



# Insurance Department

State of Utah

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

## State of Utah Title & Escrow Commission Meeting Meeting Information

**Date:** March 12, 2018

**Time:** 9AM

**Place:** East Building, Copper Room

### MEMBERS

#### COMMISSION MEMBERS

xChair, Alison McCoy (*Agency, Tooele County*)      xNancy Frandsen (*Insurer, Salt Lake County*)  
xVice Chair, David Moore (*Agency, Salt Lake County*)      xJames Swan (*Insurer, Salt Lake County*)  
xRandy Smart (*Public Member, Salt Lake County*)

#### DEPARTMENT STAFF

xTodd Kiser, *Ins. Commissioner*      xBrett Barratt, *Deputy Comm.*      xTanji Northrup, *Assistant Comm.*  
xSuzette Green-Wright, *MC Dir.*      xRandy Overstreet, *Licensing Dir.*      xPerri Babalis, *AG Counsel - TEC*  
xAdam Martin, *Examiner*      xTanna Shurtliff, *Examiner*      xReed Stringham, *AG Counsel - UID*  
xSteve Gooch, *PIO Recorder*      xMichael Covington, *CE Spec.*      xLisa Watts Baskin, *ALJ*

#### PUBLIC

R. Andrew Kimball	Tyler York	Robert Goodson
Dorothy Merrill	Kurt Andrews	Kyle Clark
Julie Krushensky	DawnRae Wheeler	Tim Grubb
Tim Krueger	Bob Rice	Carol Yamamoto
Jeff Wiener	Adam Back	Frank Medina
Blake Heiner	Wes Jensen [PHONE]	Joseph McPhie [PHONE]
Jim Johnson [PHONE]		

### MINUTES — *Approved*

#### *General Session: (Open to the Public)*

- **Welcome** / Alison McCoy, Chair (9:00 AM)
- **Telephone Roll Call**
- **Adopt Minutes of Previous Meeting**
  - **Motion by Nancy to adopt minutes. Seconded by Randy. Motion passes 5-0.**
- **Reports**
  - Concur with Licensee Report / Suzette
    - Agencies have been doing well. There are no new agencies this month. A few agency licenses were down for a couple of days, and a few were down for a long time. The UID will check into those.
    - There were several new agents.
    - **Motion by David to concur. Seconded by James. Motion passes 5-0.**
  - Concur with Complaint & Enforcement Report / Suzette
    - Most of the issues were unlicensed activity. There weren't a lot of complaints coming through. There is one that will go to investigation. We closed quite a few, some of which will be discussed as stip & orders shortly. Others were closed for different reasons, whether it was a minor fix or a private letter of admonition.
    - David asks about #70493, which has "2005 legal case" as the reason it was closed; he asks if it was just an old case. Suzette says it's because it's currently in the courts, which means it's not

something the UID can deal with. If it comes back out of the courts, the UID will reopen it at that time.

- **Motion by James to concur. Seconded by David. Motion passes 5-0.**
- Request for Dual Licensee Expedited Request: None
- Request for Attorney Exemption: None
- **Administrative Proceedings Action / Lisa Watts Baskin, ALJ**
  - Stipulation and Order:
    - Gateway Title Insurance Agency and Kimberly J. Mosby (ENF #3823)
      - \$17,500 forfeiture; unlawful inducement and misapplication of escrow funds.
      - **Motion by Nancy to concur. Seconded by James. Motion passes 5-0.**
    - Select Title Insurance Agency (ENF #3960)
      - \$1,500 forfeiture; lapsed license.
      - **Motion by Randy to concur. Seconded by James. Motion passes 5-0.**
    - United West Title Insurance Agency (ENF #3961)
      - \$1,500 forfeiture; lapsed license.
      - **Motion by James to concur. Seconded by David. Motion passes 5-0.**
    - Jonathan Troy Vealey (ENF #3965)
      - \$1,500 forfeiture; lapsed title exam license.
      - **Motion by David to concur. Seconded by Nancy. Motion passes 5-0.**
    - Title Guarantee A Title Insurance Agency (ENF #3966)
      - \$3,000 forfeiture; lapsed title exam license.
      - **Motion by James to concur. Seconded by Randy. Motion passes 5-0.**
    - Netco Inc. (ENF #3968)
      - \$5,000 forfeiture; trust account had no physical Utah address.
      - **Motion by David to concur. Seconded by Nancy. Motion passes 5-0.**
    - Comments:
      - David says he is concerned that Gateway was paying spouses of realtors because realtors had invested in the agency. He says this sounds like a controlled business violation that wasn't addressed. Reed Stringham says Gateway was his case, and it wasn't presented to him as controlled business, so the case wasn't prosecuted that way. David says it's a clear violation of controlled business because they were paying realtors for investing. Reed says they were claiming it as an investment, not ownership. David says if it's an investment, that's controlled business and is a violation of 31A-23a-503. He can concur with the fine, but he doesn't think the controlled business aspect should be overlooked.
      - Alison asks if Gateway can be investigated again as a separate complaint. Suzette believes she can. David makes a motion to investigate Gateway for a controlled business violation. Reed would need to look at the terms of the stipulation, because he thinks concurrence might close the case.
      - Randy asks if they have to concur with the decision. Perri and Reed say no, just the terms of the penalty.
      - David asks if concurring with the penalty would make the controlled business violation go away. Reed says not necessarily. The Commissioner would have final say. However, Reed would need to review the terms. Nancy notes that the stipulation says "the Department shall not seek any additional penalties or remedies against Gateway for conduct addressed herein."
      - Commissioner Kiser says the Department will look into it and see what the parameters are.
      - David notes that there are a lot of lapsed licenses with 20-30 closings, but then there's one with 460 closings and it only doubles the penalty. He asks what the thresholds are. Suzette says most first-time violations are at the \$1,500 level, but if it's egregious the UID will double. Nancy asks if that's the maximum. Suzette says the UID could triple or quadruple, but haven't done it in the past on a first-time violation.

