



Insurance Department

State of Utah

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

State of Utah Title & Escrow Subcommittee Meeting Information

Date: April 13, 2015 **Time:** 9:30AM (or immediately following Title & Escrow meeting)
Place: East Building, Copper Room

MEMBERS

TITLE COMMITTEE

xLarry Blake (Agency, Washington County) xJeff Wiener (Insurer, Salt Lake County)
xKirk Smith (Agency, Weber County) Sylvia Andersen (Public Member, Salt Lake County)
xBob Rice (Insurer, Ada County, ID)

DEPARTMENT STAFF

xTodd Kiser, *Ins. Commissioner* xBrett Barratt, *Deputy Commissioner* xPerri Babalis, *AG Counsel*
xSuzette Green-Wright, *MC Dir.* xTammy Greening, *Examiner* xSteve Gooch, *PIO Recorder*

PUBLIC

James Seaman Blake Heiner Mark Webber
Tige Garner Mark Chandler Wade Taylor
Scott Cope D. Adam Back Frank Medina
Pete Stevens

MINUTES

General Session: (Open to the Public)

- **Welcome** / Larry Blake (11:10 AM)
- **Review Minutes of Previous Meeting**
 - Mark Chandler asks that his name be changed from Mark "Chapman" to "Chandler"
- **Review Changes Made Last Month**
 - First, Second and Third pages are all approved and changes should be reflected as final for the May meeting.
- **Purpose of Subcommittee is to Discuss Title & Escrow Related Rule R592-6**
 - R592-6-4(20) update / Bob
 - (20) is tied in with other provisions. It was put there for a purpose originally, but it's problematic as a whole because it talks about what can be provided and the method in which it can be provided, and those are two separate things. He personally would get rid of (20) as a whole, then set forth in another section what can and can't be provided.
 - Scott Cope's concern is that title agents provide more and more for less cost.
 - Mark Webber is in favor of striking (20), unless doing so allows a real estate company access to logins to do their own searches.
 - Wade Taylor would like there to be a limitation so people can't just give their logins to other people. He thinks striking (20) completely would open the door to that.

- Larry says if there's no rule, the real estate and mortgage community will have the title community providing apps that will cost a tremendous amount of money. This will make it so smaller companies won't be able to compete. Striking (20) would be a race to the bottom as far as expenses to make these apps available. Bob agrees.
- UCA 31A-23a-402(2)(a) is the code section that prohibits providing something of value, then R590-6-4(20) further defines things agents cannot do.
- Jeff thinks the rule should say if an activity is permissible, but the delivery method doesn't matter. This is because methods of delivery will always change based on technology, but what can be provided shouldn't change. Mark thinks the industry should embrace technology, not be afraid of it. He thinks the committee shouldn't be worried if the lowest common denominator can't afford it.
- Bob suggests limiting the info that can be provided by making (20) as simple as "A title producer cannot provide a client access to real property information. Closing-specific information is exempt as long as it is used for a specific closing." Tammy says the information should be property-specific, and property profiles shouldn't include non-public information.
- Jeff says his understanding of (20)'s creation was because there were data providers at the time, and title producers would give out their logins to clients, which would cost producers money.
- Pete Stevens notes that an app just gives people an access point for data; the producer is still providing it. Jeff thinks we need to describe what can be given out, but let people deliver it however they want. He would like a single draft written that will incorporate all changes.
- **James Seaman will get input from Wade Taylor and a few ULTA members to create one single draft. Perri and Brett will work with James.**
- R592-6-4(21)
 - Pete suggests adding "or a spouse" to the language of (21). Discussion follows, during which Larry says a spouse should not be added because it is too limiting, and he gives an example that he cannot provide a loan to his son under the existing rule. Adding "or a spouse" limits the next generation from doing work at his office. Pete withdraws his statement.
- R592-6-2(b)
 - Adam Back asks about posting and cross-posting. Jeff notes that Sylvia has previously discussed this, and it was determined that posting is OK as long as there is no cost. Adam asks if it's OK for him to share his real estate agent's posts on his page, because it's not paid. Jeff notes that liking something or posting it on your own personal page can increase visibility, but as long as there's no cost it's OK.
 - Mark Webber notes that the committee will need to review technology and terminology every year because things change so quickly.
 - It is determined that R592-6-2(b) is good as-is.
- R592-6-5(4)
 - Larry brings up the discussion of increasing the "per guest per open house" spending amount to \$20. Jeff reminds everyone that it's \$15 per guest, and notes that it creates a violation if you invite 100 people but only 50 show up. Commissioner Kiser says there's a difference between providing steak and providing turkey sandwiches. Everyone is OK with keeping it at \$15.
 - Larry would like to have more discussion on the \$100 per person per day in R592-6-5(7)(c). **It will be added to next month.**
- R592-6-8(d)

- Mark Chandler wants to know how the department is interpreting the rule. Brett agrees, and thinks the rule needs to be crystal clear, so there is no need to interpret. He thinks the first step is to determine what constitutes "an office." Mark says he thinks it should be per actual location per quarter: "No more than one such continuing education program may be conducted at each of a client's locations per calendar quarter." He gives an example that there are 27 Coldwell Banker branches along the Wasatch Front, and an agency could go into each branch once per calendar quarter — "It's a focus on the location, as opposed to the status of the name of the client."
- Suzette asks for clarification: In the case of the Coldwell example, if you have another client, do you go to all locations of both clients in a calendar quarter? Mark says yes, the limit would be on the location, rather than the name or identity of a company.
- Tammy says this is all under the self-promotion heading of permitted practices. She says going to a client's office more than once per quarter is too much, based on one client and all of its geographical locations. If you choose Coldwell Banker for the quarter, then you can go to all of its locations, but not the offices of any other clients. You can have as many classes on your premises as you want, however. Going out into the industry should be limited to one client per calendar quarter.
- Larry notes that there's a different rule for marketers, who can visit different clients every day for self-promotion. He would rather have someone there teaching clients, rather than just marketing.
- Tammy's point is that if every title agency goes out to a client's office every day of the quarter, then no other title agency will have a chance. By limiting it to one client and all of its geographical locations to once per quarter, it allows other title agencies the ability to come in.
- Mark Chandler says the more limitations you make, the more advantages you give to larger companies with multiple locations and large offices around the state.
- Mark Webber notes that it will also penalize large national offices because if you can only go to one location, some of the larger offices won't be able to fit them all because they have too many agents. He wants to be able to teach at each location once per quarter.
- Jeff would like to see food eliminated from visits. Then people will come because they need the education, not because they want a free lunch. He thinks education should not be held back because lunch could be seen as an unfair inducement. His fear is that five years from now, the committee will take away all spending as other states have.
- Tammy says she doesn't care how much an agency spends, the issue is going to an office of more than one client per calendar quarter. Mark Chandler says by that interpretation of the rule, the only real estate agents who would be educated will be the ones that can bring in the most agents for education.
- Larry clarifies: If he were to pick Coldwell Banker, he would be able to visit all 27 offices during the calendar quarter, but if he wanted to teach one office of Coldwell and one office of Century 21, he can't do that. Tammy says this is correct.
 - **Steve Gooch has the language and will review it with the Department.**
- **Other Business** (*if necessary*)
- **Discuss Date and Time of Next Meeting(s)**
- **Adjourn** (12:40 PM)