

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building

Room 2B

9:00 a.m.

December 1, 2010

TELEPHONIC MEETING

MINUTES

STAFF MEMBERS PRESENT

Deanna Sabey, Division Director

Mark Fagergren, Education and Licensing Director

Jennie Jonsson, Hearing Officer

Renda Christensen, Board Secretary

Jan Buchi, Mortgage Education Coordinator

Jody Colvin, Division Staff

Marv Everett, Investigator

Jill Childs, Assistant Board Secretary

COMMISSION MEMBERS PRESENT

Lance Miller, Chair

Maralee Jensen, Vice Chair

Rodney "Butch" Dailey, Commissioner

Holly Christensen, Commissioner

Brigg Lewis, Commissioner

GUESTS

Irene Kennedy

Ron Duyker

David Luna

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

Mr. Johnson is out sick and will be excused from the meeting today.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made to approve the Minutes from the October 6, 2010 meeting as written. Vote: Chair Miller, yes; Commissioner Dailey, yes; Commissioner Lewis, yes. The motion carries. Commissioner Christensen and Commissioner Jensen abstained from voting because they

were not at the October month meeting.

A motion was made to approve the Minutes from the November 3, 2010 meeting as written. Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Christensen, yes. The motion carries. Commissioner Dailey and Commissioner Lewis abstained from voting because they were not at the November meeting.

DIVISION REPORTS

Director's Report – Deanna Sabey

Director Sabey began by discussing a statute that regulates any person who conducts business or maintains the personal information of a consumer. The Protection of Personal Information Act can be found at Utah Code Annotated §13-44-101. This law requires the business owner (i.e., mortgage company, originators, etc.) to implement and maintain procedures to protect against the unlawful use or disclosure of personal information. When the business no longer needs personal information, it must destroy the records. This can be done by shredding, erasing, or making the information otherwise indecipherable. Personal information under the statute is defined as the person's first name or initial and last name, coupled with any of the following: social security number; driver's license or state identification number; financial account number, credit card, or debit card number. In light of review of this law the Division has decided to give a best practices list for our professionals. They should know what personal information they have; keep only what they need; properly dispose of the information they do not need; secure the information they keep; and have a written plan that they follow for handling personal information. This particular statute came to light when we were dealing with a situation for a loan modification company that had gone out of business and left the records. The Division was faced with what to do about that, and enforcement went over and recovered 79 boxes of records. This issue will be part of a legal corner we are beginning in the Division's newsletter that will be coming out at the end of December.

Chair Miller brought up the "notification upon breach" requirement that the Division might want to address as well. A company has an affirmative duty to disclose any breach to all of their clients.

The FTC has issued its final rule with regard to Mortgage Assistance Relief Services ("MARS"). The rule applies to professionals who are doing MARS services including loan modifications, foreclosure rescue, and short sales. This final rule was issued on November 19, 2010. This rule bars any advanced fees from being charged up-front for any mortgage assistance relief services. It also

states that payments may be made to the service provider only after that provider obtains a final written offer for the modification that is signed both by the lender or servicer and accepted by the consumer. The new rule also requires very specific disclosures that the loan modification company needs to provide: ads or solicitations must state that the company is not affiliated with the Government; customers must be notified of the possibility that the lender might not agree to modify their loans; customers must be told they have the right to reject the offer without paying a charge or penalty; all fees must be disclosed; consumers must be told that they do not have to do business with the company. There is also a 24-month record keeping requirement under this rule. The company must also have a specific procedure in regards to consumer complaints.

The Division bill is being sponsored by Representative Gage Froerer, and we are proposing to completely ban up-front fees for loan modification companies. On a state level we have seen significant abuses by loan modification companies that are taking up-front fees (\$3,000-\$5,000 per consumer) and not providing services. Up-front fees are also banned in 20 other states, and we feel that if we continue to allow up-front fees we will just become a nest for unscrupulous loan modification companies to come to Utah and prey on our consumers. The Division is also proposing to add the word "safeguard" to our record keeping requirements for mortgage companies, mortgage professionals, and all of our licensees. Later, by rule, we can sort through what kind of safeguards we will need.

