

Escrow Commission Meeting Minutes January 8, 2008

Attendees:

Commissioners: Philip Dryden, Susan Kinyon, Patricia Maddux, Stan Pilon

Consumer Services Division Representation: James Brusselback, Program Manager; Levi Clemmens, Program Manager; Crystal Craig, Administrative Assistant; Rick St. Onge, Financial Examiner Supervisor; Cindy Fazio, Financial Legal Examiner; and Quincy Todd, Customer Service Specialist

Additional Guests: Robert Golden, immediate past Chair, Dennis Daus (SeaTac Escrow), John Huntsperger (Metro Escrow), Lora Lilly (A'lora Escrow, LLC), Weldon MacDougall (Metro Escrow), Dee McComb (Escrow Association of Washington), Adeen Sells (Reconveyance Services, Inc), Jonelle Wheeler (ACS Northwest, Inc).

Meeting Called to Order 9:13am.

Appointment of New Commission Chair.

Nominations for new Chair. Phil Dryden nomination, moved, seconded, voted. Phil Dryden the new Chair of the Commission.

Approve Minutes from October 23, 2007, Meeting – Handout

Patricia Maddux moved to approve the minutes from the October 23, 2007, meeting. Susan Kinyon seconded the motion. All were in favor and the minutes were approved.

Exam Report – Rick St. Onge

As of the 3rd quarter, Consumer Services had 15 open exams

As of the 4th quarter, December 31, 2007, Consumer Services had completed all but 3 of the 15 exams.

- 13 compliance exams – 1 were rated a 4, 4 was rated a 2, and 1 was rated a 1.
- 2 technical examinations
- 1 closure examination

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 (32 companies)

Philip asked if the 32 companies that failed to file their quarterly reports on time are the next companies up for examination.

Rick said that those 32 companies are currently being risk rated right now, that some companies were not just late, but they completely failed to turn in their quarterly reports. The companies that failed to turn in a quarterly report will be risk assessed first and then DFI will start risk assessing the companies that turned in their quarterly reports late.

Licensing Update – Levi Clemmens

As of December 31, 2007:

Escrow Agent:

- 184 - Main offices (no change from the last meeting)
- 23 - Branch offices (that's a decrease of one from the last meeting)
- 264 - Escrow Officers (that's a decrease of three from the last meeting)
- 136 – Inactive Escrow Officers (that's an increase of five from the last meeting)

Mortgage Broker:

- 13,772 – Loan Originators (As of January 7, 2008, 6,095 of the 13,772 Loan Originators have renewed)
- 1,911 – Mortgage Brokers (As of January 8, 2008, 1,302 of the 1,911 Mortgage Brokers have renewed)

Effective January 1, 2008, a Loan Originator can not do business until they actually receive their license.

There is a live look up tool on the DFI web page where you can see the loan originators license status. Look under Brokerage where you can see all the loan originators that are associated with a company or you can look up an individual loan originator. For the status you will see one of two options. You will see Current Licensed, meaning that the licensee renewed, or you will see Expired, meaning that the licensee did not renew.

There is a 45 day window which will expire February 15, 2008, that the loan originator can reinstate that license; the licensee must also pay a late charge.

Stan asked about an escrow agent's obligation to determine whether or not a broker has authority to do business in Washington. Is it the escrow agents' duty to reject them if they can't determine if they are licensed or need to be licensed?

Rick said that in the past on exams DFI has not been citing the escrow side of the house when there is an unlicensed loan originator doing business, DFI cites the mortgage broker.

Levi suggested that when you do come across an instance where there is unlicensed activity by a fellow escrow agent that you report that to DFI via email or a phone call.

Escrow Applications:

9 – Pending Applications (4 have been reviewed but have not been given a license due to issues that are being looked into, 5 were received in November)

Stan asked if a licensee has to wait until DFI processes the paperwork and sends them their license before doing business. Levi said that currently DFI is issuing a zero queue letter which says that the applicant can go forth with business unless told otherwise. If DFI finds an issue with the application then they will contact the applicant.

