

UTAH RESIDENTIAL MORTGAGE REGULATORY COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 A.M.

May 4, 2011

MINUTES

STAFF MEMBERS PRESENT

Deanna Sabey, Division Director

Dee Johnson, Enforcement Director

Mark Fagergren, Director of Licensing and Education

Jennie Jonsson, Hearing Officer

Xanna Hardman, Assistant Attorney General

Renda Christensen, Board Secretary

Jan Buchi, Mortgage Education Coordinator

Jody Colvin, Mortgage Licensing

Marv Everett, Investigator

Travis Cardwell, Investigator

COMMISSION MEMBERS PRESENT

Lance Miller, Chair

Maralee Jensen, Vice Chair

Rodney "Butch" Dailey, Commissioner

Brigg Lewis, Commissioner

GUESTS

Irene Kennedy

Jeremy Plouzek

Chad Ahearn

Nathan Pierce

Commissioner Christensen has been excused from the meeting today.

The meeting on May 4, 2011 of the Utah Residential Mortgage Regulatory Commission began at 9:08 a.m. with Chair Miller conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made to approve the minutes for the April 6, 2011 and the April 7, 2011 meetings. Vote: Chair Miller, yes;

Commissioner Lewis, yes; Commissioner Dailey, yes. Motion carries.

DIVISION REPORTS

Director's Report – Deanna Sabey

Director Sabey said in last month's meeting she briefly discussed one of the changes to our statute by HB-91 that will become effective on May 10, 2011. That change will be the insertion of the word "safeguard" into the responsibilities that licensees have to keep and maintain records. In anticipation of that word "safeguard" being included, she has asked Ms. Jonsson to craft some language (only for dialog not for voting) to get the ball rolling on that issue.

HB-93 also has an effective date of May 10, 2011. Director Sabey, Mr. Johnson, and Mr. Everett met with Utah State Bar representatives on April 18, 2011. The meeting was very productive regarding licensing communication so we can turn in complaints we have received on loan modification companies over to the Bar.

In that discussion, everyone recognized that there will be some cases where we might be running some concurrent jurisdiction. There are areas where the Division might still retain jurisdiction over an attorney who is conducting loan modification activities. The Bar has to consider other professional responsibility issues that the individual may have that might have a different type of perspective than the Division's perspective.

There are three possible scenarios that might happen: 1) the Division writes up a complaint and the Bar does nothing; 2) the Division would run a concurrent investigation with the Bar; and 3) the Division decides that we don't have jurisdiction and the Bar does have jurisdiction.

Enforcement Report – Dee Johnson

Mr. Johnson mentioned that recently on the news there has been a guilty conviction on Christopher D. Hales. Chris Hales is someone that the Division turned over to the Mortgage Fraud Task Force in 2007 as soon as it got started. The acts that Mr. Hale had been doing took place in 2005 and 2006. He has yet to be sentenced, and the recommendation is that he serve 90 months in prison. That is longer than was recommended for Bradley G. Kitchen, David R. Bollick, Ron K. Clarke, or any of the other people who were involved. It was a big investigation, and has taken the task force a long time to get to this point.

Mr. Hales was one of our licensees and expired in 2005 at the time that he

started doing all of these acts. The Division had him in for a meeting. He said that since his license had expired, we had no jurisdiction over him and he didn't care what we did. We gathered all of our information together and gave it to the U. S. Attorney. This is the heaviest sentence they have asked for.

Chair Miller suggested an article in the Division newsletter about Mr. Hales. He has received many comments from people saying they don't want to report something to the Division because they don't think it does any good because of the delay. It might be good for the people to know why there is a delay.

Mr. Johnson reported in April the Division received 20 complaints; screened 116 complaints; opened 2 cases; closed 23 cases; leaving the total mortgage cases at 109.

Stipulations for Review:

Jeffrey Scott Kahn

David R. Zaplana

Jorge Pitta

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

Education/Licensing Report – Mark Fagergren

Mr. Fagergren said according to the statistics for March, we lost 24 active licensees, 20 of whom have gone inactive.

The Division is midway through the Caravan presentations, and unfortunately, there have not been many mortgage licensees in attendance. The lower numbers are most likely because they don't get continuing education credit.

The numbers are finally calming down in licensing after over a year of high-pitch frenzy. Mr. Fagergren got a press release from NMLS that is "not for public viewing." These "talking points" say that all states are required for mortgage licensees to do NMLS quarterly call reports. The Division has a little apprehension about this, and we have told NMLS that our statute does not require call reports. There should not be any deficiencies for Utah mortgage originators, but we are concerned there might be a problem with this. Utah licensees are not required to do call reports, and yet NMLS has sent them all e-mails over this subject.

Our licensing staff has started processing credit reports based on the standards we talked about last month. Approximately 88% of the pages of credit report information have been processed. However, there are 317 licensee reports that are in various stages of providing information (or lack of), and the staff is working with these licensees to complete the credit report reviews.

Feedback from these individuals range from being angry about the requirement; surprised to find out they have tax liens; and, some people who "act" surprised. When tax liens appear, the licensee is required to show evidence the lien has been released, or that they have made payment arrangements. The Division is doing a lot to stimulate the economy, because these licensees are not only meeting with the IRS, but also with creditors.

Our records show that 54 of these 317 individuals have been sent to Ms. Jonsson for review. Of these, 17 have had actions taken, and 37 have been approved without condition. There have been 30 individuals who have not authorized credit reports. The company used for the credit reports is TransUnion.

Industry and Commission Issues – Jennie Jonsson

Ms. Jonsson has some rule language as to safeguarding and proper destruction of records. We are thinking of adding definitions for "personal information" and "safeguard." In the section where we talk about record retention and disposal, we propose adding the word "safeguard" into the requirement that a licensee maintain records as specified. Under records disposal, we would specify that when the retention is met and the records are going to be disposed, the personal information be destroyed by shredding, erasing, or otherwise making it indecipherable.

Mr. Fagergren suggested that in R162-2c-102(18) the word "access" be added to ensure control within an office situation. A motion was made to approve these proposed amendments with the addition stated above. Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Dailey, yes; Commissioner Lewis, yes. Motion carries.

Chair Miller brought up the topic of qualifications for licensure. When a person has agreed to a plea in abeyance, the language in the rule is not clear on how that is treated. Ms. Jonsson distributed copies of the rules for new applications and for renewals to the Commission for their review. The

language is more specific on the new application than on the renewal. The question is do we want to make it specific in the rule so people know what to expect? After much discussion, there seems to be an inconsistency in our qualifications for a new license as compared to the renewal application. License renewal gives a "finding" aspect, but in the new application, there is no "finding" element. It was decided to make the wording on the two applications match. Ms. Jonsson will have a draft for the Commission at the next meeting.

There was a brief recess before the hearing.

OPEN TO PUBLIC

LICENSE/RENEWAL HEARINGS:

10:00 Wayne Briggs – Disciplinary Hearing
Division Witnesses: Winnie Warner (by phone)
Marv Everett

A brief recess was taken from 11:18 a.m. to 11:25 a.m.

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 Lewis, yes; Commissioner Dailey, yes. An Executive Session was held from 1:04 p.m. to 1:26 p.m.

Review 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 Lewis, yes; Commissioner Dailey, yes.

Results of Stipulations

Jeffrey Scott Kahn - Denied
David R. Zaplana - Approved
Jorge Pitta - Approved

A motion was made to adjourn the meeting: Vote: Chair Miller, yes; Vice Chair Jensen, yes; Commissioner Lewis, yes; Commissioner Dailey, yes. The meeting was adjourned at 1:27 p.m.