Director Sabey announced that the Division of Real Estate will be getting a new Assistant Attorney General, Xanna Hardman, who will be starting on December 6, 2010.

Enforcement Report – Marv Everett

Mr. Everett is covering today for Mr. Johnson who is out sick.

In the month of November the Division received 40 complaints; screened 25 complaints; opened 12 cases; closed 1 case; leaving the balance of mortgage cases at 105.

There are no stipulations to review today.

Licensing and Education Report – Mark Fagergren

Mr. Fagergren said we are now coming close to finishing the process that began in July 2008 with the passing of the SAFE Act.

A quick overview of numbers as of today, are as follows:

Completed 20 hrs of NMLS education or certified: 88% of transitioned licensees

Completed the NMLS national exam: 61% of transitioned licensees

Passed the Utah state NMLS test or certified: 87% of transitioned licensees

Completed criminal background checks: 71% of transitioned licensees

Completed credit report authorizations: 44%, but they have until 3/31/11 to complete.

There are 18 days, counting today, that our office will be open before the renewal deadline hits. As a reminder of how the numbers have changed, at the first of the year we began with 9,027 individuals and entities licensed. By the end of May, only 5,148 of those licensed people had transitioned their licenses. As of today, 1,017 licensees have requested license renewal.

For each person who requests renewal, the staff must verify that the social security verification form is complete; that the person has completed 14 hours of continuing education; and that the person has passed the Utah state exam. Approximately one-half of those who have requested renewal have completed all the requirements. There will be a final e-mail sent today to licensees who have not requested license renewal.

The testing centers have opened extra slots for test takers as of December 1, 2010. At some point, that window will close and people will not be able to schedule their exams.

The education providers should have a busy month, because some of those individuals who have requested renewal have not completed their education.

After the end of the year, between January 1 and February 28, 2011, individuals who fail to renew will need to take reinstatement education. Our educators will be getting an e-mail within the next few days indicating that existing courses that currently expired on December 31, 2010 will be extended, without additional charge, until February 28, 2011. Individuals who take courses in January and February will not be able to use those courses for renewal in 2011. They will only be available for use to reinstate the licenses that expired at the end of this year.

COMMISSION AND INDUSTRY ISSUES

Updates on Rules – Jennie Jonsson

Ms. Jonsson said that on November 22, 2010 rule R162-2c-202 was made effective. We added a subsection (3) dealing with financial responsibility and listing factors that the Division may look at in evaluating an applicant's financial responsibility.

Administration has worked through the other rule amendment that the Commission had approved, and those are out for public comment now. R162-2c-201 is the amendment that reflects certain changes in licensing policy at the national level, and it basically states that if you allow your license to expire, and thereafter apply for a new license as a new applicant, you aren't required to take the 20-hour national pre-licensing course. It also includes the restriction that states a business will not be licensed under a name that closely resembles the name of another licensed entity or is otherwise confusing or misleading.

Also out for public comment is an amendment to R162-2c-203, our section on Utah-specific education certification. This amendment extends the expiration date on Utah CE courses to February 28, 2011, and specifies that any person who takes one of those courses in 2011 will not be able to use it for the 2011 renewal.

An amendment to R162-2c-204, in our license renewal section, says an individual who completes pre-licensing education and obtains the associated license within a calendar year is not required to complete additional continuing education to renew the license in the same calendar year.

The public comment on all of these amendments ends on December 31, 2010, and so far we have not received any public comments.

A motion was made to adjourn the meeting. Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Dailey, yes; Commissioner Christensen, yes; Commissioner Lewis, yes. The motion carries. The meeting adjourned at 9:30 a.m.