

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building
Room 210
9:00 A.M.
June 1, 2011

MINUTES

STAFF MEMBERS PRESENT

Deanna Sabey, Division Director
Mark Fagergren, Director of Licensing and Education
Jennie Jonsson, Hearing Officer
Xanna Hardman, Assistant Attorney General
Renda Christensen, Board Secretary
Jody Colvin, Mortgage Licensing
Marv Everett, Investigator
Travis Cardwell, Investigator

COMMISSION MEMBERS PRESENT

Lance Miller, Chair
Maralee Jensen, Vice Chair
Rodney "Butch" Dailey, Commissioner
Holly Christensen, Commissioner

GUESTS

Irene Kennedy
John Norman
Jeremy Plouzek
Ron Duyker

Commissioner Lewis was excused from the meeting today.

The meeting on June 1, 2011 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Chair Miller conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made to approve the minutes for the May 4, 2011 meeting. Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Dailey, yes. Motion carries. Commissioner Christensen

abstained from voting because she was absent from the meeting last month.

DIVISION REPORTS

Director's Report – Deanna Sabey

Director Sabey reported that, on May 19, 2011, she and Mr. Fagergren had a meeting with Bill Matthews, President and CEO of SRR (which owns the NMLS system). This gave them a chance to sit down and discuss some of the issues that have been on of concern recently. It was a productive meeting, and Mr. Matthews was open to try and help and pass along the concerns. As Commissioner Jensen has been noticing, the Utah licensees have been receiving notices telling them that they need to file mortgage call reports. This, in fact, is not true for Utah. For some reason, when NMLS sent out their e-mails to all its licensees, they did not take Utah licensees out of the batch. Director Sabey and Mr. Fagergren discussed this with Mr. Matthews and asked that the NMLS make sure that this doesn't happen again, because it causes confusion with Utah licensees and DRE staff receives hundreds of phone calls from upset licensees. The Division has sent out follow-up e-mails to Utah licensees to tell them they do not have to file a call report in Utah.

Another issue discussed in the meeting was whether NMLS could reconsider its position and the decision of the MTEC (Mortgage Testing Education Committee) not allowing Utah to be able to give continuing education to its licensees without having to treat the Division like it was a private provider. The Division provides free CE on its Caravan each year. The Division is not in the business of providing CE. MTEC denied the DRE's request once before, and so Director Sabey asked for a reconsideration on the grounds that, if anyone knows what Utah mortgage licensees need to hear, it's probably the Division of Real Estate. Mr. Matthews said that he would bring up the topic again and see if they could work something out.

In the meeting Mr. Fagergren discussed the need for more some specific modifications to the NMLS on-line system. These include the need for a back button, and the need for certain information to be stored in retrievable format within the system. Both of these would make it easier for both the licensees and staff, and would make it a more user-friendly system.

Director Sabey asked for input from the Commission on a change the Division has been thinking of moving toward. The Division is looking at ways to reduce regulation wherever it makes sense. This is in response to the Governor's requirement that all agencies look at their regulations to determine where reduction can occur. In doing so, the Division has

identified an area that may be helpful to licensees and the Division in reducing regulation. Right now we have three separate licenses that come with supervisory duties attached. There are principal lending managers, associate lending managers, and branch lending managers. When there is a change made from one license type to another in NMLS, there is also a change fee (\$45.00) that is charged. If these were multiple designations under a the PLM license, it would save this cost to the licensee and also have one license instead of three. The requirements are the same for each license type, and the Division is interested in combining these three licenses into a "lending manager" license.

Combining these licenses would reduce the frustration and confusion on the licensees' part, because often they are not sure which license they are applying for or need. After some discussion with the Commission, it was decided to have Ms. Jonsson draft some rule language to be reviewed next month.

Enforcement Report – Marv Everett

Mr. Everett is filling in for Mr. Johnson who is excused from the meeting today.

Mr. Everett reported in May the Division received 30 complaints; screened 19 complaints; opened 18 cases; closed 25 cases; leaving the total number of mortgage cases at 102.

Stipulations for Review:

Brian Eggleton
Brian Arthur
Mark Oyler

All respondents were given the opportunity to appear today, but have chosen not to.

Education/Licensing Report – Mark Fagergren

Mr. Fagergren said the statistics in May show only a slight change for a few new licenses.

Mr. Fagergren said the meeting with Mr. Matthews went well, and Director Sabey did a good job in representing the needs of the Division.

There is one issue that Mr. Fagergren wanted to speak about today regarding the frustrations of licensees whose licenses expired at the end of

last year. If they reapply, they then have to make up CE from the prior year. As the Division understands it, every year is going to have a designated year's make-up CE. For 2010, a licensee would take that make-up CE; for 2011 the licensee would have to take that designated component. This is opposed to just requiring a person to take a batch of make-up CE, because now the licensee will have to take a certain year's make-up CE.

