

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 A.M.

September 1, 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

Marv Everett, Investigator

Stuart Engerman, Investigator

Renda Christensen, Board Secretary

Jan Buchi, Mortgage Education Coordinator

Jody Colvin, Mortgage License Specialist

Jill Childs, Assistant Board Secretary

COMMISSION MEMBERS PRESENT

Lance Miller, Chair

Maralee Jensen, Vice Chair

Rodney "Butch" Dailey, Commissioner

Holly Christensen, Commissioner

GUESTS

Jeremy Plouzak

Irene Kennedy

Ron Duyker

Utah Highway Patrol Officer Sig Mayer

The meeting on September 1, 2010 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Chair Miller conducting.

Commissioner Lewis was absent for the meeting today.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made to approve the Minutes from the

August 4, 2010 meeting. Vote: Chair Miller, yes; Vice Chair Jensen, abstained; Commissioner Dailey, yes; Commissioner Christensen, yes. The motion carries.

DIVISION REPORTS

Director's Report – Deanna Sabey

Director Sabey reported that on August 26, 2010, the Mortgage Bankers Association published their delinquency and foreclosure report. It was interesting because it had a mix of both good and bad news. The good news is that nationally foreclosure starts are down, as well as the inventory of homes that are actually in foreclosure. Also, the number of people who have gone to 90-day delinquency is starting to go down. The bad news is 30-day delinquencies are on the rise. These are tied to first-time claims for unemployment insurance and how we are struggling in our country with unemployment.

A report came out last month from RealtyTrac that shows that we are still not quite on track as far as foreclosures. In July, Utah had more home foreclosures than it had in June by 8.6%. The highest rate of foreclosures took place in Utah County. Utah has fallen out of the top five for foreclosures, but we are still in the top ten. This is the time of year when banks are starting to look at their inventory and dumping these foreclosures. The reporting time is coming up where they have to report to their regulators, and they will have to start pushing hard to get rid of some of the inventory.

Director Sabey wrote a report to the Utah Business and Labor Interim Committee. This is an annual report the Division has to give to the Legislature. She passed out a copy to the Commission for their review. The Division was very busy on SAFE and business-related issues last year.

Enforcement Report – Dee Johnson

In last month's meeting, Mr. Johnson told the Commission that the Division was going to lose an investigator, Elizabeth Beazley, who had moved out of the country to be closer to her family. The Division has a new mortgage investigator, Stuart Engerman, who was previously with Consumer Protection as an investigator.

Mr. Johnson reported in August the Division received 44 complaints; screened 20 complaints; opened 26 cases; closed 8 cases; leaving the total number of mortgage case at 56. We are anticipating that the next two months will be similar in numbers.

The backlog of cases will show in the number of cases being screened and the opening of complaints. We are also receiving additional complaints from other states that will be added on our complaint logs. There are approximately 60+ complaints that will have to be addressed sometime between now and the end of the year, or as soon as people try to renew. The information from these came from people transitioning on to NMLS and they are submitting information to the database that we have not seen before.

Approximately 30-40% of the complaints being seen are about someone saying they weren't treated fairly by their mortgage loan officer; they were quoted an interest rate and when they got to closing it was different, etc. About 27% of our cases (overall in the industry) are serious and involve some kind of fraud, misrepresentation, or deceit. It is not unusual for us to receive one complaint and then have it turn into two or more cases later on.

There is one stipulation today: Terry Wayne Brown. Mr. Brown was given the opportunity to appear today, and has chosen not to appear.

Education/Licensing Report – Mark Fagergren

Mr. Fagergren said that when the Division receives notice of a person's license being revoked in another state, we don't automatically revoke their license in Utah. The information is gathered and turned over to Enforcement for review, and if they believe there is evidence for a revocation, we would then schedule the person to appear before the Commission.

Our staff is working on 67 cases that are pending review. This means there has been information disclosed in their filing, and we are seeking information from them.

Last month approximately 80% of our licensees had certified their Utah exam or 20-hour pre-license education. It has now been increased to 83% for education and 84% for testing. This means there are over 15% of our people who have transitioned their mortgage licenses, but are bypassing the opportunity to waive education and testing.

In February of this year, with regard to the NMLS Utah state MLO exam was introduced. The Division received strong feedback that this test was difficult, and people were struggling to pass it. Until 250 Utah applicants had taken the test, psychometricians could not statistically analyze the exam. In July we achieved the 250 number. The national NMLS pass rate is 65%. For

people taking the test the first time, the passing rate is higher (71%). Repeat test takers have a lower passing rate (44%). Our Utah people are performing 8% higher than the national average in terms of how they are performing on the national test.

