

Escrow Commission Meeting Minutes October 20, 2009

Attendees:

Commissioners:

Philip Dryden, Chair
Patricia Maddux
Joe Sargent
Laurie LeMay
Chariese Adams
Susan Kinyon

Consumer Services Division Representation:

Deb Bortner, Division Director
Levi Clemmens, Senior Program Manager
James Brusselback, Enforcement Program Manager
Kwadwo Boateng, Examinations Program Manager
Ariana Wood, Customer Service Supervisor
Cindy Fazio, Staff Attorney
Elizabeth Hampton, Administrative Assistant

Additional Guests:

Dennis Daug
Tamara Warnke
Lora Lily
Jim Olson
Mary Duncan
Julie Booth
Amanda Reilly
Jamie Kondo
Theresa Davies
Warren Tessler

Meeting Called to Order 9:08 a.m.

Welcome New Commissioner

The commission welcomed Joseph Sargent.

Approve Minutes from June 9, 2009, Meeting

Laurie LeMay moved to accept the minutes from the June 9, 2009, meeting as written. Susan Kinyon seconded the motion. Joe Sargent abstained from approving the minutes as he was not present. All others were in favor and the minutes were approved.

Legislation Update

There is a change in the definition of escrow to include the collection of payments and exclude vessel transfers.

DFI is going to require fingerprints for new applicants. Applicant will be required to pay \$35.00 for their fingerprints.

The next major change is under the fidelity and surety bond section. We've made it clear that you have to have a Fidelity bond to cover owners that are active in the business. If you can't get a fidelity bond that covers that, you have to get a surety bond that covers it. This still has to go through the legislature. This will become effective late April to early June.

Another major change has to do with the receivership section. DFI is seeking authority to act as a receiver in the case of a defalcation. If there are violations by an escrow agent and it is heading toward a receivership, we step in the shoes of the escrow agent and can file a claim against the fidelity bond.

The last section with impact is the prohibited practices section. It's a violation of the chapter to fail to comply with applicable federal or state act such as TILA, Reg Z, ECOA, and RESPA.

Proposed legislation has not been posted to the website yet. It is still too early.

Licensing Update – Ariana Wood

Escrow Agent Numbers for the Escrow Commission Meeting – October 20, 2009

- 145 Main offices (150 reported at last meeting)
- 16 Branch offices (18 reported at last meeting)
- 221 Escrow Officers (229 reported at last meeting)
- 128 Inactive Escrow Officers (131 reported at last meeting)

Pending applications:

- 1 Main Office
- 1 DEO
- 1 Branch

Exam Report – Kwadwo Boateng

From July 1, 2009 to September 30, 2009, 14 exams were completed.

| Composite Rating | Number of Licensees |
|------------------|---------------------|
| 1 | 3 |
| 2 | 4 |
| 3 | 3 |
| 4 | 4 |
| 5 | 0 |

Explanation of examination ratings:

Exam Reports are rated on a 1-5 rating. A rating of 1 is the least amount of violations or findings. Ratings of 4 and 5 are the worst; a 5 rating typically isn't ever rated because at that point there are so many violations and findings the case would be referred to the enforcement unit. A rating of 4 indicates that there were a lot of findings but not sufficient reason to refer to the enforcement unit, typically DFI would go back and do another examination in 6 months or less to make sure that they are in compliance.

Escrow Agents referred to the Enforcement Unit: 2

- Unlicensed branch
- Failure to file quarterly reports two quarters in a row

Common Violations:

1. Overdrawn individual escrow accounts
2. Failing to disburse funds according to the escrow instructions immediately upon closing or specifically agreed to in writing by all of the principle parties
3. The DEO failing to sign the month-end reconciliation reports
4. Failing to deface a voided check
5. Failing to itemize fees on the settlement statement by charging a Courier/Email fee

Enforcement Update – James Brusselback

James Brusselback provided an Enforcement Update on the last two quarters.

From April 1, 2009 to June 30, 2009, DFI's Enforcement Unit received 22 complaints and closed 32 complaints. There were 40 open complaints as of September 30, 2009. For all industries, DFI received 546 complaints and closed 681 during this time period. As of

September 30, 2009, DFI had a total of 905 open complaints for all industries (all numbers provided are approximate).

From July 1, 2009 to September 30, 2009, DFI's Enforcement Unit received 23 complaints and closed 24 complaints. There were 40 open complaints as of September 30, 2009. For all industries, DFI received 849 complaints and closed 681 during this time period. As of September 30, 2009, DFI had a total of 905 open complaints for all industries (all numbers provided are approximate).

Enforcement Actions April 1, 2009 – June 30, 2009:

Statement of Charges (issued in period) – 1

Data Search Inc: **06/03/2009 [C-09-033-09-SC01]**.

Final Order (issued in period) – 1

Lender Services Direct, Inc; Gekko, Joseph: **05/19/09 [S-06-019-09-FO01]**

Consent Order (issued in period) - 2

DRI Title & Escrow: **04/07/2009 [C-06-135-09-CO01]**

Lydia Jean Easter: **4/28/2009 [C-07-511-09-CO01]**

Enforcement Actions July 1, 2009 – September 30, 2009

Statement of Charges (issued in period) – 2

EAM Settlement Services Inc: **07/30/2009 [C-09-180-09-SC01]**

CalCounties Title Nation Company fka California Counties Title Company: **Statement of Charges issued 7/13/09 and Consent Order issued 10/01/2009 [C-09-183-09-C01]**

Final Order (issued in period) – 1

Micki Thompson: **9/14/09 [C-09-206-09-FO01]**

Consent Order (issued in period) - 3

Omni Closing Services Inc, *et al*: **9/2/2009**

[C-07-511-09-CO02] Omni
[C-07-511-09-CO03] Reimer
[C-07-511-09-CO04] Gates

Temporary Order to Cease & Desist (issued in period) – 2

Micki Thompson: 7/28/09 [C-09-206-09-TD01]

Golf Escrow and Genny Harmon (Lee): 8/4/09 [C-09-229-09-TD01]

See DFI's website for more details of these actions:

http://www.dfi.wa.gov/cs/adminactions_2009.htm

Old Business

The spring commission meeting will be held in-person each year.

New Business

The Escrow Test will be discussed during the Executive Session.

Executive Session begins at 11:00 a.m. (Staff and Commissioners only)

The meeting was adjourned at 10:42 a.m.