- Order to Show Cause: None
- Informal Adjudicative Proceeding and Order: None
- Notice of Formal Adjudicative Proceeding: None
- **Board Duties & Responsibilities** / Perri
- **Update on 2018 Goals** / Alison
  - ULTA report / Alison
    - Alison was able to send a message to Cort Ashton to address the UID's concerns with the handling of the UID's bill during the legislative session.
    - The ULTA board meets on April 19. She will attend and report back in May.
  - Real Estate Commission report / Nancy
    - The REC seems to have decided to address wire fraud and consumer pitfalls. They're brainstorming on scripts to help people. They're also doing caravan presentations to educate people.
    - They are struggling with licensing: 20 people lost their licenses because a brokerage wasn't keeping up on licenses; another agent didn't know he'd lost his license for 13.5 months.
    - They're having issues with broker qualifications. A broker can get their license without initiating a closing.
- **New Business**
  - Discuss & consider taking rulemaking action on proposed final language amending R592-7 / James
    - Brett and the UID made a lot of changes to address where to get CE credits, and then it became an overhaul of the rule to match what's currently going on. The changes are being made to conform to current practices.
    - James gives an overview of some of the changes:
      - A change to exempt attorneys from the section.
      - Better definitions.
      - When the Commissioner approves a CE course, it is deemed to be approved by the TEC. James agrees with the change, but he doesn't know if this abdication of the TEC's statutory duties to the UID is permissible.
      - There's no longer an approval process for providers because providers are registered, not approved.
      - Identifies the categories of classes that are approved for title CE.
      - Allows title licensees to get all their CE hours from one or more insurers and exempts title licensees from the restrictions set forth in R590-142-4(2)(c).
    - Randy Overstreet notes that while CE providers are registered rather than approved, they can be disapproved if the UID finds a problem with a provider's registration.
    - Alison notes that making this rule change has taken a lot of work and she thanks everyone for their efforts.
    - David asks Michael Covington how she feels about the changes. She says she's relieved because it lets her continue working as she has been for the past 21 years. She notes that if she has questions on a CE class, she gets answers from the UID's title experts.
    - David says there was a provision at one time that the TEC get a report of the CE courses that were approved, but he's never seen one. Since the TEC is delegating approvals to the UID, he would like to know what's being approved, whether it's a monthly or quarterly report.
    - Commissioner Kiser applauds the changes in the rule. He says the changes go a long way toward getting away from CE courses that don't apply to the industry. He hopes the classes will be significant to the challenges faced in the industry.
    - David asks about the approval process for providers. Michael says that when providers fill out the application, they answer a number of background questions with a "yes" or "no". If they answer "yes", the application could be disapproved based on what they've submitted. Instructors send a resume that Michael reviews. Instructors change often, so most of the time she listens to the

industry to see if there are any problems. The industry will find out about a problem before she does.

