

**UTAH RESIDENTIAL MORTGAGE  
REGULATORY COMMISSION MEETING**

Heber M. Wells Building  
Room 210  
9:00 a.m.  
September 6, 2017

**MINUTES**

**DIVISION MEMBERS PRESENT**

Jonathan Stewart, Division Director  
Mark Fagergren, Licensing and Education Director  
Kadee Wright, Chief Investigator  
Justin Barney, Hearing Officer  
Allen McNeil, Real Estate Analyst  
Elizabeth Harris, Assistant Attorney General\*  
Amber Nielsen, Board Secretary  
Marvin Everett, Investigator  
Tim Cuthbertson, Investigator  
Mike Page, Division Staff  
Desha Pages, Division Staff  
Faruk Halilovic, Division Staff

\*Ms. Harris was present only for the Formal Proceeding

**COMMISSION MEMBERS PRESENT**

George Richards, Chair  
Kay Ashton, Vice Chair\*\*  
Steve Hiatt, Commissioner\*\*\*  
Cathy J. Gardner, Commissioner  
G. Scott Gibson, Commissioner

\*\*Vice Chair Ashton arrived at 9:13 a.m.

\*\*\*Commissioner Hiatt arrived at 9:17 a.m.

Bruce Dobb, Administrative Law Judge\*\*\*\*

\*\*\*\*Judge Dobb was present only for the Formal Proceeding

**PUBLIC MEMBERS PRESENT**

Brent Hill  
Theron Case  
Brent Anderson  
H Kent Marchant

The meeting on September 6, 2017 of the Utah Residential Mortgage Regulatory Commission began at approximately 9:02 a.m. with Chair Richards conducting. Vice Chair Ashton and Commissioner Hiatt were absent at the start of the meeting.

## **PLANNING AND ADMINISTRATIVE MATTERS**

### Administering the Oath of Office

Commissioner Gardner has been approved for a second term on the Commission. Director Stewart administered the Oath of Office to Commissioner Gardner.

Allowing for the absence of both Vice Chair Ashton and Commissioner Hiatt from the start of the meeting, the Commission chose to postpone the Election of Officers until later in the meeting to allow the full Commission to be present. The approval of minutes was also postponed until later in the meeting.

### Public Comment Period

There were no comments given.

## **DIVISION REPORTS**

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

Director Stewart reported Eric Stott left the Division. Director Stewart and Mr. Barney reviewed over 60 applications to fill that position and hired Allen McNeil. Mr. McNeil introduced himself. He has been an attorney for eleven years. He has practiced in real estate law and was also general counsel for a title company. He stated he is excited to be a part of the Division.

Director Stewart stated the Division is in the process of updating the Annual Report on the Department's website.

Director Stewart reported there have been some security issues in the building. There will be some increases and updates in building security. In the future there will be a requirement to have a badge issued to access the second floor and above. They don't want to inconvenience anyone, but due to the issues they felt this increase was necessary to protect employees and other members of the public. Commissioner Gibson asked if that badge would be issued once or if it would be issued on every occasion. Director Stewart reported it would be issued on every occasion. There was a discussion on the possible logistics of this change.

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

Ms. Wright reported in August the Division received 4 complaints; opened 9 cases; closed 1 case; leaving 88 open mortgage cases. The AG's office has 9 cases.

### Stipulations for Review

Eduardo Jose Naude

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

Mr. Fagergren stated there are less than two months until the renewal process begins. There will be approximately 5000 individuals renewing.

Mr. Fagergren reported on the transition of CE into the NMLS. There has been communication among the seven CE Providers, the Division, and the NMLS. The providers are to provide their course information (outlines, rosters, etc) to the NMLS by tomorrow. The NMLS is waiving the application fee/course fee for this first period and for past students. Any new student going forward will have to pay the banking fee and going forward the providers will have to pay all the normal fees. The Division is pleased with the progress. This should be in place for the upcoming renewals and should make the renewal process quicker for the licensees.

