

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building

Room 2B

9:00 a.m.

February 2, 2011

TELEPHONIC MEETING

MINUTES

STAFF MEMBERS PRESENT

Deanna Sabey, Division Director

Dee Johnson, Enforcement Director

Mark Fagergren, Education and Licensing Director

Xanna Hardman, Assistant Attorney General

Jennie Jonsson, Hearing Officer

Renda Christensen, Board Secretary

Jan Buchi, Mortgage Education Coordinator

Jody Colvin, Division Staff

Marv Everett, Investigator

COMMISSION MEMBERS PRESENT

Lance Miller, Chair (by phone)

Maralee Jensen, Vice Chair

Rodney "Butch" Dailey, Commissioner

Holly Christensen, Commissioner

Brigg Lewis, Commissioner

GUESTS

Irene Kennedy

John Norman

The meeting on February 2, 2011 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Vice Chair Jensen conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made to approve the minutes from the January 5, 2011 meeting as written. Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Dailey, yes. Commissioner Lewis and Commissioner Christensen joined the meeting just after this vote. The motion carries.

DIVISION REPORTS

Director's Report – Deanna Sabey

Director Sabey said the Division's bill is now numbered, HB-91. She sent a copy to each of the Commissioners for their review.

In San Diego, California, there is a case in Federal District court. A principal in an entity, Nation's Housing Modification Center, will have to serve 63 months in custody, and has pled guilty to one count of conspiracy to commit wire fraud, money laundering, and one count of filing a false tax return. This individual was selling loan modification services to homeowners by claiming the entity had attorneys and forensic accountants on staff to deal with the loss mitigation departments from banks. None of the above was true. Approximately 300 homeowners who were taken advantage of by this individual. Each homeowner paid between \$2,500 and \$3,000.

Criticism is mounting on a daily basis regarding the Affordable Home Modification program. Congressional representatives have introduced a bill to end the program. The person who oversees the TARP program, which is where the loan modification program funds are coming from, called the program anemic and remarkably discouraging as permanent loan modifications pale in comparison to foreclosure filings.

Representative LeVar Christensen introduced a bill that affects our mortgage statutes. HB-93 significantly modifies the attorney exemption for loan origination activities and changes that exemption so it applies to an attorney who is rendering services in the course of the attorney's practice. The statute previously had a two part test which stated that the attorney was exempt from the statute if the attorney was not principally engaged in the business of negotiating residential mortgage loans, and the attorney was rendering services in the course of practice as an attorney. The Division is very interested in getting the Commission's input on the change to this exemption. This will apply to all loan origination and modification activities.

The Division's exemption never allowed attorneys to solicit for loan modifications and loan originations, and then have an arm of their law firm process those loans. Mr. Johnson said the Division is still in the process of investigating and trying to resolve many complaints that involve attorneys jumping into the loan modification business. The Commission is concerned that attorneys could start originating loans and would not fall under NMLS.

Director Sabey said the motivation for this bill was a few unhappy attorneys who received Cease and Desist orders from the Division, and went to

Representative Christensen and said there was a huge problem with the Division because they are cutting in and are trying to regulate the practice of law. Any problems could be resolved through the Office of Professional Conduct as part of the Utah State Bar. The Commission is very concerned about who would be acting as the Principal Lending Manager, and if HUD saw this proposed change, whether the exemption would even be allowed. The protection of the public is of great concern to the Commission and the Division. Director Sabey will be meeting with Representative Christensen today, and will advise the Commission of the outcome.

In reviewing the SAFE Act, the Division has determined there is no language in the Act requiring call reports to be provided by loan originators on a regular basis (annual, quarterly, etc.). The SAFE Act allows NMLS to decide the content of the call report, but it is the Division's position that there is an implied reasonable standard in the information that can be requested in a call report. The Division has applied a reasonableness standard to the language in the Act. Because the Division's statute only gives us authority over looking at the financial responsibility of our licensees, and it does not give us any statutory authority to require call reporting. The Division believes that principals of minimum regulation would require only the financial statement portion of the call report, and then only on an annual basis.

NMLS was concerned with this requirement by the Division and will have HUD call the Division. As of now, there has been no contact from HUD. The Commission supports Director Sabey and will back her on this topic.

Enforcement Report – Dee Johnson

Mr. Johnson reported in January the Division received 111 complaints; screened 86 complaints; opened 22 cases; closed 7 cases; leaving the total mortgage case number at 124. Complaints are being received from NMLS. We are receiving many complaints on loan modifications, and companies that have closed their doors. Between July 2010 and January 2011, there has been an increase of 326% the number of mortgage cases.

Stipulations for Review

Richard C. Griffin
Augusta Mortgage, Inc.
VanDyk Mortgage Corp.
Brian Kesler

Each of these parties have been offered the opportunity to be here and have chosen not to appear.

Licensing and Education Report – Mark Fagergren

Mr. Fagergren said the statistics shown on this report are not actually correct until we get through the reinstatement period. Our database can't expire licenses until we finish this period. At the March meeting we should have a good idea and a firm number in April.

Last month's meeting showed there were 1,439 pending applications and today there are 88 applications remaining to be reviewed. The number of individual licensees is 3,400. A breakdown of this number shows there have been 2,731 renewals processed; 90 have been suspended (deficient in some area); 50 have Holds that need to be reviewed; 154 new applications since November; 88 pending applications; and 287 total pending new applications. There are 660 entities and 35 pending entity applications totaling 701.

Mr. Fagergren said credit reporting issues are beginning today.

COMMISSION AND INDUSTRY ISSUES

Updates on Rules – Jennie Jonsson

Ms. Jonsson discussed draft rule R162-2c-201. There were some changes that were discussed last month, and this draft will incorporate those suggestions. In Subsection 5(c) it was suggested to add that a PLM could not act as a BLM at the same time. R162-2c-202, Qualifications for Licensure, lists why a person can not be given a license. A motion was made to approve the draft with the one change. Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commission Lewis, yes; Commissioner Dailey, yes; Commissioner Christensen, yes. The motion carries. Ms. Jonsson will submit the draft to the Administrative Law Judge who helps Executive Director Giani review the rules, and should be submitted for public comment as quickly as possible.

CLOSED TO PUBLIC

A motion was made to go into Executive Session for the sole reason of discussing the character, professional competence, or physical and mental health of an individual. Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commission Lewis, yes; Commissioner Dailey, yes; Commissioner Christensen, yes. The motion carries. Executive Session was held from 9:56 a.m. to 10:06 a.m.

OPEN TO PUBLIC

Motion to return to public session: Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commission Lewis, yes; Commissioner Dailey, yes; Commissioner Christensen, yes. The motion carries.

Results of Stipulation Review

Richard C. Griffin - approved
Augusta Mortgage, Inc. - approved
VanDyk Mortgage Corp. - approved
Brian Kesler - approved

The Commission has taken a motion and unanimous vote for Mr. Fagergren to be Acting Director in signing the Stipulations presented today.

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 10:07 a.m.