- Michael asks what sort of information the TEC would want on an approved course report. David says course title, provider, and the number of hours. He asks how many courses are done every month. Michael says it's about 120 per year, and they're mostly submitted from January to July.
- Jeff Wiener suggests re-add subsection (4) into R592-7-4, with some changes: change "commission" to "commissioner", change "a" to "an", and strike "provisionally approved".
- Nancy asks if the Commissioner is OK with the TEC sending the rule back to the UID. Commissioner Kiser says yes. He likes the way the process has worked because it encourages healthier discussion when the TEC arrives at a decision and then sends it to the UID. He says this rule has been well-vetted and properly discussed is a good rule.
- Alison asks if the TEC needs to add R592-7-4(3)(c) back regarding a report to the TEC. David says yes. Proposed language is: "The Commissioner shall provide a list to the commission of all approved courses for the preceding month."
- **Motion by James to commence rulemaking with two changes: adding (3)(c) regarding a report of approved CE courses and adding (4) regarding the commissioner removing a disapproved provider from the approved CE list and notifying the provider. Seconded by Nancy. Motion passes 4-1 with David opposing.**
- Perri asks about a missing subsection (1) in R592-7. James clarifies that subsection (1) refers to this rule, not the statutory subsection.
- Michael asks how often the report should be presented. David says quarterly is fine.
- David says the rule is excellent overall, but the reason he opposed it is because all the hours can come from an underwriter. He says there are a lot of places CE can come from, including the ULTA and providers. He would like to see licensees getting CE from more than one entity.
- Brett says the UID will work with James to finalize the changes and file the rule by March 15. He notes that the fiscal impact rule form will need to be filled out as well.
- **Motion by Nancy to delegate the rule form to James. Seconded by James. Motion passes 5-0.**
- **Old Business**
- **Other Business**
  - Legislative update / Commissioner Kiser
    - The UID's bill passed on Wednesday. There were some additions that the UID agreed to let the sponsors add, so there wasn't anything surprising.
    - The rest of the session didn't have too many big surprises, aside from an education and tax bill that was put together on the last night, and the inland port bill that is controversial with Salt Lake City leaders.
  - Brett resignation / Commissioner Kiser
    - Brett is leaving the UID. His leadership is greatly appreciated, particularly his leadership with the TEC. He has worked closely with Perri and Reed on a lot of title issues and his expertise will be missed.
    - Brett tells the TEC that he has enjoyed his time working with the title industry and thanks them for their patience and for helping him understand how the industry works.
    - Alison says the TEC has appreciated his leadership as well, and wishes him luck.
- **Hot Topics**
  - DPS wire fraud task force report / Jeff Wiener
    - Jeff asked the Department of Public Safety if there's a way to alert consumers about wire fraud early in a transaction.
    - The Division of Real Estate has an alert from May 2016 about wire fraud on its website. It includes tips for consumers and real estate professionals.
    - Jeff says there is a need to standardize what is presented to consumers. The title industry is concerned that wire fraud does happen, but consumers are unaware of it. Jeff will provide a copy of the media alert with the idea of making a standardized form that can be provided to consumers.

- DPS was open to discussion, but they wanted something more formalized and will be open to discussing it later.
- Nancy says she gets calls from people who have been defrauded. It needs to be made clear what their next step is.
- Jeff says the FBI has another alert called the "Financial Fraud Kill Chain" and is concerned with international money transfers exceeding \$50,000. If they're alerted in the first 72 hours, there's a strong likelihood that the transfer can be frozen. Alison asks if it's only for international transfers or if it includes domestic transfers that go international. Jeff says he learned that fraudulent transactions pass through 6 accounts on average before going overseas. He notes that there wasn't an immediate desire from DPS to put resources toward the issue.
- Alison asks if this is something that should be brought up to the DRE. Jeff says his perception is that the DRE's media alert was their attempt to stop it.
- David says he's seeing 2 other types of fraud: order fraud, where they're trying to get access to computers and capture keystrokes, and email fraud, where they're saying email accounts have been shut down to try to get access to systems.
- Nancy says she remembers when banks were more involved, and she thinks they should be more involved again. They used to look at signers on wires and would not cash copies of checks.
- Jeff says the specific lending issue is that a wire has two pieces of information: the person's name and account info. The banks aren't verifying the person's name, and the issue is that it often doesn't match the bank account name. There's discussion about title companies asking for the person's bank account name rather than the person's name. Banks are concerned that making the change could reject a lot of transactions if the names don't match the way the bank account is worded.
- Carol Yamamoto says banks will definitely reject if the names don't match. She makes sure to address this with closers. The industry needs to be continually cautious about this.
- Jeff suggests meeting about this with the ULTA going forward. It would be wise to have a consumer message. If the industry doesn't do that, they could be at fault for not notifying the consumer of a potential risk. Alison says she'll address it with the ULTA.
- Bob Vinson asks if anyone knows how many title companies adhere to the ALTA's 7 pillars of best practices. He says it includes advice about wire fraud and what title companies need to do to protect themselves. They also include great consumer videos that can be sent to consumers about wire fraud.

*Executive Session* (None)

- **Adjourn** (10:02 AM)
  - **Motion by David to adjourn. Seconded by James. Motion passes 5-0.**
- **Next Meeting: April 9, 2018** — Copper Room

**2018 Meeting Schedule in Copper Room**

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