

Escrow Commission Meeting Minutes

April 8, 2008

Attendees:

Commissioners:

Philip Dryden, Chair
Susan Kinyon
Patricia Maddux
Stan Pilon
LaurieLeMay
Chariese Adams

Consumer Services Division Representation:

Deb Bortner, Division Director
James Brusselback, Enforcement Program Manager
Levi Clemmens, Examinations Program Manager
Berri Leslie, Licensing Program Manager
Elizabeth Stancil, Administrative Assistant
Rick St. Onge, Financial Examiner Supervisor
Cindy Fazio, Financial Legal Examiner
Quincy Todd, Customer Service Supervisor

Additional Guests:

Dennis Daug, SeaTac Escrow
Weldon MacDougall, Metro Escrow
Adeen Sells, Reconveyance Services, Inc
Jonelle Wheeler, ACS Northwest, Inc
Ken Vost, Professional Escrow
Karen Adams, Builders Escrow

Meeting Called to Order 9:05 a.m.

Introduce Berri Leslie

Berri Leslie joined the Department of Financial Institutions as the new Licensing Program Manager on March 3, 2008. Berri came to DFI from the Oregon Division of Finance & Corporate Securities where she was their Mortgage Lending Program Manager. Berri is a graduate of the University of Oregon and received her Masters Degree in Public Administration from Portland State University.

Approve Minutes from January 8, 2008, Meeting – Handout

Laurie LeMay moved to accept the minutes from the January 8, 2008, meeting as written. Stan Pilon seconded the motion. All were in favor and the minutes were approved.

Exam Report – Rick St. Onge

In the first quarter, four exams were completed – two rated at a 2, two rated at a 3.

The Exams group is currently working on one investigation.

Kate Dixon has accepted a position with a private agency and is no longer at the Department of Financial Institutions. A new examiner will be hired soon.

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 to make sure that they are in compliance.

Top four common violations:

1. Failure to receive sufficient funds before disbursement
2. Failure to retain voided trust account checks
3. Failure to maintain the endorsement side of checks
4. Failure to file quarterly reports on time

Philip asked if the increase in mortgage brokerage closings is because of the conditions in related Escrow.

Rick said that the same market conditions affecting Mortgage Brokers are affecting Escrow Agents, which is the type of investigations they have right now. Twenty-two Escrow Agents are pending closure in the first quarter.

Licensing Update – Berri Leslie

The new Escrow Newsletter was passed out to all meeting attendees and is available on the Internet. Any feedback about the newsletter would be greatly appreciated.

Escrow Agent:

- 162 - Main offices (184 reported at January meeting)
- 22 - Branch offices (23 reported at January meeting)
- 257 - Escrow Officers (264 reported at January meeting)
- 117 - Inactive Escrow Officers (136 reported at January meeting)

Mortgage Broker:

- 7,214 - Loan Originators (As of March 31, 2008)
- 1,524 - Mortgage Brokers (As of March 31, 2008)

Stan asked about the “pending” status for Mortgage Brokers/Loan Originators and what it means now.

Levi replied that if an applicant’s file is in “pending” status they are not yet approved to conduct business. The backlog for Mortgage Brokers/Loan Originator applications is currently less than two weeks. One part of the application process that can cause delay is the fingerprint checks. Approximately 20 percent of fingerprints get rejected. Prints are run with each application, even if the applicant had them checked for a previous application.

Stan asked how the new Consumer Loan licensing in the National Mortgage Licensing System (NMLS) will impact mortgage brokers.

Deb said that in the past a mortgage broker was both a broker and a lender that didn’t loan over 12 percent. Legislation redefined a mortgage broker as someone who is solely a broker. To lend, you must have a license under the Consumer Loan Act. The law becomes effective June 12, 2008. The NMLS is available for licensing under the Consumer Loan Act May 1, 2008. The Department of Financial Institutions (DFI) will approve applications after they go through the NMLS. DFI will still have regulatory authority over licensees.

Enforcement Update – James Brusselback

January 1, 2008 – March 31, 2008

Complaints:

- 15 - New complaints (77 received for all of 2007)
 - 25 - Closed complaints (74 complaints closed in 2007)
 - About 25 – Open complaints (unlicensed activity, timeliness, not paying bills, etc.)
- 2,176 - Received complaints for all industries for the year of 2007 (For 2006 there was just over 1,300, for 2005 it was just over 1,000 and for 2004 it was just under 1,000)

Enforcement Actions:

A consent order was issued against Paramount Title and Escrow for two years of unlicensed activity. The company was fined \$5,000, was banned from doing business for five years, and paid \$1,000 in investigation costs.

Stan asked about the outcome on the cases against Trans Union and Informed Escrow.

James reported that Trans Union ceased doing business immediately upon notification from the Enforcement staff and submitted an application for licensure. We agreed to process the application because of their prompt cooperation; however, the company was fined \$20,000 plus an additional \$750 for investigation costs. Informed Escrow was not

fined but was banned from doing business for five years. In both the Trans Union and Informed Escrow cases the complaint was for unlicensed activity only.

Enforcement is working on developing a report to provide more detail for complaint allegations and findings.

This week, Enforcement is filing a receivership. This is a time-consuming and cumbersome process because it is difficult to find receivers that want to move the process along.

