Insurance Department

JONATHAN T. PIKE
Insurance Commissioner

State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

Title & Escrow Commission Meeting
(https://insurance.utah.gov/licensee/title/tec)

Date:	**October 17, 2022**	**Place:**	**In Person**	**Virtual**
			Taylorsville SOB	Google Meet
Time:	**9:00 AM**		4315 S. 2700 W.	
			Big Cottonwood Room	
			Taylorsville, UT 84129	

ATTENDEES

TITLE & ESCROW COMMISSION

xChair, Kim Holbrook *(Insurer, Davis County)*	Darla Milovich *(Agency, Salt Lake County)*
xVice Chair, Chase Phillips *(Agency, Weber County)*	Cal Robinson *(Agency, Iron County)*
Jeff Mathews *(Public Member, Morgan County)*	Perri Babalis, *TEC Counsel*
xJon Pike, *Insurance Commissioner*	xReed Stringham, *Deputy Commissioner*
xTracy Klausmeier, *P&C Division Director*	xAdam Martin, *Market Conduct Examiner*
xHelen Frohlich, *AG Counsel*	xShelley Coudreaut, *AG Counsel*
xSteve Gooch, *PIO Recorder*	Randy Overstreet, *Producer Licensing*

REAL ESTATE COMMISSION

Jim Bringhurst *(Chair)*	Rick Southwick *(Commissioner)*
xRandy Smith *(Vice Chair)*	xAndrea Wilson *(Commissioner)*
Marie McClelland *(Commissioner)*	
xJonathan Stewart, *Real Estate Division Director*	Maelynn Valentine, *Board Secretary*

PUBLIC

Cort Ashton	Matt Sager	Joseph McPhie
Matt Ryden	Kreg Wagner	Michael Sumner
Bob Beams	Erik Helgeson	Mike Koloski
Rocky Crofts	Rachael Ortiz	

MINUTES — *Not Approved*

General Session: (Open to the Public)
- **Welcome** / Kim Holbrook, Chair (10:02 AM)
- **Telephone Roll Call**
- **New Business**
  - Cyberfraud prevention
    - Kim says October is National Cybersecurity Awareness Month. The entity that organizes NCSAM has good information, and Kim has prepared a handout that Steve will forward to the group.

- Kim invited Bob Beams to discuss cybersecurity for a few minutes. Bob is a real estate agent and also founder of EMTransfer, a company that deals with monetary transfers.
- Bob Beams is a licensed real estate agent in Idaho, and he has a background in programming. His platform sends and receives money and wire transfers securely.
- Bob recommends focusing on 4 things:
  1. **Acknowledge that we are the targets.** Cyber criminals know who is handling real estate transactions because RE agents' information is all over the web. Many RE agents don't have IT departments, and often use whatever is free. The bad guys will try to phish them to get client communications and find the opportune time to steal money. They also know clients aren't experienced with real estate transactions and will exploit it.
  2. **Inform clients about wire fraud.** RE agents should discuss wire fraud with their clients from day one. Money shouldn't be sent until everyone — client, agent, title company — knows what is expected and where the money is going. Introduce clients to the whole team so they will know who will be communicating with them. Let clients know what tools the agency uses so they can expect it. Instruct clients on basic cybercriminal methods.
  3. **Protect your online presence.** RE agents — and really everyone — should turn on two-factor authentication (2FA) on everything they use that allows it. 2FA works by requiring something you know (your password) with something you have (a code you get from your phone, etc.) 2FA is a bigger hurdle for someone to get your information. Never access the web on an open wifi connection without using a virtual private network (VPN). Use antivirus software. Don't open emails you aren't expecting. Buy technology E&O insurance to protect against successful cyberattacks.
  4. **Collaborate for best practices.** Most states require core classes for CE in addition to alternative classes. Should cybersecurity be part of the core curriculum? Bob thinks it should. RE agents should be provided training no how to harden their systems.
- Chase often deals with agents using free services, and asks if Bob has any VPN recommendations agents should look at? Bob uses NordVPN himself, and says the big players like Symantec and McAfee are all pretty good, and would recommend any of those. The ones who provide antivirus software often package VPN with it. He says VPNs are easy to use and offer good protection.
- Chase asks if the REC or UAR ever brings in partners, such as NordVPN to do training or provide discounts or anything. Kreg Wagner says they have had affinity partners offer a member benefit on other subjects. He says there's value in protecting the public, and they'd be open to it, but haven't offered anything on this topic before or sought out a partner. Kreg says the national Association of Realtors offers member benefits, but the adoption is often low. He thinks it would be a god value proposition, but the impact may be small. Bob agrees. He says, as a licensed agent, he gets affinity deals all the time, but he doesn't use them all.
- Bob notes that his company had to get SOC2-certified, which means showing evidence of their security that's reviewed by an outside auditor. He thinks if brokers had the transparency to know that their agents were doing what they should do from a security level, would that be something they would push? Kreg says they would encourage brokers to use it, but would want brokers to have flexibility. He says that, for instance a brokerage could have a written 2FA policy as part of their brokerage model.
- Randy Smith says it seems like everything requires 2FA now, including the MLS. But he's not sure if it should be mandatory, or be done at the broker or association level.
- Andrea Wilson says her brokerage requires 2FA on their emails at least, but some agents use their own custom email addresses, which circumvents her ability to see whether they're using it. That's a concern to her, but she doesn't know how well a mandatory regulation would go. Some smaller agencies may not have the ability to do it, and there's a huge discrepancy in people's technology knowledge. She says it's a great thing to push for education, but maybe not regulation.
- Bob notes that RE agents know the selling process really well, but we need to bring in the technology education portion. Brokers can and should use tools to ensure security. Would it be

