



State of Utah
 SPENCER J. COX
 Governor

DEIDRE M. HENDERSON
 Lieutenant Governor

Insurance Department

JONATHAN T. PIKE
 Insurance Commissioner

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

Date: April 11, 2022

Time: 9:30 AM

Place: In Person

Taylorsville SOB
 4315 S. 2700 W.
 Big Cottonwood Room
 Taylorsville, UT 84129

Virtual

Google Meet

ATTENDEES

TITLE & ESCROW COMMISSION

xChair, Kim Holbrook (<i>Insurer, Davis County</i>)	xDarla Milovich (<i>Agency, Salt Lake County</i>)
xVice Chair, Chase Phillips (<i>Agency, Weber County</i>)	xCal Robinson (<i>Agency, Iron County</i>)
xJeff Mathews (<i>Public Member, Morgan County</i>)	xPerri Babalis, <i>TEC Counsel</i>
Jon Pike, <i>Insurance Commissioner</i>	xReed Stringham, <i>Deputy Commissioner</i>
xTracy Klausmeier, <i>P&C Division Director</i>	xAdam Martin, <i>Market Conduct Examiner</i>
xSteve Gooch, <i>PIO Recorder</i>	xRandy Overstreet, <i>Producer Licensing</i>

REAL ESTATE COMMISSION

xJim Bringhurst (<i>Chair</i>)	xRick Southwick (<i>Commissioner</i>)
xRandy Smith (<i>Vice Chair</i>)	Andrea Wilson (<i>Commissioner</i>)
xMarie McClelland (<i>Commissioner</i>)	
xJonathan Stewart, <i>Real Estate Division Director</i>	xMaelynn Valentine, <i>Board Secretary</i>

PUBLIC

Matt Sager
 Mike Sumner [PHONE]

Cort Ashton
 Jonathan Ivins [PUBLIC]

Nathan Sprague

MINUTES — Approved by TEC

General Session: (Open to the Public)

- **Welcome** / Kim Holbrook, TEC Chair (9:30 AM)
- **Telephone Roll Call**
- **New Business**
 - Educating consumers on wire fraud
 - Kim notes that the real estate agent is the consumer's first touch and trusted resource in a transaction. The title agent is introduced later.
 - Darla says the title agent is the last person met in a transaction. Consumers are often more skeptical about what the title agent says versus what the real estate agent says. Darla often loops the real estate agent into communications to help with trust. Many brokerages have implemented

- their own best practices, and she'd like to know what the REC does because the client trusts the real estate agent the most.
- Jim Bringhurst says the Utah Association of Realtors (UAR) has a wire fraud alert disclosure that most brokerages require to be part of the file whether it's buyer or seller. It tells sellers to never trust anything sent by email unless its sent through a secure, encrypted source. He tells his clients to call to confirm wiring instructions. There's a difference between a Realtor and a licensed agent; an agent may not use the form.
 - Darla asks if buyers are required to read the form when they sign it, or does the agent just summarize it. She wants to know what is the best way for title agents to approach real estate clients to help them understand the title agent is also a trusted source. Jim says the form is a signed receipt and acknowledgement that they've read it. It's up to the agent to explain it, and he expects that most people do. He would say the title companies he works with explain it the same way. He reminds his clients all throughout the transaction about how wire instructions work.
 - Darla asks if there's a best practices on wire fraud that has been put out to real estate agents, or a guide. Director Stewart says they have FAQs and guidance on their website, as well as newsletter articles that are sent to all licensees. A few years ago they did billboards, TV spots, and interviews with media to try to educate agents and the public. If there are ways to combine efforts, the DRE is on board with that.
 - Marie works for a title agency. She says her company has a secure portal that they encourage their buyers and sellers to use. If they don't use the portal, they only send wiring instructions through secure email. They encourage all buyers to call their office first before wiring any funds to confirm the instructions. They make sure all buyers know the correct phone number to call to get accurate wiring instructions. She says if banks held wired funds for three days before access, that would solve a lot of these problems.
 - Chase notes that how fraudsters function changes from year to year. He suggests that the trade associations could disseminate information as trends emerge. When a shift in fraud tactics occurs, how do we get the information out there? One of the biggest problems he sees is real estate agents using unsecured email accounts. He asks if the DRE has done any education for real estate agents about how to set up a secure email account. Most title companies and banks have secured portals, but agents may not. Director Stewart says they have talked to agents about not using free email addresses to communicate sensitive information, but has not done any formal education about setting up secure email accounts. There may be CE classes or information by the UAR that would cover it. However, the DRE can send information through its newsletters or in CE classes.
 - Rick says when wire fraud first became an issue, the UAR sent out a wire fraud advisory form, but it may be good to revisit it considering the number of new agents and turnover in the industry. Director Stewart says he's fairly certain that the mandatory course includes information about email and wire scams; the new agent course may not, but they can look at it. Chase offers to help with education materials, whether the TEC or the Utah Land Title Association (ULTA). Marie says the most important part is bringing awareness to agents about how serious it is, that it's ongoing, and to keep the public informed. She'd like to see additional PSAs to keep it in front of consumers. Director Stewart says if the title industry has done any research or developed any content, they can send it to the DRE to see how it can be incorporated into things they're already doing.
 - Darla asks if the DRE can share their newsletters with the TEC so they can come up with additional suggestions and build onto the DRE's work. Director Stewart says he'll put something together and forward it along.
 - Chase asks if it would be helpful for a member of the title industry to review their messaging to add on anything pertinent. Director Stewart says they would welcome it and are happy to have them look at anything they put out.
 - Kim says real estate agents and escrow officers understanding what each other does would be a great benefit to the consumer. Making a secure connection between the real estate agent and title

