

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building
Room 210
8:00 A.M.
June 2, 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
Marv Everett, Investigator
Elizabeth Beezley, Investigator

COMMISSION MEMBERS PRESENT

Lance Miller, Chair
Rodney "Butch" Dailey, Commissioner
Brigg Lewis, Commissioner
Holly Christensen, Commissioner

GUESTS

Mike Dixon	Irene Kennedy
Jason Karp	Andrew Shirley
J R Thompson	David Moffitt
Ron Duyker	Kevin Swenson
Jill Howe	Rebecca Horsley
Lei Pakalani	Jeremy Plouzak

The meeting on June 2, 2010 of the Utah Residential Mortgage Regulatory Commission began at 8:00 a.m. with Chair Miller conducting.

Commissioner Jensen will be excused from the meeting today.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes - The Minutes from the May 5, 2010 meeting were found to have one correction. On page 4, last paragraph, change the word from "branches" to "DBAs". With this correction the minutes were approved.

DIVISION REPORTS

Director's Report – Deanna Sabey

Director Sabey said the Senate has passed the Restoring American Financial Stability Act of 2010. This bill is the companion bill to the Wall Street Reform Act that was passed by Congress last year. This is significant to the mortgage industry because the SAFE Act would then be under the jurisdiction of a newly-created agency, the Consumer Financial Protection Agency. At this point, these two bills will go to a special committee for a reconciliation, and once the reconciliation is worked out, they will need to re-vote.

Director Sabey shared an article with the Commission, "Dropouts Rise in Government Loan Modification Program." There is an initial period where borrowers make an initial payment on time, and this is where a number of people have dropped out during this trial phase. This program isn't quite as successful as the Obama administration would have hoped. Hopefully, there will be other programs and services provided that might resolve some of the problems that have occurred with regard to this program.

The Division is changing how they are holding hearings. All hearings will be open hearings, and the only time the meeting will be closed will be to go into Executive Session to discuss the competency, qualifications, and/or moral character of the individual.

Enforcement Report – Dee Johnson

Mr. Johnson said in May the Division received 18 complaints; screened 13 complaints; opened 9 cases; closed 13 cases; leaving the total number of mortgage cases at 50.

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

Review of Stipulations

Superior Lending Associates, LC

Micah W. Pearson

Sergio F. Sosa

Education/Licensing Report – Mark Fagergren

Mr. Fagergren said there are five mortgage licensing experts on his staff. Four of these individuals have been doing nothing but answering phone calls. In terms of work that has yet to be done (transition filings, processing, reviewing, etc.), this work has temporarily been placed "on hold". Our staff are averaging 400+ phone calls each per week, so that is over 100 phone calls in a day. Each call is detailed and requires a lengthy explanation. Hopefully, by next week at this time, each of our mortgage staff can be put back doing their work on backlogs.

Last month there were 28% of licensees (2,549) that had transitioned. There was a backlog of 874 filings. From January to April there have been 4,075 filings. In the month of May there were 4,740 filings. A total of all the filings that have been received is 8,815. Out of that number 5,065 were actually transitioned by the deadline, or 56%. There will be 44% of licensees whose licenses will expire on December 31, 2010.

The certification process is to certify those licensees who have taken the Utah exam prior to February 22, 2010. We are certifying people who completed the Utah State exam prior to that date. There is a list on the Division's website of those who qualify. There was an e-mail sent to those people to let them know they have to pay \$5.00 to certify their test scores.

The certification of education had a few problems, and NMLS pulled it off-line last week. Hopefully, Monday morning on June 7, 2010, we can start the certification of education. The Division will be sending a list on Thursday to NMLS. The certification deadline is June 30, 2010 for both the exam and education.

The Division completed the Caravan, and will hold one more meeting on June 17, 2010 in Salt Lake City. This is a first, and the 300-seat meeting place was immediately sold out.

There will be an exam meeting with Pearson Vue next week on June 9-10, 2010. The PLM exam questions will be confirmed and substantiated. The committee consists of six people for those two days: Mr. Fagergren and Ms. Buchi from the Division; Adam Kessler, Academy Mortgage; Gary Nielsen, Republic Mortgage; Julie Borst, UMLA; Michael Garrett, Centennial Bank; and Jay Nelson, Sterling Capital.

