

**UTAH RESIDENTIAL MORTGAGE  
REGULATORY COMMISSION MEETING  
Telephonic Meeting**

Heber M. Wells Building

Room 210

9:00 A.M.

January 6, 2016

**MINUTES**

**DIVISION MEMBERS PRESENT**

Jonathan Stewart, Division Director  
Mark Fagergren, Licensing/Education Director  
Jeffery Nielsen, Chief Investigator  
Justin Barney, Hearing Officer  
Elizabeth Harris, Assistant Attorney General  
Amber Nielsen, Board Secretary  
Marvin Everett, Division Investigator  
Tim Cuthbertson, Division Investigator  
Lark Martinez, Mortgage Education Coordinator  
Mike Page, Division Staff  
Desha Pages, Division Staff

**COMMISSION MEMBERS PRESENT**

Steve Hiatt, Chair  
Cathy J. Gardner, Commissioner  
Kay Ashton, Commissioner

The meeting on January 6, 2016 of the Utah Residential Mortgage Regulatory Commission began at 9:01 a.m. with Chair Hiatt conducting.

**PLANNING AND ADMINISTRATIVE MATTERS**

Approval of Minutes

A motion was made and seconded to approve the December 2, 2015 minutes as written. Vote: Chair Hiatt, yes; Commissioner Gardner, yes; Commissioner Ashton, yes. The motion is approved.

There is not a quorum for approval on the December 30, 2015 minutes. This will be reviewed when there are enough members present.

Public Comment Period

No public attended the meeting and there were no comments given.

## **DIVISION REPORTS**

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

Director Stewart reported the Division sent a draft of the proposed bill to the Office of Legislative Research on December 6, 2015. They are working on the language, but Director Stewart has not received a draft back. That is in process and we are moving forward with the changes as previously discussed.

Director Stewart opened a discussion on the definition of "Residential Mortgage Loan." A Legislator contacted the Division because a constituent had a question regarding the definition and specifically whether or not a license was needed. The question was specifically in reference to Section 61-2c-102(1)(oo)(iii). Director Stewart directed the attention to Section 61-2c-102.(u) which defines "dwelling" and Section 61-2c-105(2)(h) which outlines exemptions from the rule. The Legislator believes these rules are confusing and could be interpreted multiple ways. The Division historically interpreted the rule to mean if you are loaning money on a dwelling then you are required to have a license. Mr. Nielsen stated the Division is unsure why this language is under the definition of Residential Mortgage Loan. Commissioner Gardner recommends we remove that language which is causing confusion. Chair Hiatt agrees. Commissioner Ashton wants us to make sure we protect the exemptions if we remove the language. Chair Hiatt clarified we would propose removing Section 61-2c-102(1)(oo)(iii). Chair Hiatt believes we have consensus to remove that language. Director Stewart stated that no motion is needed; he will add this deletion to the bill as a result of this discussion.

### **Enforcement Report – Jeffery Nielsen**

Mr. Nielsen reported in December the Division received 9 complaints; opened 3 cases; closed 4 cases; leaving 71 open mortgage cases. The AG's office has 7 cases.

There are no enforcement stipulations to review this month.

Commissioner Ashton asked if there has been any trend in the types of complaints the Division is receiving. Mr. Nielsen reported advertising issues are common. Mr. Nielsen also mentioned unlicensed activity and fraud.

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

Mr. Fagergren reported of the individuals who applied for renewal by the end of the year, Division staff has only 525 individuals pending. The staff has completed 3,550 individual renewals. There are 75 companies pending and 759 companies completed. There are 600 pending renewals total. There are 424 individuals whose applications are on hold most of whom have deficiencies. 121 of the applications on hold have disclosures and have gone to Justin Barney. Mr. Barney has worked through all but approximately 50 applications. There have been 5 stipulations and 3

individuals have been put on probation. There are 16 individuals still being evaluated. There were approximately 650 renewals which were not requested by end of year. Commissioner Ashton wondered if the Department of Financial Institutions shares their statistical information with the Division. Mr. Fagergren reported DFI has much fewer individuals; and has no trend data.

Mr. Fagergren presented feedback regarding Transitional Licensing. The CSBS and the NMLS seem to be very motivated to get federal legislation to require Transitional Licensing. The Division finds this very confusing given that 29 states currently allow depository registrants to get licensed and inactivate with the State Agency.

Mr. Fagergren reported on the issue of individuals who requested their criminal background checks prior to November 1, 2015. The NMLS erroneously sent emails to licensees encouraging them to request their criminal background check early and before the renewal period, which the Division rules prohibit; despite the Division notifying the NMLS in August that the Division would not allow any look back period and the NMLS acknowledging the Division notification. Yesterday the NMLS acknowledged the problem. The NMLS will not send out that email in the future and will credit the accounts of any individuals who requested the background check as a result of those emails, if they are not licensed in another state which required an early background check and if they are not a new licensee. Chair Hiatt asked how many individuals were affected by this. The Division estimates approximately 630 individuals.

There are no education stipulations to review this month.

### **Commission and Industry Issues – Justin Barney**

#### Stipulation for Review

Wayne C. Kelley, Jr  
Angie R. Russon  
Lindy Parks

Mr. Barney had no rule updates to present today.

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Hiatt, yes; Commissioner Gardner, yes; Commissioner Ashton, yes. The motion is approved.

**CLOSED TO PUBLIC**

An Executive Session was held from 9:42 a.m. to 9:44 a.m.

**OPEN TO PUBLIC**

**Results of Executive Session**

Results of Stipulations

Wayne C. Kelley, Jr - Approved

Angie R. Russon - Approved

Lindy Parks - Approved

A motion was made to adjourn the meeting. Vote: Chair Hiatt, yes; Commissioner Gardner, yes; Commissioner Ashton, yes. The motion is approved. The meeting adjourned at 9:45 a.m.