

**UTAH RESIDENTIAL MORTGAGE REGULATORY
COMMISSION MEETING**

Heber M. Wells Building

Room 2B

9:00 a.m.

June 5, 2013

MINUTES

STAFF MEMBERS PRESENT

Jonathan Stewart, Division Director
Mark Fagergren, Education/Licensing Director
Jeffery Nielsen, Chief Investigator
Ben Jensen, Hearing Officer
Xanna DeGooyer, Assistant Attorney General
Renda Christensen, Board Secretary
Jan Buchi, Mortgage Education Coordinator
Jennica Robison, Division Staff

COMMISSION MEMBERS PRESENT

Holly Christensen, Chair
Steve Hiatt, Vice Chair
John Gonzales, Commissioner

GUESTS

Abbie Kerkman
Greg Christian
Ron Duyker

The meeting on June 5, 2013 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Chair Christensen conducting.

Commissioners Dailey and Miller are excused from the meeting today.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – There are not enough members of the Commission present to form a quorum for approval the minutes from April or May. Those minutes will be reviewed at the July meeting.

DIVISION REPORTS

Director's Report – Jonathan Stewart

Director Stewart said in the Division's bill for 2013 there were two items that need to be addressed: periodic criminal background checks; and, periodic credit checks. The NMLS recommends these reports be run every three years, while the Division believes every five years starting in 2015 will be sufficient. If the Division finds there are quite

a few undisclosed items, the rule can always be amended to have the checks run more often. The Commission agrees with this time frame. The Division will present a draft rule with this change in the meeting next month. The rule must be approved by the August deadline.

Enforcement Report – Jeffery Nielsen

Mr. Nielsen said there are no enforcement numbers this month. Ms. Stutsman has returned to work on Monday for only a few hours a day. When we get her numbers, Ms. Christensen will update the Mortgage report and forward it to the Commission.

There are no stipulations for review.

Licensing and Education Report – Mark Fagergren

Mr. Fagergren reported the statistics have continued to increase. Mortgage licensing has replaced Ms. Colvin's position. Jennica Robison, who has previously been working at the front desk, has been selected to fill the position. Ms. Buchi has been temporarily covering the position of Real Education Coordinator that was previously held by Tiffeni Wall. Ms. Buchi has been doing both Mortgage and Real Estate education positions until the Division hires a new person to replace Ms. Wall.

The Division finished the 2013 Caravan, and very few mortgage licensees attended. The Division believes because NMLS will not allow continuing education credit for attending these meetings, the mortgage licensee numbers have greatly declined. Previously, when we were able to give the CE hours, mortgage licensees came out in large numbers. The Division would like to propose a change that attendance at a Caravan meeting would fill the Utah-specific class requirement for renewal. The Commission agreed, and Ms. Christensen will add this topic for discussion on the agenda for the July meeting.

The Division has a Utah State Exam Review Committee meeting for reviewing all the questions on the exam set for next week. The committee members are: Halvor Bailey; David Loyst; Al Bingham; Ron Duyker; Marv Everett; Mark Fagergren; and, Jan Buchi.

Mr. Fagergren said the Division has received a notification from Bill Matthews, President and CEO of State Regulatory Registry ("SRR"), stating that since September 2010, SRR provided e-mail addresses to NMLS licensed and registered entities, and NMLS account administrators to Net Atlantic. The purpose for sending generic e-mails is to notify licensees of system changes, renewal periods, and other system related issues. SRR was notified earlier this week by Net Atlantic that a portion of their network was accessed by an unauthorized user. The attorneys at SRR consider that no state considers an e-mail address alone as personally identifiable information, and that it would receive special protection under state laws. SRR has asked each state to review their laws to determine if the possible release of e-mail addresses alone contained in NMLS triggers any state law requiring the notification of the e-mail addressee.

Mr. Fagergren gave the Commission an update on the call report issue. A Division report issued yesterday reveals that there are 457 licensed or registered entities. There are 204 licensed or registered entities that have been notified of deficiencies for not submitting their call reports. These numbers are for information purposes, because at some point the Division will need to look at methods for assuring everyone in compliance.

Last month we mentioned other industries that also have access to the NMLS. Ms. Buchi checked into this and found who the other industries are: money transmitters; collection agencies; insurance premium finance; pawn brokers; check cashiers; check sellers; debt collectors; form transmittal agencies; motor vehicle sales finance; retail installment finance; small loan lenders; debt adjustors; and, currency exchangers. These are all industries that NMLS has modified their system to allow their individuals to utilize the NMLS data base.

NMLS lists 13 state agencies using NMLS to license 37 license types in these industries. "Using NMLS to license and regulate both mortgage and other non-depository services was always envisioned by state regulators," according to the SRR report. There are approximately 60 agencies, and at this point, only 13 of them are using NMLS. Mr. Fagergren questioned whether this was something that state regulators always envisioned.

The SRR Board of Managers voted to expand the membership of the NMLS Policy Committee to include: Money Transmitters Regulatory Association, National Association of Consumer Credit Administrators, and the North American Collection Agency Regulatory Association.

The Uniform State Test was mentioned next in the SRR report. The NMLS has been lobbying the Consumer Finance Protection Bureau ("CFPB") to authorize the Uniform State Test. In a letter from CFPB dated May 20, 2013, it states the "Consumer Financial Protection Bureau issued this guidance in response to whether states may use the Uniform State Test developed by the NMLS as part of a qualified written test under the SAFE Act." The test must cover: state law and regulation of mortgage origination, federal and state law including instruction on fraud, consumer protection, non-traditional mortgage, marketplace, and fair lending issues. This test must cover all these areas plus state laws and regulations. This requirement may be met by the Uniform State Test, or a separate test, for each state. Several states have asked how this test will test people on their state laws, when they are not included. There are a number of states, including Utah, that believes having a state test is a better way to protect the public.

In this same report, it shows the regulatory actions posted on the NMLS. There were only 36 state agencies out of approximately 60, who have submitted information on enforcement. Utah had more regulatory actions that 20 of the states posted and less than 16 states.

The National Component of the NMLS test costs \$92.00 for a 100 question test, and an extra \$69.00 is charged for 55 to 65 state questions. Our real estate exams have an almost identical structure in terms of numbers of questions, and we charge \$66.00 for both tests. In addition, Utah does not require any CE provider to pay banking fees, whereas the NMLS charges \$1.50 per course hour taken by the MLO.

There are no stipulations to review.

COMMISSION AND INDUSTRY ISSUES

Updates on Rules – Ben Jensen

Mr. Jensen said the mortgage education rules that were approved by the Commission on April 3, 2013, have been submitted to the Division of Administrative Rules. They will be published in the bulletin on June 15, 2013. The comment period will run through July 15, 2013. If there are no comments from the public, the earliest effective date for the rule would be July 22, 2013.

There are no stipulations to review.

There being no further business to discuss, a motion was made to adjourn the meeting. Vote: Chair Christensen, yes; Vice Chair Hiatt, yes; Commissioner Gonzales, yes. The motion carries. The meeting adjourned at 10:35 a.m.