

**UTAH RESIDENTIAL MORTGAGE
REGULATORY COMMISSION MEETING**

Heber M. Wells Building
Room 210
9:00 A.M.
May 6, 2015

MINUTES

DIVISION MEMBERS PRESENT

Jonathan Stewart, Division Director
Mark Fagergren, Licensing/Education Director
Jeffery Nielsen, Chief Investigator
Judith Jensen, Assistant Attorney General
Elizabeth Harris, Assistant Attorney General
Justin Barney, Hearing Officer
Renda Christensen, Board Secretary
Jan Buchi, Mortgage Education Coordinator
Marv Everett, Investigator
Tim Cuthbertson, Investigator

COMMISSION MEMBERS PRESENT

Steve Hiatt, Chair
Lance Miller, Vice Chair
John Gonzales, Commissioner
Cathy Gardner, Commissioner
George Richards, Commissioner

The meeting on May 6, 2015 of the Utah Residential Mortgage Regulatory Commission began at 9:09 a.m. with Chair Hiatt conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

A motion was made and seconded to approve the minutes from the both the March 4, 2015 and April 1, 2015 meetings. Vote: Chair Hiatt, yes; Vice Chair Miller, yes; Commissioner Gonzales, yes; Commissioner Gardner, yes; Commissioner Richards, yes. The motion is approved.

Public Comment Period

There were no comments from the public at this time.

DIVISION REPORTS

Director's Report – Jonathan Stewart

Director Stewart reminded those in attendance that at the end of June, Chair Hiatt will have completed his first term as a Commissioner, and Vice Chair Miller will have

completed his second term. The Division has submitted Chair Hiatt's his name to the Governor's office for a second term, and the name of another person has been submitted to the Governor's office to replace Vice Chair Miller.

Director Stewart spoke about "TRID" (TILA/RESPA Integrated Disclosure Rule) which will be effective on August 1, 2015. The rule will affect the mortgage and real estate industries. Vice Chair Miller has agreed to write an article for the Division's newsletter which everyone become aware of the new rule. Director Stewart found eight different articles regarding TRID while researching this topic. Mr. Cutberthson just returned from the AARMR conference and wanted to give a brief breakdown on TRID's affects in the industries.

Mr. Cutberthson mentioned the rule applies to most closed-end consumer mortgage loans, although it establishes different requirements for timeshares and construction loans. The definition of "business day" has two different meanings for the purposes of the Loan Estimate and will be confusing. For the requirement that the Loan Estimate be provided within three business days of the application, business day means "a day on which the creditor's offices are open to the public for carrying on substantially all of its business functions."

The new "Loan Estimate" form redesigns and integrates the current early TILA disclosure and the RESPA "Good Faith Estimate" form. The new "Closing Disclosure" replaced the final, corrected TILA disclosure and the RESPA HUD-1 Settlement Statement.

Enforcement Report – Jeffery Nielsen

Mr. Nielsen reported in the month of April the Division received 4 complaints; 1 case was opened; 2 cases were closed from the AG's side; leaving 3 cases with the AG's office; 2 cases were closed; leaving 87 total cases.

Last month there was discussion regarding taking hearings to formal actions instead of informal actions. Mr. Nielsen and Ms. Harris created a list to show the differences in these two hearing types.

Formal hearings are held to a higher standard. If a person decides to appeal the formal hearing, the case will go to the State Court of Appeals. In an informal hearing, if the person decides to appeal the case will go before a District Court Judge. A District Court Judge doesn't necessarily know the industry rules like the Commission understands them. Sometimes in a de novo review, the case can be thrown out because the Judge doesn't clearly understand the rules. The Division will try to educate the District Court Judge by expert witnesses and reports.

After some discussion on this issue, Director Stewart said the Division will prepare a letter for licensees to review that will explain the differences between signing a stipulation and going to an informal/formal hearing. This will provide more protection to the licensee as to their choices.

Education/Licensing Report – Mark Fagergren

Mr. Fagergren said the Division has completed four of the nine Caravan tours. Tomorrow the Caravan will be in Park City and later will visit four other cities in the southern end of the state. There are few mortgage licensees that attend the Caravan.

The NMLS has provided additional access information for our licensing staff to see the DFI records. They can now see DFI registrations, disclosure questions, and any discipline records. Our staff can also see if the registrants have taken testing and education that DFI won't be able to review. This will prevent DFI from seeing if someone is contemplating making a shift to being licensed. DFI can only see our licensees, nothing more.

Yesterday the Division started on a Pearson Vue Lending Manager exam review with some significant changes due to the disclosure changes. We are changing this in advance of the August 1, 2015 deadline for our Lending Manager exams. One of the participants contacted Pearson Vue and asked if their participation in this review group count toward the two-hour Utah Law class. Mr. Fagergren said there are approximately 10 – 12 people and staff in the group who spend many hours on updating the exam and creating additional questions for the pool of questions. After some discussion, the Commission and Division decided not to give credit for the Utah Law course.

Since our last meeting, two of the three mortgage licensing staff have left the Division. One has been promoted and is now the Real Estate Education Coordinator, Jennica Gruver. Jan is the sole person in mortgage right now. She is supposed to be doing only her Mortgage Education Coordinator job. Currently, if the phone rings, it's Jan that will fill in with anything that needs to be done. Second interviews were held with candidates, and the Division feels good about having two new employees by next month.

A mortgage lender who is license in 43 jurisdictions, but not in Utah, "New Day Financial," has entered into a regulatory order this time stemming from rampant cheating on mortgage license exams by company employees, including its Chief Operating Officer. The multi-state exam committee issued a settlement agreement and consent order between these 43 state regulators indicating that New Day Financial will have to pay a \$5.3 million fine as part of the order. It was found that members of the compliance staff at New Day Financial would often take continuing education courses and exams on behalf of other employees, including the Chief Executive Officer and Chief Operating Officer, sometimes for compensation. The article was from Nashville Mortgage News, April edition.

Commission and Industry Issues – Justin Barney

Mr. Barney said he had received some additional updates on the rule amendments that have been discussed last month. Part of that rule was covered in the

discussion on formal vs. informal hearings. He will go back and update the rule amendments, and hopefully, will get a draft to the Commission by the meeting next month.

R162-2c-301(b) regarding incentive programs is still being worked on before a draft can come out.

Director Stewart spoke about giving some guidance to licensees regarding the upcoming TRID which will be effective on August 1, 2015. Ms. Harris said the CFPB stated that disclosures have to be given within so many days of consummation of the transaction. Consummation is when you are bound by the contract under state law. It is the opinion of the Division that we have not adopted all of the disclosure requirements that CFPB has set out, and consummation will be discussed on a case-by-case scenario depending on the facts one each case. It really is going to be governed by contract law, and the concern is that the Division and the Commission do not have the ability to say when someone is bound on a contract. That is already defined by case law and other statutes. There will be more guidance coming from CFPB on cases as they get resolved. Licensees may find the CFPB guidance helpful on the issue of when consummation occurs. Licensees may also receive an opinion from their legal advisors on this matter.

Mr. Nielsen said the Division doesn't enforce TRID so we won't punish licensees for not providing these disclosures within the required timeframe. The Division should inform licensees that we are not defining the timeframe. This way it can be left up to the lenders to either change their procedures to fund, or leave them as they are.

A motion was made to adjourn the meeting. Vote: Chair Hiatt, yes; Vice Chair Miller, yes; Commissioner Richards, yes; Commissioner Gardner, yes; Commissioner Gonzales, yes. The meeting adjourned at 11:00 a.m.