

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building
Room 210
9:00 A.M.
November 3, 2010

MINUTES

STAFF MEMBERS PRESENT

Deanna Sabey, Division Director
Dee Johnson, Enforcement Director
Mark Fagergren, Director of Licensing and Education
Jennie Jonsson, Hearing Officer
Judi Jensen, Assistant Attorney General
Renda Christensen, Board Secretary
Jan Buchi, Mortgage Education Coordinator
Jody Colvin, Mortgage License Specialist
Tiffeni Wall, Real Estate Education Coordinator
Marv Everett, Investigator
Stuart Engerman, Investigator
Jill Childs, Assistant Board Secretary

COMMISSION MEMBERS PRESENT

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

GUESTS

Irene Kennedy
Ron Duyker
Jeremy Plouzek
Chad Ahearn

The meeting on November 3, 2010 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Chair Miller conducting.

Commissioner Dailey was excused from the meeting today.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made to approve the Minutes for September 1, 2010. Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Lewis, yes; Commissioner Christensen, yes. Motion passes.

There was no quorum present at today's meeting to decide on the Minutes for October 6, 2010. These minutes will reviewed again next month.

DIVISION REPORTS

Director's Report – Deanna Sabey

Director Sabey said the Attorney General's office has joined the multi-state mortgage foreclosure investigation, which is an investigation reviewing mortgage services in Utah and around the country for improper handling of mortgage foreclosure proceedings. Utah felt it was important to sign on and help consumers.

There is a procedure the Division follows when we receive complaints from anyone on foreclosure-related issues. The Division is able to go to the Utah Department of Financial Institutions website to determine if the company is a state-chartered entity or a federally-chartered entity. If it is a state-chartered entity, we can refer the consumer to the Utah Department of Financial Institutions. If it a federally-chartered entity, we have specific contact information at the OCC, Office of Thrift Supervision, and the National Credit Union Association.

In October Director Sabey was interviewed by various television and radio stations, as well as print media. They asked what the Division of Real Estate was doing about the mortgage fraud crisis. She addressed loan modifications, because that is the arena the Division can do something about. The Division of Real Estate has created a loan modification "do's and don'ts" list that is available on our website, and it is targeted specifically to consumers. On our new website launched last month, there is a consumer resource access tab at the top of the home page.

Over 30% of our mortgage complaints are on loan modifications. The Division of Real Estate is proposing in its upcoming bill a prohibition against up-front fees. The FTC, on the federal level, is receiving hundreds of complaints, and they have made a proposed rule that prohibits up-front fees. Most of the states surrounding Utah either prohibit fees or they have some kind of escrow where if somebody does collect up-front fees, they have to have a specific agreement, and escrow those funds so they are protected. Unscrupulous businesses are coming to Utah to take advantage

of our consumers because we do not prohibit or have any real limitations on up-front fees.

The Division issued a Cease and Desist order against a law firm, Wright and Morrison, which had been acting as a loan modification company without being licensed. Wright and Morrison fought the Cease and Desist order, and the issue went to hearing before our Administrative Law Judge, Steven Eklund. Wright and Morrison claimed they were entitled to the attorney exemption under our state statute and, therefore, they did not need to be licensed as a loan modification company. Judge Eklund's decision was that Wright and Morrison did not meet its burden of proving that it was entitled to the exemption, so it did not apply and they needed to be licensed. The Cease and Desist order was made permanent. The Division also has a number of other Cease and Desist orders that it will be preparing in the near future against other law firms that are conducting business similarly.

Enforcement Report – Dee Johnson

Mr. Johnson said there are mortgage companies capable of doing loan modifications, who are finding themselves in financial trouble. They are using advanced fee schemes to keep themselves going. The companies are not providing the service but are continuing to take the advanced fees, knowing that they are not going to provide the service. In some cases they will owe refunds, but not be able to give the refunds because they don't have the money, but they continue to take the advanced fees. Consumers are really desperate, and some of these companies are just preying on those who are most vulnerable.

Mr. Johnson said in the month of October the Division received 48 complaints; screened 3 complaints; opened 17 cases; closed 4 cases; leaving the total number of mortgage cases at 94.

There is one stipulation today:

Drew J. Klinell

The respondent was offered the opportunity to appear, but has declined.