If that weren't confusing enough, there are have licensees who expired at the end of the year. Under Utah's old system, this person would have to reapply and obtain a new license. Under NMLS, this is not a new application. The rules state that an applicant gets a new license in the year he or she reapplies for that new license, and then doesn't have to take CE that first year. Under NMLS's interpretation, that isn't a new license because the applicant formerly had a license. We are looking people in that situation, where those who expired at the end of the year, would have to catch up the old hours of CE. So even though they have to take at least 40 hours of Utah-specific education, they would also have to take an additional 8 hours to renew this fall. The Division will require 40 hours, and NMLS is making them take at least 16 more hours, on the back end and front end. The Division feels this is illogical. Why can't NMLS evaluate Utah's 40 hours of education, and use that to either waive or give credit for the required CE? Mr. Matthews said the DRE's concern makes sense to him, and he said that the Division will be hearing from different staff members in a conference call to see if we can come to terms on this issue.

Mr. Fagergren said last month there were 16 people who took the PLM test, and 11 (64%) of those passed the first time. Of those who repeated the test, only 33% passed. There is one individual who failed it for the tenth time, and another failed for the fourth time.

We talked previously of the challenge of going through the credit reports for the licensees. Last month showed 88% of these had been reviewed. Currently, the staff has gone through all of the applications and evaluated the credit of our licensees. Most licensees have been cleared; some have been placed on probation. We are still waiting for documentation on 180 individuals from whom we have requested more information, and as of yet, they have not provided it. At some point we will be doing a second follow-up to decide their fate if they refuse to submit the information. Of all those who did provide the information, Ms. Jonsson has processed every one of them.

NMLS said there is a new capability beginning the end of this month. Their

software will enable us to determine the credit worthiness on MU2 credit applicants. So if we have control persons who are not licensed people, the statute indicates that we have a duty to see that they meet the same qualifications of a licensed person. Each control person will have to be fingerprinted and have their credit reviewed for financial responsibility. This morning Ms. Colvin sent an e-mail to NMLS asking what kind of a report could be generated to tell us the status of these findings. The response was that currently there is no report and they don't have a real procedure. We could probably get the information from NMLS if we pay for the information, but then it will be up to us to review each of those individuals.

Mr. Fagergren said the NMLS is getting closer to the functionality of having states reporting regulatory actions, and what the measures will be to do that. The second step of this would be how it would be publicly accessible. Mr. Johnson and his staff will be getting more involved in the conference calls that will be talking with more states about having to meet their standards for submitting this information.

Industry and Commission Issues – Jennie Jonsson

Ms. Jonsson said the rule changes to the qualifications for licensure have been made effective on May 10, 2011, so it will track with the effective date of the statute.

Our rule about safeguarding personal information and what that means is still with Administration, and they have not been through it yet.

There are two amendments to review today. One is to bring into the qualifications for initial licensure the word "finding" so that automatic denial occurs only if there is a court finding of misrepresentation, deceit, etc.

The second would require the Division to give 30 days notice of a hearing.

A brief recess was taken before the hearing.

OPEN TO PUBLIC

LICENSE/RENEWAL HEARINGS:

10:07 Primary Residential Mortgage – Application for Renewal
 Dave G. Zitting, CEO
 Thomas Billings, Attorney
 H. Burton Embry, VP of Compliance

Mr. Embry and Chair Miller have met before, but there are no objections on either side as to Chair Miller remaining as part of the Commission for this hearing.

Industry and Commission Issues – Jennie Jonsson (Continued)

Ms. Jonsson said in R162-2c-202, Qualifications for licensure, we talked last month about bringing the idea of a finding into this section so that it mirrors the renewal section where a finding is required. Under subsection 1(a) are factors that require denial of a renewed license. There is no discretion. The terms “a finding of” has been added to the language in (D).

Ms. Jonsson was recently informed that the name of the National Association of Securities Dealers has been changed to FINRA. She will check to make sure exactly what the new name is and change it in this rule.

Administration has asked the Division to review rules and make changes twice a year, and to limit rulemaking otherwise.

A motion was made to accept these changes. Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Dailey, yes; Commissioner Christensen, yes. Director Sabey has concurred with the motion. Motion carries.

R162-2c-401, Administrative Proceedings, has a recommended change under (6)(e) to change the number of days to 30 days prior to the hearing instead of the current 10 days notice. This will give the applicant or respondent more notice and help to reduce the number of requests for continuance of the hearing. A motion was made to approve the change. Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Dailey, yes; Commissioner Christensen, yes. Director Sabey has concurred with the motion. Motion carries.

CLOSED TO PUBLIC

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 Dailey, yes; Commissioner Christensen, yes. An Executive Session was held from 11:36 a.m. to 11:54 a.m.

Deliberation of Stipulations
Deliberation on Hearing

OPEN TO PUBLIC

A motion was made to open the meeting: Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Dailey, yes; Commissioner Christensen, yes.

Results of Stipulations

Brian Eggleton – Approved

Brian Arthur - Approved

Mark Oyler - Approved

A motion was made to adjourn the meeting. Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Dailey, yes; Commissioner Christensen, yes. Director Sabey concurs with the motion. The meeting was adjourned at 11:55 a.m.