Escrow Amendments:

28 – Amendments (9 have not been reviewed, 19 have been reviewed)

Enforcement Update – James Brusselback

This report is for October 1 – December 31, 2007.

Complaints:

21 - New complaints
22 - Closed complaints
35 – Open complaints
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)

Dennis asked how many cases were filed against escrow companies for 2007.

Jim approximated that fewer than 20 cases were filed. He will find out the final number and report that at a later date.

Enforcement actions:

Paramount Title & Escrow, LLC
Statement of charges
Currently in settlement negotiations

Escrow Visions, LLC
Temporary order to cease and desist

About 75-100 of the 200 Statement of Charges issued this year were taken against loan originators. In 2006 there were 17 actions, 2005 there were 18 actions and 2004 there were 59 actions.

Stan asked why the TransUnion Real Estate Services, Inc. case and the Informed Escrow case were handled so differently.

James explained that each case is viewed on its own merits; it depends on what facts are presented, and the available proof. James will look into it further.

James brought up an agenda item about attorneys doing escrow. James has assigned that to someone on his staff. They are considering whether an attorney acting in an escrow capacity should have an escrow license.

Stan asked about an issue that Joe Vincent had brought up a long while back about the Vessel Escrow Opportunities. He wonders if the idea is dead or still being worked on.

James and Cindy felt the issue was dead. Bob agreed.

Reconveyance Policy Statement – Cindy Fazio

Cindy thanked everyone for the comments they submitted on the Reconveyance draft policy statement. The draft that was sent out on December 4, 2007, is still the active draft. There will be another draft to the commissioners at the next meeting. You can still submit your comments to the draft.

Stan commented that he believes the reconveyance draft seemed to be more paper based rather than digital information based. He believes it would be simpler and more earth friendly to have it more digital based.

MBPA Rule on Payments From Escrow - Cindy Fazio

There has been an amendment to the Mortgage Broker Practices Act that would allow the closing agent to pay the Loan Originator directly for their commission at the closing table. DFI has drafted some rule language around that. In the original language DFI put a burden on the escrow officer to provide the loan originator copies of the closing documents in a certain time period. DFI has now amended that language so that the burden is on the loan originator to provide the documents to the mortgage broker.

Stan asked if we pay a loan originator directly, do we have to provide them a 1099.

Cindy explained that the escrow agent is not independently contracting with the loan originator for services.

The next public hearing on the mortgage broker practices act rules will be held on January 30, 2008, in Renton from 1-3pm.

Uniform General Closing Instructions - Cindy Fazio

The comment period on the uniform general closing instructions is coming up on January 30, 2008. The EAW is interested in combining Joe Vincent's comments with their comments.

New Commissioner Appointment

Patti Maddux has been appointed as the new commissioner. She will be filling the vacancy left by Robert Golden.

Old Business

Stan asked about the quarterly reports, will there be a new one posted? There is not one now, but Cindy will make sure that it gets sent out to the commissioners by the end of next week.

Philip asked if there is any word on the newsletter that Whittier was working on. Cindy explained that the uniform closing instructions was going to be a topic in there.

New Business

Susan would like contract collections to be brought up at a future meeting to be discussed further. There are a lot of questions that need to be answered. Cindy will let Deb know the commissioners are interested in looking into this.

Levi announced that Whittier Johnson has retired. At this time we don't know how his duties will be distributed. However, the newsletter will not be forgotten.

Quincy Todd was introduced as the new Licensing Staff Supervisor in Consumer Services. She will have responsibility for overseeing Escrow.

Levi announced that he is currently transitioning out of his licensing role into examinations. He will be overseeing mortgage broker and escrow.

Lana Monfort retired from state service in November.

Levi handed out previous non-DFI minutes from the EAW website. He was wondering if the Commission would like DFI to review the minutes before posting or if the commission would note that the minutes are private minutes and not DFI minutes. The conversation concluded with everyone agreeing that there be a disclaimer on the EAW minutes with a link to the DFI minutes.

Robert Golden was thanked for his time being a Commissioner. He served two terms, totaling ten years. He was given a plaque from DFI thanking him for everything he has done with the escrow program and for the state.

The meeting was adjourned at 11:22 a.m.