

**UTAH RESIDENTIAL MORTGAGE  
REGULATORY COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 A.M.

October 5, 2016

TELEPHONIC MEETING

**MINUTES**

**DIVISION MEMBERS PRESENT**

Jonathan Stewart, Division Director  
Mark Fagergren, Education and Licensing Director  
Kadee Wright, Chief Investigator  
Justin Barney, Hearing Officer  
Judith Jensen, Assistant Attorney General  
Amber Nielsen, Board Secretary  
Marvin Everett, Investigator  
Tim Cuthbertson, Investigator  
Lark Martinez, Mortgage Education Coordinator  
Mike Page, Division Staff  
Desha Pages, Division Staff  
Faruk Halilovic, Division Staff

**COMMISSION MEMBERS PRESENT**

Steve Hiatt, Chair  
George P. Richards, Vice Chair  
Cathy J. Gardner, Commissioner  
John T. Gonzales, Commissioner  
Kay Ashton, Commissioner

**PUBLIC**

Austin Baird  
Morgan Hall  
Steve Johnson  
Teresa Whitehead

The meeting on October 5, 2016 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Chair Hiatt conducting.

**PLANNING AND ADMINISTRATIVE MATTERS**

A motion was made and seconded to approve the September 7, 2016 minutes.

Vote: Chair Hiatt, yes; Vice Chair Richards, yes; Commissioner Gardner, yes; Commissioner Gonzales, yes; Commissioner Ashton, yes. The motion is approved.

#### Public Comment Period

There were no comments given.

### **DIVISION REPORTS**

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

Director Stewart announced that Jeff Nielsen is no longer with the Division. Kadee Wright has been hired as the new Chief Investigator. Ms. Wright has been with the Division as an investigator for three years.

Director Stewart reported a draft of the Division bill has been sent to the Office of Legislative research which includes all the previously mentioned proposed changes. There has been one additional item added; in Section 61-2c-301 on Prohibited Conduct the Division has added language that prohibits engaging in any act or practice that violates appraiser independence as provided for in the Federal Home Loan Mortgage Corporation Act or in the Policies and Procedures for Freddie Mac and Fannie Mae. Commissioner Ashton what prompted this addition. Director Stewart stated through investigation the Division has heard reports of mortgage entities requesting specific appraisers from the AMC.

Director Stewart reported he received an email from Lance Miller which Director Stewart brought to the Commission. Mr. Miller stated he spoke with Fannie Mae, Ellie Mae, and MBA about the proposed rule regarding original signatures on the final 1003; all three expressed concern with the passing of a rule which would make Utah so different from other jurisdictions and expressed confusion as to the motivation and intent behind the rule. Encompass did state they would be able to facilitate e-signatures on the final 1003 by January 2017. Director Stewart stated this would be discussed later in the meeting as part of the discussion on the rule proposal.

Director Stewart reported that since the most recent Commission meeting, he has been contacted by many industry members. Over the past three years, there has been a push or efforts made to move the Mortgage regulation out of the Division and into the Department of Financial Institutions. Director has been hearing some concerns that had led to the desire to move to the DFI. The three main concerns are the Uniform State Test, the requirement for Lending Managers, and how the Division handles enforcement compared to other states. Director Stewart feels it is easier to address concerns within the Division, rather than moving to another department. Director Stewart feels if there are changes that make sense which would alleviate concerns and would not go against the Division's desire to protect the public, then that is something the Division is willing to explore. Chair Hiatt

stated it might be beneficial for the Commission and Division to discuss these issues; and it would be beneficial to direct the Division and Director Stewart to review and discuss the issues administratively first and then submit recommendations to the Commission. Commissioner Richards asked what would be different with enforcement if the enforcement were moved to DFI. Director Stewart stated the complaints are that the Division uses a complaint driven system rather than an examination driven system. The Division currently doesn't perform examinations; whereas, the majority of other states perform examinations and identify problems, concerns, and violations. Director Stewart has been told there are some violations that the Division would never hear about through a complaint only system.

#### **Enforcement Report – Kadee Wright**

Ms. Wright reported in September the Division received 3 complaints; opened 0 cases; closed 6 case; leaving 62 open mortgage cases. The AG's office has 12 cases.

There are no stipulations for review.

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

Mr. Fagergren announced the Instructor Development Workshop will be in three weeks on October 25<sup>th</sup> and 26<sup>th</sup>. Eric Storey will be the main presenter but the Division will also be presenting on the first day. The IDW is a required course for Pre-License Instructors, but may be attended by anyone. Continuing education credit will not be granted to licensees who attend. The Commissioners are welcome to attend as guests.

There are no education stipulations to review this month.

