

Escrow Commission Meeting Minutes December 16, 2010

Attendees:

Commissioners:

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

Consumer Services Division Representation:

Deb Bortner, Division Director
Cindy Fazio, Financial Legal Examiner
Patrick Woods, Licensing and Administration Program Manager
James Brusselback, Enforcement Program Manager
Kwadwo Boateng, Examination Program Manager
Ariana Wood, Customer Service Supervisor
Phil Brady, Financial Legal Examiner
Elizabeth Hampton, Administrative Assistant

Guests:

Lila Nees	Dani Cospers
Larry Goodman	Mandy Reilly
Kathryn Leathers	Angie Fritz
Lora Lilly	
Dennis Daus	
Julie Booth	
Kate Graham	
Diane Soli	
Warren Tessler	
Nikki Hall	
Lavenski Sampson	
Melisa Thompson	
Judi Cozad	
Jonelle Wheeler	
Cheree Santini	
Stan Pilon	

Meeting Called to Order at 9:10 a.m.

Approve Minutes from July 8, 2010, Meeting

The July 8, 2010 minutes were approved by all.

Legislation Update

There is no legislation this year that affects the Escrow Act. Regarding the attorney-escrow lawsuit, on November 24th, the Supreme Court dismissed the Plaintiff's petition finding that no one was put in a position of harm as a result of the changes to the act.

Rulemaking Update

The rules that we worked on in 2010 became effective on November 5th. The new rules have been posted on our website. Forms are being updated to include current WAC numbers. Phil Brady is working on a model disclosure for licensees to report their compliance with the background checks on employee provision of the new law. He will also draft a model Policies and Procedures document.

The governor has an executive order that postpones rulemaking unless there is an emergency or legislation that would require us to do so.

Licensing Update – Ariana Wood

Escrow Agent Numbers as of December 14, 2010.

- 122 Main offices (128 reported at last meeting)
- 16 Branch offices (17 reported at last meeting)
- 178 Active Escrow Officers (192 reported at last meeting)
- 118 Inactive Escrow Officers (128 reported at last meeting)

Additional numbers:

- Roughly 51% of companies and branches have submitted their renewals, due by 12/31/10 to avoid a late fee.
- Two companies have indicated they will be closing but have not submitted some or any paperwork yet.
- Three companies are actively working on submitting materials for their pending new applications.
- Roughly eight new escrow officers are working on submitting materials for their pending new applications.
- One escrow officer is pending review—current processing time roughly three weeks, should be back to two weeks or less in January for complete applications.

Examination Report – Kwadwo Boateng

From August 2010 to November 2010, 6 exams were completed.

Average number of violations per exam: 4

Composite Rating	Number of Licensees
1	0
2	3
3	3
4	0
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.

Average number of billable hours for 2 Rated Agent's: 26

Average number of billable hours for 3 Rated Agent's: 30

Common Violations:

1. Overdrawn Escrow Accounts
 - Agents have overdrawn escrow accounts for various reasons
 1. Failure to deposit earnest money funds until after closing
 2. Miscalculation of pre-paid interest
 3. Data entry errors – transposing of numbers – when initiating an outgoing wire
 4. Voided checks clearing the trust account
 5. Receipts posted to the system do not match actual funds received by the bank
2. Failing to timely deposit customer funds
 - Customers trust account deposits were not being deposited with one business day of receipt

Enforcement Update – James Brusselback

James Brusselback provided an Enforcement Update on the last quarter, July 1 through September 30, 2010.

From July 1, 2010 to September 30, 2010, DFI's Enforcement Unit received 22 complaints and closed 31 complaints. For all industries, DFI received 461 complaints and closed 111 during this time period. As of December 1, 2010, DFI had a total of 756 open complaints for all industries (all numbers provided are approximate).

Enforcement Actions July 1, 2010 to September 30, 2010:

Order Taking Possession (issued in period) - 1

Avista Escrow Services LLC; Lennie Louise Mueller; Douglas A. Huntington; Scott Thomas Huntington: 08/19/10 [C-08-223-10-TD02]

Statement of Charges (issued in period) – 5

Escrow Visions LLC; Barbara Marie Simmons: 08/23/10 [C-07-459-10-SC01]

Fidelity National Title Company: 08/23/10 [C-10-265-10-SC01]

Fidelity National Title Agency of Nevada, Inc.: 08/23/10 [C-10-266-10-SC01]

Lawyers Title of Nevada, Inc.: 08/23/10 [C-10-267-01]

Trust Title Company: 08/23/10 [C-10-285-10-SC01]

Consent Order (issued in period) – 8

Scott Thomas Huntington: 09/03/10 [C-08-223-10-CO02]

Integrity Closing & Escrow LLC; Aloar Drawde Durham: 08/24/10 [C-09-029-10-CO02]

Dennis Ervin Chilberg: 07/09/10 [C-09-029-10-CO03] See Integrity Closing & Escrow LLC.

Daralee Bridgers Neisess: 09/23/10 [C-09-029-10-CO03] See Integrity Closing & Escrow LLC

Builders Escrow Inc; Karen M. Adams; Gerald Emery Schneider: 09/03/10 [C-09-110-10-CO01]

Approved Escrow Inc; Debbie Darlene Parker; Todd Charles Kennedy: 08/19/10
[C-09-147-10-CO01]

Real Estate Title Services LLC: 08/24/10 [C-10-017-10-CO01]

Mara Escrow Company: 09/03/10 [C-10-189-10-CO01]

Final Order (issued in period) – 1

Escrow Visions LLC; Barbara Marie Simmons: 09/16/10 [C-07-459-10-FO01]

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

http://www.dfi.wa.gov/cs/adminactions_2010.htm

Commission Vacancies –

Susan Kinyon's term expires December 31st. Deb Bortner thanked her for her commitment and service to the commission.

DFI will not solicit a new commission member at this time. The statute states that only five commissioners are needed. The Governor is looking at the boards and commissions again in this next legislative session.

2011 Meeting Schedule –

The next commission meeting will be scheduled for March or April. We will then schedule meetings one at a time until there is a decision about the future of the Escrow Commission. DFI will follow up during the legislative session if escrow agent licensees are impacted. If the escrow commission is eliminated, DFI will continue to schedule public meetings as needed. DFI is also planning to start sending newsletters.

Old Business -

Escrow Test –

Patrick Woods shared an overview of testing. DFI looked at the number of those that passed and failed in 2010. There are a limited number of individuals taking the test and the failure rate is greater than the pass rate. The changes to the exam took place in September but at this point it is difficult to tell if that is the reason for the high fail rate. DFI will keep an eye on this during the coming year. The test sites are dispersed throughout the state although the testing site in Wenatchee was closed. Testing hours are more limited.

The 136 questions test became available around September. There are 130 scored questions and six non-scored questions. The non-scored test questions will be used for analyses.

Significant changes have been made to the escrow rules, including their complete renumbering. Phil Brady, Ariana Wood and Cindy Fazio will be working with PearsonVue to review the test and ensure that all references are updated. The commission is invited to participate in the test maintenance sessions. DFI will be in touch with the commission when the early spring session is scheduled.

Meeting adjourned at 10:50 a.m.

You may listen to a recording of the entire meeting at http://dfi.wa.gov/cs/escrow/escrow_commission.htm#audio .