valuable for a brokerage to know if its agents were turning on advanced security tools without intruding on their data. Andrea says that would be fantastic.

- Kreg agrees that the education aspect and potential consequences would be beneficial for both brokers and agents. He notes that agents have a mandatory CE course every two years — improved cybersecurity content could be included in that.
- Bob says there's always the "it'll never happen to me" perspective, but it definitely will. He knows of title agencies that deal with 5-7 attacks weekly. Client security needs to be top of mind alongside strategies to sell the house.
- Mike Koloski says from a title standpoint, he commends the title agency with 5-7 weekly attacks for even catching them. It shows they're doing their due diligence. Bob notes that one was stopped because the buyer's bank called to confirm the wire instructions. The title company contacted the RE agent to let them know they'd been compromised, and the agent just said, "Oh. Are we still closing tomorrow?" That's the wrong focus. The focus should have been, "Am I at fault? Was I compromised?"
- Kim says the education piece is critical, and its important for everyone who moves money is aware that they can be compromised.

o Proposed changes to 31A-19a-209
- Kim says there has been a lot of discussion in the past few weeks about why it's so critical to regulate escrow. She notes that the title and RE industries are working toward a legislative solution that works for both industries.
- Kreg says the issue touches on the statutory language about a title company, agency, or producer operating at less than the cost of doing escrow. The UAR's proposal is to repeal the language because it's problematic to enforce because it's one business serving two different functions. The RE and title industries have had productive meetings and ongoing discussions since the proposed statutory modification in February. He says both sides agree that funds in the trust account need to be taken care of and consumers need to be protected. He notes that Rachael Ortiz delivered draft language and the UAR's legislative committee is excited about the progress so far.
- Rachael Ortiz says the ULTA is excited about the collaboration with the UAR and appreciates Reed's and Rick Southwick's input. From the ULTA side, removing the "below-cost" language is pretty simple, and they're looking for collaborative help from the UAR side to remove the language from the statute, but still to protect consumers and give the UID proper authority over the escrow side. Some other changes may happen in another session, but they're focusing on "below-cost" now. They need to find the right balance of removing "below-cost" and coming up with other ways to appropriately manage and oversee escrow accounts. She says we don't want the title industry to think that there's no longer any oversight on escrow.
- Joseph McPhie asks what the current proposal is. Reed says there isn't really a current proposal, it's more of a discussion between the UAR and ULTA. Once it's hammered out, it will be officially proposed to the TEC, then the TEC will review it and will advise the UID on where to go with it. Rachael says there's a draft revision to 31A-19a-209, but no official proposal. It's still being worked on, and will be sent to ULTA membership before a proposal is sent to the UAR.

o Definition of "cleared and collected funds" — amendments to 31A-23a-406
- Kim says the wire transfer has always been the gold standard in the title industry for moving funds, but technology is bringing changes. The ULTA will be discussing ACH and real-time transfers with the UID to see about making changes to keep up with technology, while also keeping funds safe.

Executive Session (None)
- **Adjourn** (10:50 AM)
- **Next Meeting (proposed): April 10**, 2022 — Big Cottonwood Room, Taylorsville State Office Building

2022 Meeting Schedule

~~Jan 10~~	~~Feb 14~~	~~Mar 14~~	~~Apr 11~~	~~May 9~~	~~**Jun 13**~~
~~Jul 11~~	~~Aug 22~~	~~Sept 12~~	Oct 17*	Nov 14	Dec 19

*Proposed TEC/REC meeting immediately following