#### **Hearing Officer Report – Justin Barney**

Mr. Barney reported there are no licensing stipulations for review this month.

#### **Commission and Industry Issues**

Mr. Barney reported he had prepared language as requested by the Commission last month on the proposed rule regarding signing on behalf of another individual. The rule was updated to include language regarding the use of a signature stamp. The Commission may approve the proposal and move forward with the filing of the rule amendment or may request more changes. Mr. Barney referred to the email from Mr. Miller which Director Stewart presented earlier. Mr. Barney noted there was some concern in the industry that this would cause some issues with the final 1003. Chair Hiatt stated that considering the email from Mr. Miller that he would like to do some research to understand the issue more fully. The Commission would

like to address this at the next meeting.

Chair Hiatt turned the time to Commissioner Gardner. Commissioner Gardner noted that after the industry response at the last meeting she wanted to address some of their concern. Commissioner Gardner posited it might be a better industry practice to adopt the UST and then in the first licensing period require additional continuing education. Commissioner Gardner feels it is important to make sure the Utah licensees are educated and know what they should do. Commissioner Richards stated this was his proposal at the previous meeting and would be in support of Commissioner Gardner's proposal. Commissioner Ashton would also be supportive of that proposal. Commissioner Gardner at the last month felt it was important for there to be a requirement which would ensure the licensees knew the rules and regulations and that the proposal last month did not allow for that. Mr. Fagergren clarified the proposal last month would not have removed the requirement for the fifteen hour pre-licensing course; the proposal would only have eliminated the Utah specific test. Mr. Fagergren clarified that Commissioner Gardner is proposing the continuing education requirement in addition to the pre-licensing requirement. This was clarified that the proposal would maintain the pre-licensing education requirement and the national testing requirement which contains the UST, and would eliminate the Utah State Test. Director Stewart stated that no one has requested that the pre-licensing education be removed. Director Stewart mentioned that if the UST is adopted it would require a statutory change; we would need to approve this quickly so the change could be included in the Division bill. The proposal could be drafted to adopt the UST and allow for rule making authority to require additional continuing education. The additional requirements would be written as a rule to make effective at the same time as the statutory effective day in mid-May. The other option would be to try to quickly come up with the additional continuing education requirement and put that requirement into statute. There is also the option to take no action and not adopt the UST at this time. Chair Hiatt last month could not support the elimination of the Utah State Test because of the alleged burden without some sort of trade off. Chair Hiatt feels he could see the benefit to the licensees and the public with the proposal of adding the additional continuing education. Chair Hiatt is concerned that current licensees might be upset with the requirement of additional continuing education. Austin Baird stated that Utah is one of only five states which doesn't accept the UST. Of the 45 states which accept the UST, there are only about five or six which don't require state specific pre-licensing education. Mr. Baird stated that the continuing education requirement Utah currently has is already head and shoulders above most states and he feels adopting the UST wouldn't change that. Mr. Baird stated most states have either state specific pre-licensing education, state specific continuing education, or a combination of the two; there are only two or so states who do not require either. Commissioner Ashton asked how soon this would need to be adopted in order to be included in the next legislative session. Director Stewart stated that is somewhat unknown. Representative Froer would like to have the bill in front of an interim committee in mid-November. Director Stewart explained the process the bill will

need to undergo. He stated if this is approved at the November meeting there might still be the chance to get that into the bill, but he couldn't say for sure. Commissioner Gardner asked what the process would be for holding a special meeting to discuss this issue. Commissioner Richards would like to hold a separate meeting. Chair Hiatt would like to have the additional education requirements outlined in any proposal should the UST be adopted. Chair Hiatt proposed the Commission could have another meeting in a couple weeks, the Division could prepare a proposal, and the Commission and Division could discuss that at the next meeting. Director Stewart stated that if the Commissioners would send their thoughts to Division so they can include that in their proposal. Mr. Fagergren stated the Division had planned the outline for the Utah Law course at the next meeting. Mr. Fagergren asked if that should be postponed or if he should proceed with preparing that outline. A live meeting will be held on October 19, 2016 at 1:00 p.m. to discuss this proposal. Commissioner Gardner asked that the public confirm they were not proposing that the pre-licensing education requirement be reduced. Director Stewart stated he would confirm with the individuals who were at the last meeting that is the case. The public in attendance stated they are fine with the pre-licensing education requirement remaining and requiring continuing education.

A motion was made to adjourn the meeting. Vote: Chair Hiatt, yes; Vice Chair Richards, yes; Commissioner Gardner, yes; Commissioner Gonzales, yes; Commissioner Ashton, yes. The motion is approved. The meeting adjourned at 9:57 a.m.