Deb stated that DFI is thinking about changing the statute, through legislation next year, to give a different procedure.

Stan asked if the receiver is supposed to get involved with the insurance company.

Deb said we're going to try to make this a simpler process and more consumer-friendly.

DFI is going to take action against those that do not file quarterly reports. This process is outlined in the newsletter. For non-compliance there will be fines, sanctions, and revocations.

Philip asked if we can put a receivership fee in the statute.

Deb said we are not opposed to that; however, all fees have to go through legislation to be changed and must pass by simple majority. Any ideas for how this would work better would be great.

Visitor, Joelle Wheeler, said that a Certified Public Accountant with an escrow background would be able to find money quickly.

Stan asked why there were only four exams completed in the last quarter.

Levi replied that examiners are also investigators and investigations are a priority over the routine examinations. There are still two full-time examiners.

Chariese asked if the escrow agents are being regulated by the correct division. Do they get the most staff for the program this way?

Deb said they would not receive additional staff anywhere else in the agency.

Examination Hours – Levi Clemmens

DFI will begin billing companies for off-site examination hours next week. DFI has only been billing for half of the hours the agency is able to collect. Billing for off-site work permits DFI to be less intrusive to businesses because examiners can continue to spend less time in their office.

The examination hours include preparation time, on-site time, analysis, compiling findings, writing the report, and finalization.

Currently, the average bill for an examination is around \$1300 and that will most likely go up to approximately \$2500. The agency is aware that this is costly to companies; however, if an examination is done and the company scores a 1 or 2 on the report, it may be five to seven years before they will be subject to another examination.

Commission members warned DFI staff that they will get a lot of backlash because this issue was discussed in the past and DFI said they would only bill for on-site hours.

Dennis, a visitor, asked how companies can stay in business without raising rates to compete.

Laurie asked what the least amount of time was for an examination.

Rick said that it's an average of 20 on-site hours and 21 off-site hours for a company that ends up with a 1 or 2 rating. Off-site hours are more than on-site hours because examiners try not to disturb the businesses with their presence. Companies that end up with a 1 or 2 rating will have a longer cycle before being revisited by an examiner; unless, a flag is raised at a later time to trigger another examination.

Philip asked if licensees will get a detailed bill of all exam hours. What can someone do to dispute the bill? What is the course of action?

Levi said that they will receive a detailed bill of all hours. To dispute the bill, they can start a dialogue with DFI staff to question the charges and will receive an explanation.

Deb said that strict reconciliation rules will, hopefully, bring the hours down.

Delinquent Quarterly Reports – Deb Bortner

A question-and-answer section regarding Delinquent Quarterly Reports was added to the Escrow newsletter. A new quarterly reports form will be available by the end of April. Failure to file your quarterly reports on time will result in the Exams Program sending a letter and giving five business days for a response. If the company does not comply in that time, the issue will be referred to the Enforcement Program. Enforcement staff will send a letter to notify the company that sanctions may be enforced. Past activity will be reviewed and it may result in a fine. For others, there may be more strict sanctions.

New HUD Rules – Deb Bortner

DFI is reviewing the HUD rules.

Deb asked the commissioners how they feel about the closing scripts HUD has proposed. She will incorporate these comments into her report.

Chariese said the closing scripts should not be the escrow agent's responsibility because they are neutral in the transaction.

Philip said that escrow agents don't get the information they would need to be a policing agent. They aren't informed as to why individuals receive the loans or loan rate they do.

Reconveyance Policy Statement – Cindy Fazio

A draft of the Reconveyance Policy Statement was provided that incorporates the comments sent to Cindy as a result of the last meeting. Cindy walked meeting attendees through the changes in the document. Most of the changes were to the form itself and not to substantive content.

Changes were made to include all comments about documentation under the heading "Documentation" and to state that all records can be either electronic or paper documents.

A visitor asked what is considered adequate documentation.

Cindy said an invoice or verification of refund is adequate documentation. If something is missing from the file, DFI will request the missing pieces to make it a complete file.

Another visitor asked if it has been determined what "reasonable fees" are.

There are no caps or minimums on fees.

Do we have to separate tracking and reconveyance fees?

Yes. These fees need to be separated for DFI.

Stan asked if maintaining a log would fulfill the documentation requirements for DFI.

Cindy said that maintaining a log would be considered adequate documentation.

Stan asked if DFI will be sending the final document to the Office of the Insurance Commissioner.

Deb said that DFI staff will meet with them in a couple weeks and this will be addressed.

Contract Collections – Deb Bortner

Joe Vincent, General Council for the agency, has reviewed whether we have jurisdiction over contract collections and he reported that we do not. DFI will provide technical

assistance to commissioners if they wish to propose legislation next session to give DFI jurisdiction.

Old Business

Philip asked about the status of the Escrow Office Exam testing.

Deb said that Whittier Johnson will continue with this when he returns on May 1, 2008.

Philip asked that at the next meeting there be an Executive Session to continue on with the new Exam test.

Deb said it may convert to Promissor, like the Mortgage Broker test. This would allow individuals to take the test in various places throughout the state. The examinees will pay their fee to Promissor directly.

New Business

A visitor asked if the Reconveyance Policy Statement handout was the official draft.

Deb said that we are adopting it.

The meeting was adjourned at 11:32 a.m.