Mr. Fagergren mentioned the credit companies will no longer be providing credit information. Mr. Fagergren discussed the issues and possible solutions for this credit trouble. Mr. Fagergren stressed the Division wants to ensure that renewals are still processed as quickly as possible while still checking the credit eligibility of the licensees. Commissioner Ashton asked if it would be possible to approve the applications and review their information later, where if some information was not disclosed the Division could take action at that point. There was a discussion on possible solutions for this problem.

Mr. Fagergren is happy and pleased to announce the Instructor Development Workshop on Wednesday and Thursday, October 11th and 12th at the Park City Marriott. Teresa Barnaby, who is a co-founder of a company called Course Creators, will be speaking. She teaches courses on training, making presentations, instructional design, how to develop and make courses. There is a requirement for attendance by pre-licensing instructors to the IDW at least once every two years. CE Instructors or any other interested parties are welcome to attend but are not required to.

## **PLANNING AND ADMINISTRATIVE MATTERS**

### Election of Officers for Upcoming Year

A motion was made and seconded to keep the officers the same and retain Commissioner Richards as Chair and Commissioner Ashton as Vice Chair. Vote: Commissioner Richards, yes; Commissioner Ashton, yes; Commissioner Hiatt, yes; Commissioner Gardner, yes; Commissioner Gibson, yes. The motion is approved.

### Approval of Minutes

A motion was made and seconded to approve the both the July 5, 2017 and the August 10, 2017 minutes as written. Vote: Chair Richards, yes; Vice Chair Ashton, yes; Commissioner Hiatt, yes; Commissioner Gardner, yes; Commissioner Gibson, yes. The motion is approved.

## **COMMISSION AND INDUSTRY ISSUES**

Mr. Barney reported there were no rule updates at this time.

Commission Gibson mentioned he received a question regarding the relationship between a preferred lender and a builder. The builder was requiring pre-approval through their preferred lender. Commissioner Gibson asked where the line is drawn between a recommendation and a requirement. Director Stewart stated the CFPB enforces RESPA, and there could be referral violations which the State could take actions on. Director Stewart discussed what a possible RESPA violation might be in that situation. Ms. Wright clarified where issues may occur. There was a lengthy discussion of scenarios where violations might occur and where the CFPB has taken action.

Commission Ashton asked for some additional information on the proposed stipulation.

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

#### **CLOSED TO PUBLIC**

An executive session was held from 9:43 a.m. to 10:00 a.m.

#### **OPEN TO PUBLIC**

A brief recess was held from 10:00 a.m. to 10:05 a.m.

The meeting resumed at 10:05 a.m. for the Formal Adjudicative Proceeding with Judge Dibb presiding.

#### **FORMAL ADJUDICATIVE PROCEEDING:**

10:07 H Kent Marchant – Respondent

Brent Anderson, Witness for Division  
Tim Cuthbertson, Witness for Division  
Theron Case, Witness for Division

A brief recess was held from 10:16 a.m. to 10:18 a.m. The Formal Adjudicative

Proceeding continued following the recess.

A brief recess was held from 11:53 a.m. to 12:04 p.m. The Formal Adjudicative Proceeding continued following the recess.

A brief recess was held from 1:44 p.m. to 1:50 p.m. The Formal Adjudicative Proceeding continued following the recess.

The Formal Adjudicative Proceeding for H Kent Marchant concluded at 3:07 p.m.

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

#### **CLOSED TO PUBLIC**

An executive session was held from 3:08 p.m. to 3:20 p.m.

#### **OPEN TO PUBLIC**

##### Stipulations for Review

Eduardo Jose Naude – Approved with Concurrence of the Division Director

Mr. Marchant will be notified of the Commission's Decision

A motion was made to adjourn the meeting. Vote: Chair Richards, yes; Vice Chair Ashton, yes; Commissioner Gardner, yes; Commissioner Gibson, yes. The motion is approved. The meeting adjourned at 3:20 p.m.