Industry and Commission Issues – Jennie Jonsson

Fiduciary Duty and Trust Accounts.

The Division received a request from a real estate licensee to look into creating a rule that would prohibit a mortgage officer from providing a short sale approval demand letter from a lender to the underwriter for the borrower's loan for new money as part of their underwriting approval process. The complaint was that these letters were being used to require the mortgage broker to buy back the loans after they are sold into the secondary market. The Division looked at this carefully and has decided that the underwriter can require whatever the underwriter wants to require, and if they want to see that demand letter to make sure it matches the HUD, they should be able to do that. The Division has reviewed this carefully and has decided that no action is required.

The Division is looking in the real estate rules to make sure that there is something in place that prohibits a real estate agent from using that letter after the sale has failed to guide the next buyer in as to making a low-ball offer. In mortgage, we don't really see the need to address this issue. When we looked at this issue, it took us into the topics of fiduciary duty and trust accounts. As to fiduciary duty where that is not imposed by statute, we don't feel that we have the authority to impose anything like that in rule in the mortgage industry. We feel trust accounts might be something that we would want to look farther down the road depending on how things sit in the next legislative session in terms of refundable fees, set types of fees. Mortgage brokers might be required to refund.

Language for Loan Modifications

The statute says that if licensees collect an upfront fee for a loan modification, they must first enter into a contract with the client as to what services are going to be performed. If the loan that is to be subject to the modification is foreclosed within one year from the date on which that contract is entered into, the upfront fee has to be refunded. The Division looked at this and felt it should be refunded if the mortgage officer is unable to obtain trial terms. However, once trial terms are obtained, if the borrower defaults on those trial terms or thereafter defaults once the loan is officially modified, the fee should not have to be refunded.

The Division looked into creating a rule on this; unfortunately, given the language of the statute, we can not do that rule at this time. We will have to look at changing the statute in the next legislative session. The statute that went into effect on May 11, 2010, says that if the property is foreclosed the borrower may not be required to forfeit the fee for any reason within one year of the contract date.

The Division would propose language that would specify what type of fee is refunded and what would be deemed performance, so that the licensee would get to keep the fees if the licensee performs on the contract.

A suggestion from the public was to have more education as to foreclosures, so people out there are educated on the glossary definitions. Perhaps creating a class for continuing education on this topic would help educate everyone on what their options are, or how to help people. Mr. Fagergren said the new search engine on the Division's website will pull up any class on foreclosure rescue currently being taught.

Conversion Language for Revocations

Ms. Jonsson handed out draft language for R162-2c-402 Disciplinary Actions. This is the draft language that the Division is presenting to the Commission for their suggestions. Basically, this rule says that the Commission may not convert a revocation to a suspension if the revocation was based on a felony conviction for fraud, misrepresentation, deceit or dishonesty, breach of trust, or money laundering. The Commission may consider converting a revocation that was based on other criminal history, including a plea in abeyance, diversion agreement, or similar disposition to a felony charge; and a misdemeanor offense, regardless of the nature of the charge or disposition of the case. A motion was made to start this rule in the rulemaking process. A vote showed: Chair Miller, yes; Commissioner Christensen, yes; Commissioner Lewis, yes; and Commissioner Dailey, yes. The motion was concurred by Director Sabey. Motion carried.

Draft language to R162-2c-203(5)(c) Instructor Certification, was discussed. The change to language is in (iv) to read "having passed, within the six-month period preceding the date of application, the principal lending manager license examination." This will apply to people who are seeking instructor certification. A motion was made to start this rule in the rulemaking process. A vote showed: Chair Miller, yes; Commissioner Christensen, yes; Commissioner Lewis, yes; and Commissioner Dailey, yes. The motion was concurred by Director Sabey. Motion carried.

