



Insurance Department

State of Utah

GARY R. HERBERT
Governor
SPENCER J. COX
Lieutenant Governor
TODD E. KISER
Commissioner

State of Utah Title & Escrow Commission Meeting Meeting Information

Date: February 9, 2015 **Time:** 9AM **Place:** East Building, Copper Room

MEMBERS

COMMISSION MEMBERS

xChair, Jeff Wiener (*Insurer, Salt Lake County*) xBob Rice (*Insurer, Ada County, ID*)
xCo-Chair, Kirk Smith (*Agency, Weber County*) xLarry Blake (*Agency, Washington County*)
xSylvia Andersen (*Public Member, Salt Lake County*)

DEPARTMENT STAFF

xPerri Babalis, *AG Counsel* xMark Kleinfeld, *ALJ* xSuzette Green-Wright, *MC Dir*
xTammy Greening, *Examiner* xCathy Burton, *Notary* xSteve Gooch, *PIO Recorder*

PUBLIC

James Seaman	Tige Garner	Wade Taylor
Pete Stevens	David Moore	Mark Webber
Blake Heiner	Russ Nance	Michael Smith
James Johnson	Mark Chandler	Scott Cope
Matt Sager	Tom Harvey	

MINUTES — *Not Approved*

General Session: (Open to the Public)

- **Welcome** / Jeff Wiener, Chair (9:02 AM)
- **Swear in Bob Rice** / Cathy
- **Board Duties & Responsibilities** / Perri
 - This is a discussion of how boards and commissions in the state of Utah must operate to function appropriately and legally. The Boards and Commissions Handbook can be found at <http://www.utah.gov/governor/boards/documents/finalhandbook.pdf>. Jeff requests that duties and responsibilities topics be added to the March agenda.
- **Adopt Minutes of Previous Meeting**
 - Kirk proposes amendments: Bullet 2, line 6 of the section about First American Title — “offense was *how* that information was being dispersed” “*not what* information was being provided.” Next line: “real estate community looks to title & escrow *industry* for *real property information and* guidance.” “Notes that the *department, based on complaints*, has the power to investigate and fine, but should it?”
 - **Motion** by Larry to approve and adopt. Seconded by Bob. Motion passes 5-0.
- **Reports**
 - Concur with Licensee Report / Suzette
 - Pete Stevens notes that there’s a law and rule that licensees must have the words “insurance” or “insurance services” in their name, but there are a lot of agencies that are coming through don’t have it. He asks why new the commission is permitting new licenses without the correct wording, if it is also attempting to fine companies that don’t have it. Tammy clarifies that if it’s not in a company’s legal name, it must be on their letterhead or materials, but that nobody has been fined over it. Jeff requests that this be added as a topic to the March agenda.

- **Motion** by Larry to concur. Seconded by Bob. Motion passes 5-0.
 - Concur with Complaint & Enforcement Report / Suzette
 - Columns have been added to show the commission the amounts of each fine in cases where a licensee has been fined for multiple infractions. The report now includes licenses that have been denied.
 - Consensus is that, going forward, reports will list one year of closed investigations. However, the January report will include a two-year report that will be useful for trending purposes (volume and types of offense).
 - **Motion** by Larry to concur. Seconded by Sylvia. Motion passes 5-0.
 - Request for Dual Licensee Expedited Request: None
 - Request for Attorney Exemption: None
- **Administrative Proceedings Action** / Mark Kleinfield, ALJ
 - Stipulation and Order:
 - Provo Land Title Company (ENF #3575)
 - Provo Land's president's license lapsed on Aug. 31, 2014 and was reinstated Sept. 11, 2014. The department investigated and found that 53 commitments were signed during that time frame. The company had a previous infraction for not renewing the agency license. The department proposes a forfeiture of \$3,000.
 - Bob asks about the dollar amount for the fine. Suzette says the department has a matrix of baseline fines and fees that they use to ensure that everyone is treated fairly. The company could have been fined up to \$2,500 for each of the 53 infractions, but the department tends not to do that.
 - **Motion** by Kirk to concur. Seconded by Sylvia. Motion passes 5-0.
 - Bonneville Superior Title (ENF #3501)
 - Removed because process was not completed in time.
 - First American Title Company (ENF #3547)
 - The department investigated a number of complaints regarding a software app "MyFirstAm" that is offered by First American. There were at least 38 occasions when the app was downloaded, promoted or marketed to Utah individuals or agencies. The Department and First American have agreed to a forfeiture of \$55,000 paid within 30 days of the commission's approval of the stipulation. Respondent would also be prohibited from providing information through the app in Utah, except for specific closings.
 - This was discussed last month, and the commission decided to not concur with the stipulation and order. It is back on the agenda because the commission and the department must reach concurrence, otherwise nothing happens. At this point, having voted to not concur, the commission can send the department an alternate proposal as a step toward reaching concurrence.
 - Sylvia notes that the rule has been on the books at the time – it's not a new rule. She says she's thought about the case a lot over the past month and that the commission needs to address the rule, but that the department was correct in issuing the fine.
 - Bob takes issue with the commission voting to not concur, then the department resubmitting the stip and order again in the next meeting. Jeff says he didn't know that the commission could send the department an alternate proposal to reach concurrence, but that discussing a proposal is appropriate.
 - The commission is not being asked to re-vote — they are just being asked to give the department direction for how to proceed.
 - Jeff suggests having a discussion with the department or section of the enforcement report that shows what infractions are being enforced against over the course of the month.
 - **Motion** by Kirk to lower the fine to something in the neighborhood of \$27,000. Motion dies for lack of second.

- **Motion** by Bob for the department to get a new stipulation and order from First American that is dated subsequent to this February commission meeting, and if there isn't an agreement there will be a hearing. Seconded by Larry. Motion passes 5-0.
- Pete Stevens asks for an investigation into First American Title's conduct toward the commission. He is concerned that a First American employee being on the commission tainted the board. Jeff says that investigations are completed through the department.
 - Request for a Hearing: None
 - Order to Show Cause: None
 - Informal Adjudicative Proceeding and Order: None
 - Notice of Formal Adjudicative Proceeding: None
- **New Business**
 - None scheduled
- **Old Business**
 - R592-6 Subcommittee Meeting Update / Larry
 - Larry says comments on R592-6 will be discussed in the subcommittee meeting, which is scheduled for right after the title & escrow commission meeting
 - Legislative Update
 - James Seaman briefly updates the board and states that there's the possibility that the commissioner will have final authority in May, referring to S.B. 143.
- **Other Business**
- **Hot Topics**
 - Add to March meeting:
 - Search firms running title searches from insurers or agencies that aren't licensed in the State of Utah — suggested by Bob Rice
 - R592-6-5(7)(d) — suggested by Mark Chandler
 - R592-6-10 (cohabitation of a law firm) — suggested by Mark Chandler

Executive Session (None)

- **Adjourn**
 - **Motion** by Kirk to adjourn. Seconded by Bob. Motion passes 5-0. (10:31 AM)
- **Next Meeting: March 16, 2015** — Copper Room

2015 Meeting Schedule in Copper Room

- ~~Jan 12~~ Feb 9 Mar 16 Apr 13 May 11 Jun 8 (Spruce)
- Jul 13 Aug 10 Sept 15 Oct 12 Nov 9 Dec 14