

**UTAH RESIDENTIAL MORTGAGE  
REGULATORY COMMISSION MEETING**

Heber M. Wells Building  
Room 210  
9:00 a.m.  
July 1, 2020  
Google Meet

**MINUTES**

**DIVISION MEMBERS PRESENT**

Jonathan Stewart, Division Director  
Justin Barney, Hearing Officer  
Mark Fagergren, Licensing/Education Director  
Kadee Wright, Chief Investigator  
Maelynn Valentine, Board Secretary  
Joy Natale, Division Analyst  
Lark Martinez, Division Staff  
Stephen Gillies, Assistant Attorney General  
Mike Page, Licensing Specialist  
Tim Cuthbertson, Investigator  
Marv Everett, Investigator

**COMMISSION MEMBERS PRESENT**

Kay Ashton, Chair  
Cathy Gardner, Commissioner  
Jeff England, Commissioner  
Scott Gibson, Vice Chair

The meeting on July 1, 2020 of the Utah Residential Mortgage Regulatory Commission began at approximately 9:01 a.m. with Chair Ashton conducting.

**PLANNING AND ADMINISTRATIVE MATTERS**

Approval of Minutes – A motion was made and seconded to approve the minutes of the meeting held June 3, 2020, as written. Vote: Chair Ashton, yes; Vice Chair Gibson, Yes; Commissioner Gardner, yes; Commissioner England, yes. The motion is approved.

Public Comment Period

No public comment.

**DIVISION REPORTS**

**Director's Report – Jonathan Stewart**

Director Stewart reported that the Department of Commerce building is still closed to the public.

The Department is currently working on a plan developing protocols for when the building does reopen. A reopen date is being discussed but the Division does not have an exact date at this time. Once the building is reopened, not all Division employees will return to work, most will continue working from home. The teleworking pilot program has been tested over the last few months. As of July 1, 2020 the first Remote Work Agreements will be executed, approving employees to telework long-term. Not all employees of the Division will be teleworking, only certain employees have been approved. Once the Remote Work Agreement is executed those teleworking employees will be required to come into the office one or two days a week, but must work from home more than 50% of the time.

Director Stewart held elections for the Commissioners to vote on a Chair and Vice-Chair for the upcoming term. Scott Gibson has completed his first term as a Commissioner and the Governor's office has approved him to be reappointed for a second term. Scott Gibson is officially sworn in as Commissioner. Chair Ashton opens nominations for Chair and Vice-Chair. Commissioner Gibson nominates Kay Ashton for a second term as Chair. Commissioner Gardner nominates Scott Gibson a Vice-Chair for a second term. Commissioner England seconds the nomination for Kay Ashton as Chair and Scott Gibson as Vice-Chair. A vote is called for Kay Ashton as Chair and Scott Gibson as Vice Chair. Vote: Chair Ashton, yes; Vice-Chair Gibson, Yes; Commissioner Gardner, yes; Commissioner England, yes. The vote is unanimous.

Chair Ashton asked Director Stewart about the special session with Legislature regarding budget cuts. Directed Stewart reported that the Department of Commerce has received a \$950,000 budget cut. The Department has been working to identifying ways to cut spending. With meetings being held virtually and employees working from home, this will eliminate some costs. The Division is hoping to avoid layoffs and furloughs. Director Stewart reported that there may be additional special sessions held by Legislature which could also affect the Division budget.

#### **Enforcement Report – Mark Fagergren**

Enforcement statistics will be discussed at next month's meeting for June and July.  
Stipulation for Todd D. Heath-Presented by Joy Natale

#### **Education/Licensing Report- Mark Fagergren**

Mr. Fagergren reported that the building remains closed to the public. Mortgage licensing employees are currently working from home and seem to be thriving in their new working environment. The public is able to directly communicate with them on the phone and via email. Meeting with employees has had to take place via Google Meet, Zoom, Instant Message chat, etc. compared to having co-workers working in the Heber Wells building. Once the pandemic is under control, the Division will be shifting from a Covid-19 working from home situation to a long term teleworking scenario. The Governor has signed an executive order directing all employees that work in state office buildings to wear masks in public areas of the building.

Mr. Fagergren reported that there have been 73 new Mortgage Loan Originators over the last 30 day period. The numbers of new applicants tends to escalate through the end of the year.

Mr. Fagergren reported that there are virtual meetings with Pearson Vue scheduled on July 8, 9 and 13. The Division and Pearson Vue has solicited subject matter experts which include, Cathy

Gardner, Jeff England, Larry Miller, Marv Everett, Tim Cuthbertson, Lark Martinez and Mark Fagergren to review every question on the lending manager exam for validity and accuracy. We will also be discussing statutes, rules and regulations to make sure there have been no changes which could impact the exams. New questions for the exam will be prepared on statutes and rule changes. Chair Ashton asks how the testing centers are currently operating. Mr. Fagergren responds that Pearson Vue closed on March 15th and opened again on May 1<sup>st</sup>. Pearson Vue has been operating under a 50% capacity for social distancing and will open to full capacity on July 15<sup>th</sup>. Pearson Vue has outsourced 18 third party vendors to provide additional testing for students. This has helped to alleviate any backlog in testing due to the six week testing center temporary closures. Mr. Fagergren reported that Real Estate licensing is also very busy as they have seen nearly 400 new agent applications in the last month. As people have been confined at home during the Covid-19 pandemic, many have been taking virtual CE classes and pre-license education..

