



Insurance Department

State of Utah Title & Escrow Commission Meeting Meeting Information

State of Utah

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

Date: November 5, 2018

Time: 9AM

Place: East Building, Copper Room

ATTENDEES

TITLE & ESCROW COMMISSION

xChair, James Swan (*Insurer, Salt Lake County*) xNancy Frandsen (*Insurer, Salt Lake County*)
xVice Chair, Alison McCoy (*Agency, Tooele County*) xDavid Moore (*Agency, Salt Lake County*)
xRandy Smart (*Public Member, Salt Lake County*) xPerri Babalis, *AG Counsel - TEC*

DEPARTMENT STAFF

xTodd Kiser, *Ins. Commissioner* xReed Stringham, *Deputy Comm.* xTracy Klausmeier, *P&C Dir.*
xRandy Overstreet, *Licensing Dir.* xSteve Gooch, *PIO Recorder*

PUBLIC

Carol Yamamoto Tim Krueger Jeff Wiener
Joseph McPhie [PHONE] Matt Ryden [PHONE]

MINUTES — *Approved*

General Session: (Open to the Public)

- **Welcome** / James Swan, Chair (9:03 AM)
- **Telephone Roll Call**
- **Adopt Minutes of Previous Meeting**
 - James requests that "NBA" be changed to "MBA" on the 3rd to last bullet on the last page.
 - **Motion by David to adopt minutes. Seconded by Nancy. Motion passes 5-0.**
- **Concurrence Reports**
 - Licenses
 - Randy O. says the licensing report doesn't include the full month because the November meeting had to be moved up a week. All numbers are as of October 29.
 - There was 1 new agency and 8 renewed agencies. No lapsed licenses and no reinstated licenses.
 - There were 9 new individuals, 47 renewed individuals, 12 lapsed licenses, and 4 reinstated licenses.
 - Notices are sent to individuals and agencies if their licenses are coming up for renewal, or if they're about to lapse. Agencies will be notified if an agent's license lapses. Insurers will be notified if an agent or agency's license lapses.
 - Nancy notes that Randy O. ran the report on Oct. 29 and asks if he ran the report on Nov. 1 to see if there were any lapses. Randy O. says he can't because the final report isn't ready until the 5th of the month due to Sircon's processing timeline.
 - Alison notices that Al Newman's license is on here showing lapsed after 50 years. She notes that's a lot of experience.
 - James asks if next month's report will show the licenses between Oct. 29 and Nov. 5. Randy O. says he'll run one this week to see what's lapsed or been reinstated since Oct. 29.
 - **Motion by David to concur. Seconded by Alison. Motion passes 5-0.**
 - Penalties