The national pass rate for the state portion of the test has a national average of 78%. Utah's pass rate is 46%. Only 143 people as of the end of July had passed this test. A test should be performing at somewhere between 60-80% pass rate according to the CSBS. CSBS has recalibrated the Utah test on August 26, 2010, and resulting pass rates for the Utah NMLS exam should significantly increase.

Of the individuals who have transitioned (5,148), every one of them has to take the national test by the end of the year. We have been announcing to our licensees to test early, because we are concerned about accessibility at the test centers. Mr. Fagergren has been receiving calls from appraisers stating that they have tried to schedule for their tests, and the earliest date they can get is a November 20th, or a December 5th date. This was as of last week.

The number of people who have transitioned and completed the NMLS national test is 40%. There are still approximately 3,000 people who still need to take this test. Each testing center has ten stations, give the tests twice a day, and there are three testing centers.

The issue of credit reports has come up. The NMLS will flag certain issues, and Ms. Jonsson has a proposed rule that will give us some direction on what to review.

The Instructor Development Workshop is on October 18-19, 2010 at the Park City Marriott.

Industry and Commission Issues – Jennie Jonsson

Ms. Jonsson gave the Commission an update on the Rules 203 and 402 that have been out for public comment. The public comment period ended on August 16, 2010 and it can now be made effective on August 23, 2010, pending an anticipatory vote from the Commission.

Last month the Commission voted to go forward with an amendment to allow an MLO who obtains an ALM or PLM license during the 2010 calendar year to renew that license without any additional CE. It has been approved by Administration and is being published for public comment today. The

comment period will end on October 1, 2010.

Ms. Jonsson presented proposed rule R162-2c-202(3) regarding financial responsibility for the Commission to review. The Division will need to have something in place to show NMLS as our system to evaluate financial responsibility and dealing with credit reports. Director Sabey said that a credit report is a method of a state being able to determine financial responsibility. A state can decide whatever criteria they want to use to determine financial responsibility. First, NMLS already has the functionality to make the credit reports available to the states. It seems to be a reasonable tool for states to use as opposed to trying to gather additional information from other sources. The second thing is that NMLS has the ability to flag certain information that the state has determined is the criteria they want to look at in considering financial responsibility. The proposed rule has some additional criteria for consideration. The reports will be pulled from TransUnion, and the cost to the licensee will be \$15.00.

A motion was made to approve R162-2c-202(3). Vote: Chair Miller, No; Vice Chair Jensen, No; Commissioner Dailey, Yes; Commissioner Christensen, Yes. The motion fails.

Chair Miller closed the meeting for a brief recess before the hearing from 10:05 to 10:10 a.m.

OPEN TO PUBLIC

LICENSE/RENEWAL HEARINGS:

10:10 Tracy Mark Hopkins – Disciplinary Hearing
Witness for Division: Marv Everett

There was a motion to close the meeting to discuss the character, professional competence, or physical and mental health of an individual. Vote: Chair Miller, Yes; Vice Chair Jensen, Yes; Commissioner Dailey, Yes; Commissioner Christensen, Yes. The motion passes. Executive Session was held from 12:25 p.m. to 1:23 p.m.

CLOSED TO PUBLIC

Review of Stipulation
Deliberation on Hearing

OPEN TO PUBLIC

A motion was made to open the meeting: Vote: Chair Miller, Yes; Vice Chair Jensen, Yes; Commissioner Dailey, Yes; Commissioner Christensen, Yes. Director Sabey, concurs. The motion passes.

In the matter of the stipulation for Terry Wayne Brown, the Commission has approved the stipulation.

In the matter of the proposed rule, R162-2c-202(3), because of the impact and lack of notice to industry, additional discussion was held. It was suggested to remove the monetary limits on (3)(i) and (3)(v), and changing the wording to read "...access information available through the NMLS of an applicant for initial licensure..". A motion was made to accept the proposed rule with these changes. : Vote: Chair Miller, Yes; Vice Chair Jensen, Yes; Commissioner Dailey, Yes; Commissioner Christensen, Yes. Director Sabey, concurs. The motion passes.

A motion was made to adjourn the meeting: Vote: Chair Miller, Yes; Vice Chair Jensen, Yes; Commissioner Dailey, Yes; Commissioner Christensen, Yes. Director Sabey, concurs. The motion carries. The meeting was adjourned at 1:38 p.m.