### **COMMISSION AND INDUSTRY ISSUES- Justin Barney**

Mr. Barney reported that today is that last day for public comment on the proposed rule amendment that we have been working on. There has not been any public comment made for the 29 days that it has been open. The Commission is required to consider any public comment but it seems unlikely that any will be received by the end of the day. Once the public comment period has ended then the Commission can consider and vote as to whether to make the proposed rule amendment affective and become an active administrative rule.

Mr. Barney gives a brief summary of the proposed rule amendment. It does not require a lending manager to view every complaint and it clarifies an issue with continuing education courses. The soonest the proposed rule amendment could be made affective is July 8, 2020. Mr. Barney advises the Commission that they could wait until next month's meeting or they could make a motion to proceed in the event that no public comment is made by the end of the day. Chair Ashton would like to entertain a motion that if there are no public comments made that the proposed rule amendment be made affective July 8, 2020.

– A motion was made and seconded that in the event no public comment is received on the proposed rule amendment today (the end of public comment period) the proposed rule amendment shall become effective July 8, 2020. Vote: Chair Ashton, yes; Vice Chair Gibson, Yes; Commissioner Gardner, yes; Commissioner England, yes. The motion is approved with concurrence from the Division.

Mr. Barney continued the discussion from last month regarding when a mortgage company's principal lending manager suddenly leaves the company. Mr. Barney confirms that the statute requires the inactivation of an entity's license when the sponsorship of a PLM terminates. This not something that can be changed by rule. The statute does provide some authority for making rules, but not authority to change this particular provision.

The issues that are being considered with are in section 209-61-2c of the Utah code. The rule making authority that the Division and Commission have allows us to define what constitutes affiliation between a mortgage loan originator and the principal lending manager or how to define the sponsorship of a PLM by an entity. At last month's meeting there was discussion about when an individual who is an MLO may be able to continue to process a loan, despite the entity's license having become inactive due to the loss of a principal lending manager. This proposal is not an ideal situation as there are different contracts and compensation plans that

would need to be activated between the mortgage loan originator and the mortgage entity in order to go in that direction. The administrative rule already allows this to happen. This may help in some cases but would only be a partial solution. Any change to a more complete solution would require a statutory amendment. If this issue were a frequent occurrence, then we believe that more mortgage entities would take it upon themselves to either groom a mortgage loan originator to prepare to qualify to become a PLM or hire an outside lending manager when the current PLM suddenly departs. Those are some possible solutions that may help in many situations but would not solve every issue that may arise. There is no clear statutory or rule solution for the issue at this time.

Chair Ashton clarifies that based on Mr. Barney's research that the Band-Aid approach of allowing a MLO to continue processing a loan in the event a PLM leaves is not something that can be done by a rule change. Mr. Barney clarifies that it is not something that requires a rule change in order for the MLO to continue processing the loan. The current rule R61-2c-209 sponsorship states that an individual who holds a license as an MLO may perform loan processing activities regardless of whether the individual's license is sponsored by a licenses entity at the time the loan processing activities are performed or the individual employed.

Commissioner Gibson asks about a distance limitation with regard to when PLM may cover when a branch manager leaves the mortgage entity. Is this something that can be made by rule or statute? Mr. Barney clarifies that there is no distance requirement at this present time. There is no distance limitation for a PLM. Commissioner Gibson asks if BLM are able to manage multiple branches. Mr. Barney advises him that would require a statutory amendment.

Director Stewart informs the Commission that his hopes for the next legislative session, the Division's bill would only require clean up identifying small errors in the statute. However, if there is a real need for the change, he would be open to that. His first suggestion would be to share the information that an MLO may continue to process loans after an entity's license automatically is inactivated by the sudden departure is the PLM. Entities call Ms. Martinez about their situation when a PLM leaves. Although this may not be a perfect solution, it could help some entities while looking for a replacement PLM. Director Stewart suggests keeping an eye on the situation and seeing how well it actually works before making a statutory change. That is his first recommendation, but he is open to what the Commission would like to do as well. The Commission agrees and would like to see how it goes over the next 6 months to a year before making any statutory changes.

A motion was made and seconded to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Ashton, yes; Commissioner Gardner, yes; Vice Chair Gibson, yes; Commissioner England, yes. The motion is approved.

**CLOSED TO PUBLIC**

**EXECUTIVE SESSION** – 9:49 a.m.-9:58 a.m.

**OPEN TO PUBLIC**

A decision was made on the Stipulation and Order for Todd D. Heath. The Stipulation was approved and a copy of the decision will be sent by mail to Mr. Heath.

A motion was made to adjourn the meeting. Vote: Chair Ashton, yes; Vice-Chair Gibson, Yes; Commissioner Gardner, yes; Commissioner England, yes; The motion is approved. The meeting adjourned at 10:00 a.m.