

**UTAH RESIDENTIAL MORTGAGE REGULATORY  
COMMISSION MEETING**

Heber M. Wells Building  
Room 210  
9:00 a.m.  
August 6, 2014

**MINUTES**

**STAFF MEMBERS PRESENT**

Mark Fagergren, Education/Licensing Director  
Jeffery Nielsen, Chief Investigator  
Justin Barney, Hearing Officer  
Jennie Jonsson, Administrative Law Judge  
Elizabeth Harris, Assistant Attorney General  
Renda Christensen, Board Secretary  
Tim Cuthbertson, Investigator  
Vee Kinnavongsa, Division Staff  
Jennica Gruver, Division Staff  
Amber Nielsen, Division Staff

**COMMISSION MEMBERS PRESENT**

Steve Hiatt, Chair  
Lance Miller, Vice Chair  
Rodney "Butch" Dailey, Commissioner  
Cathy Gardner, Commissioner  
John Gonzales, Commissioner  
George Richards, Commissioner

**GUESTS**

Ron Duyker  
Gary Neilson

Director Stewart has been excused from the meeting this month.

The meeting on August 6, 2014 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Chair Hiatt conducting.

**PLANNING AND ADMINISTRATIVE MATTERS**

Oath of Office to New Commissioner- The Oath of Office was administered the George Richards to be the public member of the Commission by Administrative Law Judge Jennie Jonsson. Mr. Richards introduced himself to the Commission and Division. He started in real estate in 1973, and has been a partner in Chapman-Richards Associates since 1978 doing residential and commercial sales. Mr. Richards is currently the NAR and UAR representative for Congressman Jim Matheson. The Commission and Division welcomed Commissioner Richards and look forward to having him on the Commission

for the next four years.

#### Election of Officers for 2014 – 2015

Nominations were taken and voted on for the Chair position. The Commission has elected Steve Hiatt to remain as Chair for the 2014-2015 year.

Nominations were taken and voted on for the Vice Chair position. The Commission has elected Lance Miller to remain as the Vice Chair for the 2014-2015 year.

Approval of Minutes – A motion was made and seconded to approve the minutes from the July 2, 2014 meeting. Vote: Vice Chair Miller, yes; Commissioner Gardner, yes; Commissioner Dailey, yes. The motion passes.

### **DIVISION REPORTS**

**Director's Report** – Director Stewart is out this week, and Mr. Fagergren will cover the report. Mr. Fagergren presented Commissioner Dailey with a plaque for his services and contributions to the Commission and industry. Commissioner Dailey has served on the Commission for eight years and been a valued member.

Commissioner Dailey said he has been on the Commission since 2006, since before the “crash”, and has been a part of the new regulations with the NMLS. There have been many changes over these years and he has been glad to be part of this Commission.

#### **Enforcement Report – Jeffery Nielsen**

Mr. Nielsen reported in July the Division received 10 complaints; opened 3 cases; sent no new cases to the Attorney General's office; closed 1 case; leaving 79 open cases.

Mr. Nielsen introduced the new mortgage investigator, Tim Cuthbertson. Mr. Cuthbertson said he has worked in the mortgage industry for 11 years in processing and underwriting. He most recently was with Bank of America in South Jordan. Both the Commission and Division welcome Mr. Cuthbertson to the Division.

Discussion: R162-2c-301a(1)(b)(iii) – Mr. Nielsen said there was an email sent to the Commission regarding a potential rule change. After further discussion about this, it was decided to table the discussion. There were additional items that have been brought up for further review, and Mr. Nielsen has tabled the discussion until the updates have been made.

There are no stipulations for review today.

#### **Education and Licensing Report – Mark Fagergren**

Mr. Fagergren said Bill Matthews, Vice President with the CSBS and NMLS, comes out to Salt Lake City occasionally to see family. In the past, he met with Mr. Fagergren and Derek Miller, before NMLS and SAFE Act began, trying to sell his data base. The Division had to turn down the offer because we were on our own priority system.

On Mr. Matthews last visit with Mr. Fagergren, he was interested in the Division having some of our education and testing in the NMLS. By this Mr. Fagergren is referring to some of our education and testing that the Division tracks independently from the NMLS. States are allowed to exceed the SAFE Act, but none can go below their standards.

This Commission approved a Utah CE course that started at the first of this year. Everyone has to take this course in addition to their NMLS CE. The pre-license 40-hour course for the lending manager is above and beyond what the SAFE Act requires. The Division also tracks this course and the exam results outside the NMLS. Mr. Matthews said it would be nice if NMLS could work out a way to have Utah's information included in their database. It is confusing for our licensees to go through the NMLS website, and the Division is tracking information as well.

The Division has had some experience with the education arm of the NMLS that has made us hesitant because of the cost associated. Mr. Matthews told Mr. Fagergren to write down what the Division needed, and he would meet with Pete Marks (who oversees testing and education) for NMLS.