- Reed explains that the informal agency action is allowed by the Utah Administrative Procedures Code and is used when the UID believes a licensee violated the law. The action is a notice of violation that includes a fine that must be paid within 15 days or the order becomes final, unless the licensee files an objection.
- The two presented today (Juab Title & Abstract Company and Provo Land Title Company) are both informal agency actions. They were sent out and neither company responded after 15 days, so the UID considers them final.
- James summarizes that Juab Title had a lapsed license where they issued 12 policies and held 6 closings. Reed says Provo Land Title didn't follow escrow instructions.
- Randy asks about the rationale for both agencies having the same fine for different issues and timeframes. Alison notes that this is Juab's second offense within a year, and asks if there was any probation that would apply. Reed says Juab isn't off probation and he doesn't know about the reason for the amount. He says Adam's declaration says he has looked at other cases involving similar violations, and the amount of the fine is consistent. If the TEC wants more information, Reed will gather it and present it in December.
- David notes that \$1,500 is pretty standard for minor offenses, but he has reservations about a company on probation having another violation and getting that low a fine. He asks if Provo Land Title's was just a lack of follow-through for 4 years. He notes that everyone who has a title company has faced disputes that go on for years. If that's the situation, maybe a fine isn't appropriate. However, it also looks like the property was sold without being cleared; that's a major problem and maybe a slap on the hand isn't sufficient.
- **Motion by Alison to direct the UID to gather more information to present in December. Seconded by Randy. Motion passes 5-0.**
- **Board Duties & Responsibilities** / Perri
- **Update on 2018 Goals** / James
 - Discussion regarding the progress that has been made toward 2018's goals.
 - **Make sure testing is relevant.** James notes that there was a testing workshop a few months ago. He asks if we're on track to meeting #1. Alison says having the TEC participate in the process is valuable and it should continue. Nancy says the people administering the testing workshop are accommodating and helpful. David says this is a multiyear process and we need to make sure we keep old questions and new questions correlated.
 - **Find a way to work with the Real Estate Commission.** James says having Nancy participate on the REC is valuable.
 - **Report back on ULTA meetings and work with them as a liaison.** James says attending ULTA meetings has been helpful for both sides.
 - **Address consumer education and things that make the industry vulnerable.** The hottest topic in consumer education is wire fraud. Continuing these efforts is a big deal. The industry is taking steps to improve email security, and so is the real estate industry. James suggests brainstorming some alerts or reminders for consumers. This could be a bulletin or notice to let consumers know that wire fraud is an issue.
 - David says it's a good time to reevaluate the goals. He suggests asking the UID to email the industry to collect input and ideas for goals or things that need to be addressed.
 - **James adds "Discussion on 2019 goals" to the December agenda.**
 - ULTA report
 - The last meeting had a lot of discussion about possible legislation including remote online notaries, and a lot of discussion about the ULTA convention in January.
 - REC report
 - Nancy says the September meeting was the most active meeting they've had in a long time. She says it's hard for her to arrange her travel schedule to attend both the REC and TEC meetings. She looks at their agendas, and hopes it's OK if she attends if there's a relevant topic. Alison asks if

they have a call-in line for their meetings. Nancy says she doesn't remember them ever doing a phone roll call. James asks her to check on it, and if they don't, let the TEC know if she can't attend and they'll get someone there. Randy asks when their meetings are. Nancy says it's usually Wednesdays. She doesn't want to miss meetings because they're going to start planning their Caravan soon. They've agreed to get cybersecurity on the agenda, and she wants to make sure it happens.

- **New Business**

- Concurrence in penalty on quarterly basis / Reed
 - Reed says there might be a problem with moving the TEC to a quarterly meeting: There could be a situation where the only thing on an agenda is a penalty concurrence. The UID and the person involved has interest in getting it finalized. The 90-day delay between quarterly meetings wouldn't promote finality. One idea is having teleconferences, but the statute says they can't do it. He suggests amending the statute further to delete the sentence that says committee members must physically attend. Another option is having concurrence meetings be via telephone in between the scheduled in-person quarterly meetings.
 - James agrees that a delay isn't good. He's in favor of calling as-needed concurrence meetings telephonically in addition to the required in-person quarterly meetings.
 - Randy suggests that teleconferences not be limited to concurrence issues because there could be other items that need to be addressed as they come up.
 - Alison suggests adding "at the chair's discretion" or language that allows two commission members to call a teleconference. Randy asks what if the UID needs the UID to meet. That could be an issue too. Nancy thinks that could fall under emergency meetings. Perri says statute allows the Insurance Commissioner and TEC to call meetings as necessary.
 - Nancy asks if the TEC will receive licensing reports monthly under the quarterly meeting schedule. Reed says the UID could send it, but the TEC couldn't act on it without a meeting. James says if they saw something alarming, the TEC could call a meeting. Alison notes that changing the statute doesn't mean the TEC only meets quarterly, it gives the TEC an option to not meet if there's nothing on the agenda.
 - David says getting reports monthly could show some issues, but he notes that the industry has cleaned itself up. There used to be penalties every month, but they don't see a lot of that anymore. Going to a quarterly meeting with language that allows for additional meetings is a good idea. He doesn't want to have regularly scheduled monthly meetings that get canceled. Alison notes that she served on the mortuary board and they had regular quarterly meetings that they could cancel due to lack of agenda. The TEC doesn't have a mechanism to cancel a meeting. She wants the ability to cancel a meeting so we don't have a meeting just to have a meeting. David suggests that it could work to have the chair, assistant chair, and UID convert a meeting to an electronic meeting if they all determine that there's nothing on an agenda other than concurrence.
 - Jeff Wiener questions what the right approach is, but he likes Alison's suggestion of giving the TEC the ability to cancel. He says most meetings are productive, but there are times meetings are only 15 minutes, especially in the summer. He says it might be a good first step to have the ability to cancel at first, then go quarterly if a lot of meetings are canceled.
 - James summarizes the discussion: Keep meetings monthly, but add in the ability to cancel for lack of an agenda.
 - David agrees, but says concurrence should be able to be done electronically with a canceled meeting. As long as they meet quarterly in person, that would be helpful.
 - James notes that the flexibility to call telephonic meetings would be helpful.
 - Nancy says if we add language to give the ability to cancel, we'd need to add who can cancel and what the time frame is. Perri says we have to comply with the Open Meetings Act so people have enough notice. Alison notes that it's 24 hours' notice. James and Alison get a draft agenda the

