

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 a.m.

July 2, 2014

MINUTES

STAFF MEMBERS PRESENT

Mark Fagergren, Education/Licensing Director

Jeffery Nielsen, Chief Investigator

Justin Barney, Hearing Officer

Elizabeth Harris, Assistant Attorney General

Renda Christensen, Board Secretary

Jan Buchi, Mortgage Education Coordinator

Jennica Robison, Division Staff

COMMISSION MEMBERS PRESENT

Lance Miller, Vice Chair

Rodney "Butch" Dailey, Commissioner

Cathy Gardner, Commissioner

John Gonzales, Commissioner

GUESTS

David Luna

Chair Hiatt has been excused from the meeting this month.

The meeting on July 2, 2014 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Vice Chair Miller conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made to approve the minutes from the June 4, 2014 meeting. Vote: Vice Chair Miller, yes; Commissioner Gonzales, yes; Commissioner Gardner, yes; Commissioner Dailey, yes. The motion passes.

DIVISION REPORTS

Director's Report – Director Stewart is out this week, and there will be no report.

Enforcement Report – Jeffery Nielsen

Mr. Nielsen reported in June the Division received 7 new complaints; opened 9 cases; 2 new cases were submitted to the Attorney General's office; 1 case was closed; leaving the balance of cases at 77.

The Division has hired a new mortgage investigator, Tim Cuthbertson, who started on

June 9, 2014. He is an experienced loan originator, underwriter, and loan processor.

There are no stipulations for review today.

Education and Licensing Report – Mark Fagergren

Mr. Fagergren announced the second quarter Division newsletter has gone out, and in it are several articles that pertain to the industry. The annual exam update with Pearson Vue verified and validated every question in the bank. The pass rate since the first of the year has been 65% for first-time test takers. The new questions should be added in the fall of this year.

Another article is about mortgage underwriters and the requirement under the statute that they now be licensed, unless they are employed. This is similar to loan processors.

There is an article about the continuing education requirement for renewals. This article has been run several times so there should not be any licensee that has not been informed about this Commission-approved CE course.

The newsletter also has an article about Dodd-Frank, the ATR QM rule.

Mr. Fagergren mentioned an email that was sent to a staff member. The message asked if the Commission would create an exempt status for the NMLS, and what would be the process in doing so? The message came from an exempt non-profit organization, and as such, they are not required to be licensed. However, the company likes the benefits of being in the NMLS.

Mr. Fagergren said the Division has a number of exempt individuals under mortgage, appraisal, and real estate. The information is not entered in our system as being exempt. If an entity is exempt the Division feels it satisfies the requirement of the statute, and there is no need to be in the system. The message continued to say that the company doesn't mind licensing, but they don't meet the qualifications. After some discussion, the Commission said to respond to the request; they would not create the exempt status.

Mr. Fagergren recently had a conversation with Bill Matthews about the plausibility and possibility of having Utah's mortgage CE class banked in the NMLS, rather than being tracked outside of the NMLS. We see some advantages to our licensees to avoid confusion. The problem is the fees that are assessed. The Division is in the process of negotiating with Mr. Matthews and the NMLS to see if we can resolve this satisfactorily. This would track the Division CE, and the lending manager education.

Individuals who did not enroll in the stand alone uniform test, which had to have been done by March 31, 2014, are required to take the entire NMLS national part of the test as well as the uniform state test. If current licensees fail this new national test that includes the uniform content their previous passing results (on the legacy national test)

will not be affected, and they will appear in the NMLS as compliant for the licenses they currently hold. However, some state agencies have suggested that they may wish to take action against the licensee who has failed the national test with the uniform state content. SRR does not believe the licensee should risk their current license status by taking a test in attempt to seek licensure in another state. The licensure testing and initial passing result is considered a benchmark by which an individual has proven his or her minimal competence. That is the reason a passing candidate cannot retake a passed test. It is in this same logic that the NMLS policy is that a failing score on a national test with the uniform state content should not make individuals passing score on the retired national test component.

In this case the Division harmonizes with the NMLS in their belief. We feel similarly that a licensee should not to be penalized by trying to get a new license in another state.

Mr. Fagergren said the Division has had some people who have come, or that have had a stipulation, before the Commission because they have violated the testing policy. The NMLS's position is that there are different types of violations: minor and insignificant violations, and major significant violations. In February 2010 this committee implemented procedures to manage cases involving suspected violations of testing conduct for testing takers. The rules of conduct are posted in the NMLS resource center. Since the SAFE MLO test was launched in August 2009, the SRR has administered more than 820,000 test sessions. During that time, the MTAB, which is a committee of the NMLS, tested 148 cases involving possible violations and investigated 117 out of 820,000. With almost no exception, the same procedures are used in all situations regardless of the type or severity of the alleged misconduct. Each investigation usually takes between two and four months to process including appeals, if necessary. All findings of violations are referred to state mortgage agencies for potential actions by states. The recommendation now is that a new investigative and disciplinary approach be implemented which will take into account the type and severity of the violation, rather than treat all reported violations the same. The SRR proposes the following standard be adopted for these violations: 1) does the conduct of the candidate impact or appear to impact the integrity of the candidate's test session, or the administration of the NMLS testing program? By impacting the integrity of the test session we mean did the candidate take or intend to take some action that violates the rules of conduct and could give the candidate an unfair advantage relative to other candidates. 2) Did the candidate's conduct undermine the testing program?

There are the three categories of open cases. They have been lumped into three categories for those that have happened over the last five years: 1) test integrity is not impacted; 2) test integrity may be impacted; 3) test integrity is, or most likely is, impacted. SRR staff will perform investigations overseeing the process; try to follow rules that are more reasonable based upon the severity of the conduct or reported misconduct.

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.

A motion was made to adjourn the meeting. Vote: Vice Chair Miller, yes; Commissioner Dailey, yes; Commissioner Gonzales, yes; Commissioner Gardner, yes. The meeting adjourned at 9:26 a.m.