at 11:56 a.m.

Another statutory provision states that a revocation may not be converted to a suspension if the revocation was based on fraud, misrepresentation, or deceit. The Division is confused as to whether this provision should apply to a misdemeanor offense such as bouncing a check. The Commission recommended that it apply only to felony offenses and requested that Ms. Jonsson draft rule language for consideration next month.

An Executive Session was held from 12:28 p.m. to 1:10 p.m.

CLOSED TO PUBLIC

Deliberation on Hearing
Review and Results on Stipulations
CC Brown Law Offices - Approved
Community Lending Group, Inc. - Approved
Patrick Steven Perko - Approved
Miguel A. Cabrera – Approved

A motion was passed unanimously to adjourn at 1:10 p.m.