

Escrow Commission Meeting Minutes February 4, 2009

Attendees:

Commissioners:

Philip Dryden, Chair
Patricia Maddux
Stan Pilon
LaurieLeMay
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 Stancil, Administrative Assistant

Additional Guests:

Dennis Daug
Adeen Sells
Tamara Warnke
Jonelle Wheeler
Laura Lily
Theresa Davies
Rhonda Parker
Linda Denchel

Meeting Called to Order 10:05 a.m.

Approve Minutes from October 7, 2008, Meeting – Handout

Patti Maddux moved to accept the minutes from the October 7, 2008, meeting as written. Laurie LeMay seconded the motion. All were in favor and the minutes were approved.

Exam Report – Kwadwo Boateng

In the fourth quarter, five exams were completed – two rated at a 2 and two rated at a 3 with one rated at a 5 and is being referred to Enforcement.

The Exams group completed one investigation.

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.

We are currently monitoring the trust accounts of 27 companies who have submitted closure documents through the "Quarterly Reporting Program" until the trust accounts reach a zero balance.

Common Violations:

1. Failure to provide proof of fidelity bond.
2. Failure to maintain sufficient funds in individual escrow accounts.
3. Failure to perform all duties in a prompt and efficient manner. (Stale-dated checks and old escrow accounts with undisbursed funds)
4. Failure to Separate Fees on the Settlement Statement (charging a combined courier/wire; such fees must be itemized separately on the HUD).
5. Third Quarter Failure to file quarterly reports on time.

Licensing Update – Ariana Wood

- 145 - Main offices (167 reported at October meeting)
- 17 - Branch offices (22 reported at October meeting)
- 257 - Escrow Officers (254 reported at October meeting)
- 132 – Inactive Escrow Officers (125 reported at October meeting)
 - 1 – Company not renew, no response
 - 31 – Companies closing

DFI is currently working on an online renewal system for escrow agent licensees. They hope to implement the new system before the next renewal period.

Enforcement Update – James Brusselback

As of the end of December, there were about 35 open escrow complaints in the Enforcement Unit. In the fourth quarter, DFI received 20 complaints and closed 22 cases. For all of 2008, approximately 127 complaints were received and 112 were closed.

There are about 14 pending investigations and 1 investigation was closed in the fourth quarter.

Statement of Charges (issued in period) – 8

Avista Escrow Services LLC, Lennie Mueller, Douglas Huntington, Scott Huntington: 12/18/08 [C-08-223-08-SC01] Examinations conducted on or about March 10, 2008.

Noreen A Cramer: 11/21/2008 [C-01-153-08-SC02]

Jamieson Banks: 11/21/2008 [C-03-168-08-SC02]

Higa Escrow Service, Inc., Caroleann M Higa: 11/21/2008 [C-08-308-08-SC01]
Examination conducted from July 8, 2008, through July 22, 2008.

Omni Closing Services Inc, Sheila Marie Reimer, Diane Sue Gates: 10/20/2008
C-07-511-08-SC01.

Lydia Jean Easter: 10/20/2008 [C-07-511-08-SC02]

DRI Title & Escrow: 10/06/2008 [C-06-135-08-SC01]

Guardian Title Services: 10/02/2008 [C-06-134-07-SC01]

Final Order (issued in period) – 1

Guardian Title Services: 11/17/2008 [C-06-134-08-FO01]

Temporary Cease & Desist (issued in period) - 1

Karen Kimmel, Kimmel Escrow LLC: 10/06/2008 [C-08-305-08-TD01]

See DFI's website for more details of these actions:
http://www.dfi.wa.gov/cs/adminactions_2008.htm

Old Business

Phil Dryden asked if Laurie LeMay's commissioner term had been renewed. Deb Bortner is waiting to see what happens with the bill in legislation that would eliminate the Escrow Commission. She didn't want to move forward on that until we know if it will pass or fail. Laurie LeMay will remain on the commission until her term is renewed or until she is replaced.

Tamara Warnke reported that there is one bill in the House that would eliminate every board and commission. The bill in the Senate would suspend 158 boards and consolidate some boards under SB 5588. The Escrow Commission is listed on both of these bills; however, these will not be the primary vehicles that move forward. The Governor will be issuing her version of the boards and commissions proposal. We will wait to see if the Escrow Commission is listed in that version. Tamara Warnke had a discussion with the Director and he said that he did not recommend that the commission be eliminated.

New Business

Deb Bortner reported that DFI has notice that over the last few years more and more attorneys are acting as escrow agents. DFI has been trying to work with the Bar Association on this and we currently have an agent that is an attorney that we feel has violated the act. We will be talking with the Bar Association to see if they will support our view that an attorney is only exempt from the act if escrow services are not a significant part of their business. If an attorney sets up an office specifically to provide escrow services, they will need to be licensed as an escrow agent.

Phil Dryden asked if DFI would use this legislative session to try and find an alternative to receivership for dealing with escrow companies that close their doors. Deb Bortner had a discussion with our attorney that is working with both of the receiverships we have right now and we talked this morning about developing something. DFI has to get their legislation in by September and because we had such a big agenda this year we could not take on another bill. We have bills that were required because of Federal legislation so DFI has three of their own bills and 25-30 bills that they're working on as a result of people suggesting different legislation on our industries. We'll take a look at it and see if we can do better for next year.

Phil also asked about the department adding an FAQ on our Escrow website. To include typical range for reconveyance tracking fees, what is an acceptable form for a wire fee or document printing fee, etc. Deb Bortner said we might be able to add what would be out of the range, what would put us on notice, and commonly asked questions regarding audit expectations. DFI will try to add FAQs to the website as soon as possible. Kwadwo Boateng is working on FAQ pages for each one of the industries.

The meeting was adjourned at 11:20 a.m.