Mr. Johnson said he wanted to commend Mr. Fagergren's staff on the recent Instructor Development Workshop. Ms. Wall, Ms. Buchi, and staff, did an excellent job in getting everything organized.

Education/Licensing Report – Mark Fagergren

Mr. Fagergren also thanked Ms. Wall and Ms. Buchi for their outstanding work for the IDW.

Mr. Fagergren mentioned several articles in the current Division newsletter. The RELMS system will be withdrawn from mortgage licensees at the end of the year. The only system that will be used will be the NMLS to review continuing education balances, for example. There is also updated information in the newsletter on those who have not transitioned their licenses yet.

Renewals started on Monday, November 1, 2010 and licensees have until December 31, 2010 to complete the process. The Division is encouraging people to order their credit reports during this time even though it is not mandatory to renew the license, but is mandatory to have completed by March 31, 2011. The requirements to renew are passing the national test; state exam (either take it or have it certified); and background checks. These three things must be completed before you can submit for renewal on NMLS. Our staff will also be checking to make sure that the required 14-hours of continuing education have been completed.

So far there have been no problems with scheduling at the testing centers. With those who have a tendency to procrastinate, there will be problems the longer they wait. The numbers show that we are now at 51% of Utah mortgage licensees that have passed the required NMLS national exam.

People who do not complete their renewals by the end of the year will now be in a licensing reinstatement period. If they have not renewed because of failure to complete their continuing education, the NMLS now has a procedure as to what education these people are required to take. A person has to complete the CE they are required to complete for renewal during the year of renewal going forward.

For next year, if you are renewing your license in 2011, then you have to take your CE courses in 2011. Since some states have already been on the SAFE Act, if there are people who have failed to renew, and they haven't completed their CE, there will be a problem. They will be taking their CE in the following year. NMLS has created a category of late CE, or reinstatement CE, that is only valid for a period of January to February 28th. Only during those two months can an expired person take one of the reinstatement courses.

We have spoken to the NMLS about this issue, and just yesterday received approval to extend the expiration dates (January through February 28th) on all Division-approved mortgage continuing education courses. Since these

courses will now be extended, the providers will now be able to bank the CE hours through February 28, 2011. There will be no charge to the providers for this temporary extension. Mr. Fagergren cautioned that those who take this course between January and February 28th will not be able to use it for their renewal in 2011. These hours will only be used retroactively to get their CE up to date for 2010.

The new PLM exam will be given out starting on November 8, 2010. The main change is the removal of several things in the general component the exam committee felt were redundant with the MLO test. There is more focus on Utah law on this exam.

Industry and Commission Issues – Jennie Jonsson

Ms. Jonsson said there has been a rule out for public comment, R162-2c-202. It was published on October 15, 2010, and the public comment period ends on November 15, 2010. The rule may be made effective on November 22, 2010. As of today, we have had no public comments. An anticipatory motion was made to approve the rule on the condition that no public comments were received. Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Lewis, yes; Commissioner Christensen, yes. Director Sabey concurred, and the motion passed.

There has been some work on a couple of other rules. One is about approving a business name that may be confusing or misleading, and another is an update to our qualifications for licensure that will say that you are not going to have to retake your national pre-licensing education if you let your license expire and have to come back and apply as a new applicant. These rules are being reviewed by Administration and they have not yet been published for public comment.

Chair Miller closed the meeting from 9:48 a.m. to 10:00 a.m. for a brief recess before the hearing.

OPEN TO PUBLIC

LICENSE/RENEWAL HEARINGS:

10:00 Daron LeBlanc – Application for License
 Andy Iorg, Friend

11:27 Donald McClure – Application for License
 Lisa Baumgertner, Friend

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 Lewis, yes; Commissioner Christensen, yes. With concurrence from Director Sabey, the motion passes. Executive Session was held from 12:43 p.m. until 1:08 p.m.

CLOSED TO PUBLIC

Review of Stipulation
Deliberation on Hearings

OPEN TO PUBLIC

A motion was made to open the meeting: Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Lewis, yes; Commissioner Christensen, yes. With concurrence from Director Sabey, motion passes.

Results of Stipulations

Drew J. Klinell - Approved

A motion was made to adjourn the meeting: Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Lewis, yes; Commissioner Christensen, yes. With concurrence from Director Sabey, motion passes. The meeting was adjourned at 1:09 p.m.