In reading the Open Meetings law, the Division found a provision that says we have to have a rule in place if we are going to hold an electronic meeting. R162-2c-401(8) Electronic Meetings, was presented for the Commission's review. This proposed rule states the commission may convene an electronic meeting to conduct business that is unrelated to a

hearing. A division staff member shall serve as the presiding officer at any electronic meeting. The meeting shall be held at a location where the public may attend, and a separate electronic connection shall be available for each member of the commission, but electronic connections may not be provided for or used by members of the public. A motion was made to start this rule in the rulemaking process. A vote showed: Chair Miller, yes; Commissioner Christensen, yes; Commissioner Lewis, yes; and Commissioner Dailey, yes. The motion was concurred by Director Sabey. Motion carried.

Ms. Jonsson said last month we discussed the possibility of adding into our rules a requirement that licensees include their unique identifier in any advertising. After the meeting, Ms. Jonsson called Pearson Vue and had them look up the questions. She wanted to emphasize that the test as written is accurate as to the rules as written. The Division rules do not require licensees to use their unique identifier in advertising.

The Division has recently received a couple of letters from a licensee, Dale Asay. In 2009 he entered into a Stipulation where he agreed to pay a fine of \$10,000; have his ALM license revoked and a loan originators license issued on probation in its place; and have his instructor license revoked for a period of two years. Mr. Asay made two requests. The first request is to have the Commission reduce his fine, and secondly, he has requested a conversion of the revocation to a suspension. Since this request falls outside the delegation of authority to the Division, we are presenting it to the Commission for their review and decision.

The question of licenses for contract processors came up for discussion. Chair Miller said the SAFE Act states that contractor processors must be licensed, but the Utah statute does not. Director Sabey said in HUD's proposed rule this issue is addressed more specifically. The earliest that this can be required in Utah would be in the next legislative session, because our statute will have to be changed.

Chair Miller asked Mr. Fagergren if Utah will be required to submit call reports. Mr. Fagergren said there are two issues; credit reports by next fall or spring; and call reports. There is still discussion on call reports and to what extent they will be required. The answer is "yes" but any extensive details after that, we don't know what NMLS will require. The issue of credit reports was that there is no minimum standard, so the Division will pull the report only if we are required to do so by statute, but at this point in time, the Division does not have the legal authority or resources to perform this function.

A motion was made to close the meeting for a brief break. A vote showed: Chair Miller, yes; Commissioner Christensen, yes; Commissioner Lewis, yes; and Commissioner Dailey, yes. Motion carried. The meeting was closed from 9:12 .am. to 9:24 a.m.

The Commission discussed Mr. Asay's requests to reduce his fine and convert his revocation to a suspension. Motion to grant the conversion of the ALM license revocation to a suspension with the stipulation that if Mr. Asay ever does want an ALM or PLM license, he must appear before the Commission. A vote showed: Chair Miller, yes; Commissioner Christensen, yes; Commissioner Lewis, yes; and Commissioner Dailey, yes. Motion carried.

The second issue of reducing his fine was brought up for discussion. The fine is \$10,000 and is still outstanding. A motion was made to deny Mr. Asay's request to reduce his fine. A vote showed: Chair Miller, yes; Commissioner Christensen, yes; Commissioner Lewis, yes; and Commissioner Dailey, yes. Motion carried.

Chair Miller said there is someone present to speak on behalf of the stipulation presented today on Superior Lending Associates, LC. Mr. Jason Karp is the current PLM of the company. At the time of the stipulation, he was Chief Compliance Officer.

OPEN TO PUBLIC

LICENSE/RENEWAL HEARINGS:

10:00 Kathy Hopkins – Disciplinary Hearing
Ms. Hopkins did not appear or contact the Division

Motion to go into Executive Session: A vote showed: Chair Miller, yes; Commissioner Christensen, yes; Commissioner Lewis, yes; and Commissioner Dailey, yes. Motion carried. Executive Session was held from 10:11 a.m. to 10:20 a.m.

CLOSED TO PUBLIC

Deliberation on Hearing
Review of Stipulations

OPEN TO PUBLIC

Results on Stipulations

Superior Lending Associates, LC - Approved

Micah W. Pearson - Approved

Sergio F. Sosa - Approved

Motion was made to adjourn the meeting: A vote showed: Chair Miller, yes; Commissioner Christensen, yes; Commissioner Lewis, yes; and Commissioner Dailey, yes. The meeting was adjourned at 10:20 a.m.