The Division requested to have the information posted with no additional costs or banking fees. The information would be mutually beneficial to their staff and call center. After Mr. Marks and Mr. Matthews met, the answer from Mr. Marks was negative.

### **Discussion: Lending Manager Qualifications**

Mr. Fagergren handed out to the Commissioners current rule, R162-2c-201(2)(e), on how to become a lending manager. To become a lending manager in Utah, the applicant must satisfy one of these options within a five-year period prior to the application. Currently, there are two different options.

#### First Option:

- (i)(A) three years full-time experience originating first-lien residential mortgages,
  - (I) under a license issued by a state regulatory agency; or
  - (II) as an employee of a depository institution; and
- (B) evidence of having originated a minimum of 45 first-lien residential mortgages;

#### Second Option:

- (ii)(A)(I) two years full-time experience; and
  - (II) additional full-time experience; (according to the table below) and
- (B)(I) evidence of having originated a minimum of 30 first-lien residential mortgages; and
  - (II) up to 15 additional points according to the experience points schedule.

#### Optional Experience Table

Professional Activity

Possible Points

(1) Loan underwriter	0.5 pt/month
(2) Mortgage loan manager	0.5 pt/month
(3) Loan processor	0.5 pt/month
(4) Certified mortgage pre-license instructor	0.5 pt/month
(5) Second-lien residential loan originator	0.5 pt/month

Mr. Fagergren said there has been some discussion about another alternative. The Commission asked the Division to come up with another option for people who have many years of experience supervising, where they didn't have to be a loan originator, and they could acquire all their experience by supervising.

It is not the Division's recommendation to create an alternative option. The current system seems to be working, and people have been complying for a few years. Because the Commission asked for another option, the Division has suggested this other option.

Third Option:

- 10 years of documented supervision; and
- Supervise at least 5 licensed/registered MLOs; and
- 45 loan originators within the last five years.

The Division would like to add a fourth requirement by having the applicant appear before the Commission.

Mr. Fagergren said the concern is having people come over from the banking industry and want to become a lending manager, and they have no experience in originating loans.

Chair Hiatt yielded a few minutes to Gary Neilson, Republic Mortgage. Mr. Neilson said he has been involved in the mortgage industry for almost 35 years now, most of it in Utah. As an owner of Republic Mortgage, he supports the changes in the industry 100%. With the entrance of the Dodd-Frank Act and others, it has changed a few dynamics of how we do our business. There are two challenges that we run into with these changes. Owners or supervisors that haven't originated loans in the last 10 years wouldn't qualify for a lending manager license. The second challenge is, because of changes nationally and as an owner, he is paid on the profit of the company. Another concern Mr. Neilson has is in regards to bank individuals. He believes they need to be tested and licensed. The challenge is trying to get the verification form signed by their manager without getting terminated.

Vice Chair Miller noted that before someone can register to take the lending manager test, they have to have the verification form and present it to the provider to be able to sit for the exam. Mr. Fagergren said the Division can modify the rule to allow a person to take the education and exam before they turn in the verification form. The applicant must understand they are doing this at their own risk, because the Division has not seen their application yet.

Vice Chair Miller said that Utah is seen as a hyper-restrictive state with these requirements. He said that the main goal is to protect the public, not the industry. Commissioner Gardner would like to see the definition of "supervisor" spelled out to make sure everyone follows the same definition.

After listening to comments from the Commission and public, several changes were proposed. One would be to have the applicant enroll and test before handing in the verification form. The understanding would be that it is not a sign that they have automatically qualified for the lending manager license. If the applicant is found unqualified, the person would come before the Commission to present themselves to the questions from the Commission.

Modify Option Two: The amount of points on the schedule will be reviewed to increase the value of each professional activity.

Specifically define the role of a supervisor. Commissioner Gardner stated that we stifle our consumers because of our regulations in this industry. A manager or supervisor could service a client much better than 50% of the loan originators. But, the manager or supervisor can't sit down and originate a transaction with a client without his entire compensation being in jeopardy. This happens when the national overlays the state regulations.

Modify Option Three: 45 points, 30 of which can come from a different experience table; perhaps adding points for supervising 1 to 5 MLOs; 6 to 20 MLOs, etc. Expand the total amount of points allowable from 15 to 30 points. Also, have an automatic hearing before the Commission for the applicant.

There are no stipulations to review this month.

## **COMMISSION AND INDUSTRY ISSUES**

### **Updates on Rules – Justin Barney**

Mr. Barney said there are no rule changes being proposed that need to be discussed at this time. Mr. Barney will work on the potential rule changes that have been discussed today.

Chair Hiatt said that this is the first meeting where the Commission has met the new Assistant Attorney General, Elizabeth Harris. He asked her to introduce herself to the Commission.

A motion was made and seconded to adjourn the meeting. Vote: Chair Hiatt, yes; Vice Chair Miller, yes; Commissioner Dailey, yes; Commissioner Gardner, yes; Commissioner Richards. The meeting adjourned at 10:36 a.m.