week before the meeting, which gives them plenty of time to make a decision about an in-person, telephonic, or canceled meeting.

- Commissioner Kiser would like to give more notice about cancellations. Even though the statute is 24 hours, what's the earliest time the TEC could pull the plug on a meeting? Steve says he sends drafts on the Tuesday before, then it's posted on the open meetings site and sent to interested parties on the Thursday before. That gives 24 business hours, but it's well over 24 real hours. Potentially, agendas could be sent to the chair and co-chair two weeks early, then it could be cancelled the Monday before the meeting. Perri says agenda items often come in the days before the meeting, and items not on the agenda can't be discussed. This would disable the ability to put items on the agenda for the three weeks before each meeting. Steve suggests making the determination by the Thursday before, because everyone knows to watch for TEC materials anyway.
- Randy says it's better to push meetings later in the month rather than earlier if we have an issue. Then licensing reports will be available even if the meeting has to move.
- James says it appears that everyone is in favor of more flexibility regarding cancellation and the in-person requirement. This would allow for three levels of meeting: in-person, electronic (where in-person isn't justified), and canceled. However, he suggests adding a day or two to sending cancellation notices. **He requests that the UID provide changes to the draft language for potential changes in December.** Reed says the UID already included the quarterly language, but that will need to be changed.
- Matt Ryden says he's in favor of flexibility, but notes that Commissions in Utah and Idaho meet monthly in person with their Insurance Departments, whereas they don't in Washington, Oregon, and Montana. In-person meetings make a huge difference in maintaining a working relationship between the industry and the department. It's invaluable to have at least quarterly in-person meetings.
- David says quarterly meetings need to be done in-person at least. James says maybe we add the ability to cancel and do telephonic, but require one in-person meeting per quarter.
- Randy says Randy O. makes a good point and suggests looking at changing the meeting day to allow for more accurate reports. Pushing it later will allow him time to get a full month's report, so the TEC isn't reviewing a partial report like they are this month.
- Nancy suggests looking at 2019 to see where there might be conflicts and figuring out what to do about them ahead of time.
- **James requests making next year's schedule a calendar item in December.**
- **Old Business**
- **Other Business**
 - Legislative update / Reed
 - Nothing to report.
- **Hot Topics**

Executive Session (None)

- **Adjourn** (9:52 AM)
 - **Motion by David to adjourn. Seconded by Nancy. Motion passes 5-0.**
- **Next Meeting: December 10, 2018** — Copper Room

2018 Meeting Schedule in Copper Room

Jan 8	Feb 12 (<i>Aspen</i>)	Mar 12	Apr 9	May 14	Jun 11
Jul 9	Aug 13	Sept 10	Oct 1	Nov 5	Dec 10