

**UTAH RESIDENTIAL MORTGAGE  
REGULATORY COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 A.M.

September 7, 2011

**MINUTES**

**DIVISION MEMBERS PRESENT**

Jonathan Stewart, Division Director  
Mark Fagergren, Licensing/Education Director  
Xanna Hardman, Assistant Attorney General  
Kent Nelson, Chief Investigator  
Jennie Jonsson, Hearing Officer  
Jill Childs, Board Secretary  
Jan Buchi, Mortgage Education Coordinator  
Travis Cardwell, Investigator  
Marv Everett, Investigator  
Jody Colvin, Division Staff  
Kathy Archuleta, Division Staff

**COMMISSION MEMBERS PRESENT**

Lance Miller, Chair  
Rodney "Butch" Dailey, Commissioner  
Holly Christensen, Commissioner  
Steve Hiatt, Commissioner

**GUESTS**

Gary Nielson  
Michael Brumble  
Teresa Trujillo  
Jeremy Plouzek  
Sara Saylor

The meeting on September 7, 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 from the August 3, 2011 meeting. Vote: Chair Miller, yes; Commissioner Dailey, yes; Commissioner Christensen, yes; Commissioner Hiatt, yes. The motion carries.

## **DIVISION REPORTS**

### **Director's Report – Jonathan Stewart**

Director Stewart announced that Commissioner Brigg Lewis has resigned his Commission. The Division would like to thank Mr. Lewis for his service to the Commission, Division, industry, and public. Department Director Francine Giani and Deputy Director Thad Levar are working with the Governor's office to fill this position.

Mr. Levar has drafted an outline for the Division's 2012 Legislative bill. The Division has reviewed the draft and Director Stewart will be meeting with Department Director Giani and Mr. Levar this week. The Commissioners will receive a copy of the outline prior to the next Commission meeting. The Division plans to vet all issues with the Commission.

There have been some recent changes in the Division, mostly in Enforcement. Mr. Nelson will cover the changes in his report.

This week the Division has returned to working five days per week, Monday through Friday, 8:00 a.m. until 5:00 p.m.

### **Enforcement Report – Kent Nelson**

Mr. Nelson reported that in August the Division received 9 complaints; screened 30 complaints; opened 30 cases; closed 21 cases; leaving the total number of open mortgage cases at 100.

Mr. Nelson is now the Division's Chief Investigator. There have been some changes made that will move complaints more quickly through the system. There are also new changes to report writing, keeping in touch with those who have filed complaints, and moving the cases along in the system.

### **Stipulations for Review:**

Daniel Mauer

Dan Mason

Amerisave Mortgage Corporation

All respondents were advised of their right to appear today, but have chosen not to appear.

### **Education/Licensing Report – Mark Fagergren**

Mr. Fagergren said that Ms. Childs is covering today for Ms. Christensen who had a death in her family and is taking a few days off.

Mr. Fagergren said the Division prepared the 40-hour Utah mortgage curriculum in advance of the NMLS 20-hour requirement coming into existence. Currently, there are three different types of qualifying education: 20-hour NMLS, nationally required; 40-hour MLO education, Utah required; 40-hour PLM education. The Division believes that where everyone has to take the 20-hour NMLS education, there are certain parts of the Utah education that are either repetitive or redundant. The Division is asking the Commission to think about removing or consolidating the duplicative education. At the next meeting we would like review the courses and make a decision about possibly modifying the education.

Three licensees from Republic Mortgage are in attendance today with a question on a specific statute. These individuals are Gary Nielson, PLM; Michael Brumble, Chief Information Officer/Head of Compliance; and Teresa Trujillo, Compliance Manager. The statute in question is §61-2c-301, Prohibited Conduct which states that a person transacting the business of residential mortgage loans in this state may not give or receive compensation or anything of value in exchange for a referral of residential mortgage loans.

The question from Republic Mortgage is this: within a company that crosses state lines, would it be appropriate for those companies to divide a referral fee so as to share it with an originator outside Utah? Ms. Trujillo said that in the 12 other states in which Republic Mortgage is licensed none of the state statutes address referral fees. As an example, Idaho prohibits commission splitting especially when a person in Idaho was performing services without a license. Idaho does not have an issue with a referral fee that is tendered in accordance with RESPA.

Chair Miller said the issue will be tabled until next month's meeting.

### **Industry and Commission Issues – Jennie Jonsson**

Ms. Jonsson said there were two rules voted on in last month's meeting that have been made effective. In R162-2c changes were made to various subsections, and the rule was made effective on August 8, 2011. Section R162-2c-401, the rule requiring 30-days notice of a hearing, went into effect on August 22, 2011. R162-2c-202 was also amended to require a court finding of fraud, misrepresentation, theft or dishonesty before an applicant

would be automatically be disqualified on an initial application.

Out for public comment now is an amendment to R162-2c-204, and the public comment period ends on October 3, 2011. This is the rule that clarifies the deadlines for license renewals and reinstatements, and provides an exemption under which a person who obtains a new license after November 1<sup>st</sup> of the calendar year is not required to renew it by December 31<sup>st</sup> of the same calendar year. In subsection 102 definitions for the terms "expired license," "lending manager," etc. are provided. Those can be voted on in the October meeting.

A recess was taken at 9:40 a.m. until the scheduled hearing at 10:00 a.m.

### **OPEN TO PUBLIC**

#### LICENSE/RENEWAL HEARING:

10:00 Moroni Sanchez – Disciplinary Hearing  
Mr. Sanchez did not appear.

### **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; Commissioner Christensen, yes; Commissioner Dailey, yes; Commissioner Hiatt, yes. Executive Session was held from 10:06 a.m. to 10:23 a.m.

Deliberation of Stipulations  
Deliberation on Hearing

### **OPEN TO PUBLIC**

#### Results of Stipulations

Daniel Mauer - Approved  
Dan Mason - Approved  
Amerisave Mortgage Corporation - Approved

A motion was made to adjourn the meeting. Vote: Chair Miller, yes; Commissioner Lewis, yes; Commissioner Christensen, yes; Commissioner Dailey, yes; Commissioner Hiatt, yes. Director Stewart concurs. The meeting was adjourned at 10:23 a.m.