- professional regarding wire instructions would help. Jim agrees. The REC put together a mandatory class focusing on current issues, which are always changing. It would be good to put something in that class, but also to have the UAR and ULTA getting word out would be huge.
- Randy Smith notes that the UAR form is copyrighted, but it could be shared with the TEC so they're familiar with what agents are sending to the consumer. It would be nice to get everyone on the same page about it. Director Stewart will get a copy of the form from Jim, and will include it with the other information he sends to the TEC.
 - Cort Ashton says one thing the ULTA has found helpful is breaking down specific examples of fraud that has occurred. It's instructive for the title professionals to see the details of how these happen, particularly when the fraudulent strategies and techniques change. He thinks the ULTA would be fine to share those sorts of things in a non-public, protected way. Kim agrees, and says sometimes the horror stories are the most memorable.
 - Steve and Maelynn will coordinate the sending of materials back and forth between the commissions.
 - Director Stewart suggests that it might be helpful to have a quarterly or biannual combined meeting to establish regular communication. The TEC agrees.
 - Rick asks if there are patterns that title agents see when fraud occurs, like is it typically a new agent? He says they can reach out to the local associations and ask them to cover it in new agent orientation sessions. Cort says one pattern that's pretty reliable is someone using unsecured email — whether the consumer or the agent — getting hacked. Another is if a transaction completes going into a weekend, especially a holiday weekend.
 - Kim says most title agencies have procedures about what to do when it happens, or when you think it's happening. A high-level education on that would be helpful for real estate agents and consumers to know that time matters when you're trying to get the money back. There are a lot of steps to go through, and all parties need to be aware of it. Darla says most consumers will call their real estate agent first, so the title industry needs to educate the agent about what their quickest line of defense is. Kim says the ULTA has some procedures that they may be able to pass along.
- Increased awareness of affiliated business arrangements
 - The TEC would like a better understanding of what the DRE is doing regarding ABAs. Kim asks what they do when they get a complaint. Are there separate things under the DRE's purview and the UID's purview?
 - Director Stewart says when a complaint is filed, they notify the person who filed the complaint of who is assigned to the investigation. Depending on the complaint, they decide when is the best time to notify the person who is complained against. The timing can either help or hurt the investigation, because they don't want evidence to be tampered with, altered, or disposed of. If a violation is found, they would be given their options, whether to stipulate or go to hearing. If the DRE doesn't have jurisdiction, they would include or send the complaint to the UID. If there's overlap, they will do a joint investigation. There have been times the DRE and UID have worked together, and they would do so with an ABA. They haven't gotten many complaints so far, but they're willing to work together and brainstorm about better ways to handle it.
 - Kim asks if the results of an investigation are made public. Director Stewart says it only becomes public if there's an action, like a stipulation or an order. They disclose all public actions on their website and in their quarterly newsletter. To date, there haven't been any actions taken against an ABA, but there are some pending investigations.
 - Cort asks if the complaint involves an affiliate at all, should it go to the DRE regardless of the subject, or is there a subject matter test to determine where it goes. Director Stewart says their scope is pretty limited based on the statute. Just because it involves an affiliate, doesn't mean the DRE would have jurisdiction over the alleged violation. It would depend on if the alleged violation has to do with RESPA Section 8, the 70/30 rule, or capital requirements. They would have to look at the alleged violation and whether it's under the scope of the DRE's authority. He

- says they have no jurisdiction over RESPA violations for a non-affiliated entity; if they receive a report of a RESPA violation regarding a non-affiliated entity, they would send it to the UID.
- Marie notes that Director Stewart wrote a letter about ABAs to Dane Ishihara, Director of Regulatory Relief. It's very comprehensive and gives a lot of good info. Director Stewart sent it to the TEC prior to this meeting.
 - Logistics of future meetings
 - Kim proposes meeting in 6 months.
 - The proposed date is October 17, after the regular TEC meeting.

Executive Session (None)

- **Adjourn** (10:16 AM)
- **Next Meeting (proposed): October 17, 2022** — Big Cottonwood Room, Taylorsville State Office Building

2022 TEC Meeting Schedule

Jan 10	Feb 14	Mar 14	Apr 11	May 9	Jun 13
Jul 11	Aug 15	Sept 12	Oct 17	Nov 14	Dec 19

* bold dates denote quarterly required in-person meetings