



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: August 13, 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*) David 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.* Tanna Shurtliff, *Examiner* Steve Gooch, *PIO Recorder*
xJill White, *Recorder*

PUBLIC

Carol Yamamoto Jeff Wiener Tim Krueger
Tim Grubb Blake Heiner Wes Jensen [PHONE]
Kirk Smith [PHONE] Joseph McPhie [PHONE]

MINUTES — *Approved*

General Session: (Open to the Public)

- **Welcome** / James Swan, Chair (9:00 AM)
 - David Moore is excused
- **Telephone Roll Call**
- **Adopt Minutes of Previous Meeting**
 - Randy requests a correction to page 3, under "Proposed reporting by the Department": Instead of "60 days after the effective date" it should say "60 days from last day of the legislative session."
 - **Motion by Alison to adopt minutes. Seconded by Nancy. Motion passes 4-0.**
- **Concurrence Reports**
 - Licenses
 - There were no new agencies, 6 renewed, 1 lapsed, and 2 reinstated.
 - Nancy asks what the difference between the first section of renewed licenses and the second section of renewed licenses. Randy O. says the second page is mislabeled and is lapsed licenses.
 - There were 9 new agents, a lot of renewed, 5 lapsed, and 4 reinstated.
 - James asks about Infinity Title which is the lapsed agency license and whether they're planning on reinstating. Randy O. doesn't know, but says they have up to a year to reinstate. Nancy says they're definitely in business; she was in their office in St. George on Friday. Tanna says she gets the report when they reinstate, then sends an investigation letter that asks how many commitments they've done. Depending on how many they did, the UID will issue a forfeiture.
 - Randy O. says Sircon gives up to 30 days before an expiration processes in case the agent gets CE right before the expiration date. CE providers are allowed 2 weeks to report CE to the state. They're given credit for having renewed on time if the UID can see that they've done CE within the 30 days. Agencies have the same 30-day period, but the lapse date is the same as the expiration.

- James asks if the UID waits 30 days to send the letter Tanna was talking about. She says no. Sircon is often a few days late, so we run the report a few days after the first of the month.
 - **Motion by Randy to concur. Seconded by Nancy. Motion passes 4-0.**
 - Penalties
 - None.
 - Attorney Exemptions
 - None.
 - Continuing Education
 - Quarterly: ~~January~~ / ~~April~~ / ~~July~~ / October
 - Randy O. reminds the TEC that there is an exam review workshop Wednesday morning from 8am-12pm. Alison McCoy, Sue Cragun, Carol Yamamoto, and Nancy Frandsen will attend from the industry. The workshop will be at the Marriott Courtyard.
- **Board Duties & Responsibilities** / Perri
- **Update on 2018 Goals** / James
 - ULTA report / Alison
 - Alison sent notes from the last TEC meeting to ULTA leadership. The convention went great, and there were good topics including wire fraud. They know that James is the chair now, and will work with him going forward.
 - James says the wire fraud presentation was interesting and frightening. It was interesting to hear how innovative hackers and fraudsters are, and the pervasive threat they are to consumers.
 - Real Estate Commission report / Nancy
 - The REC focused on enforcement at the last meeting, which is generally what they do. Their next meeting is Wednesday morning, which Nancy can't attend because of the exam review workshop.
- **New Business**
 - Changes to R592-10 / David
 - Nancy and Alison note that Matt Sager had requested clarification because there are two definitions of what "manager" meant. Last month, Alison suggested changing it to "ownership." James says the relevant section is R592-10-5(1)(c).
 - Nancy says the UID uses an "Office Report Form" and asks if that's a form that's used by the UID across many lines of insurance. Randy O. says changes in position or title of an owner, partner, or officer must be reported.
 - Jeff Wiener says he doesn't know if (c) is even necessary. It could probably just be stricken from the rule. James says he had a similar thought. Tanna says she suspects that (c) is in the rule because of the licensing requirement of an escrow line of authority. She thinks it was probably meant to prevent someone from thinking an office could be managed by a secretary or someone without that line of authority.
 - James says it seems the TEC needs to do more research before opening the rule and considering changes. He will look into the rule and also R590's reporting requirements.
 - Jeff says the licensing requirement is to have an agency license. If a company has a qualifying license, is that enough for all offices? Tanna says each office needs an escrow line of authority. Jeff thought the escrow line of authority was needed for each agency, but not for branch offices.
 - Randy O. says the requirements are in ~~R590-204-1(e)~~ 31A-23a-204(1)(c) and he reads it. He says it only talks about agencies, and not branch offices.
 - James summarizes that the only info that is necessary in the Office Report is a change in the person who holds the escrow line of authority for the agency (not per office). Reporting a change in manager for each office is extra information that isn't necessary. Managers change frequently and it's probably a burden on title companies to report it. Perri says she thinks the purpose is so the UID knows what offices are out there. The UID needs to know the number of offices, where they are, and who the contact person is. She thinks it's different than the statute.
 - Reed says last time someone suggested calling the office and asking for the manager, so you wouldn't know the manager's name anyway.

- Alison asks if reporting the branches is part of the annual report. Tanna says it is.
- Jeff notes that ownership has to be reported to the UID within something like 30 days. A lot of this reporting is required in other places. He says the rule may not even be needed, since much of the information is already being reported elsewhere. Perri notes that this rule requires that changes need to be reported as they happen during the year, rather than annually. Jeff thinks that's still required in other rules.
- Perri says this rule was authorized under the assessment statute, so we need to look at it through 31A-23a-415.
- Jeff says he will do some research and can report back in September. James says he and the TEC will do the same.
- **Added to September agenda for continued discussion.**
- **Old Business**
 - Minimum E&O requirements / David
 - James says his recollection about the E&O discussion is that changing the E&O minimums would be difficult to legislate and regulate. At most, a statutory change could be made to increase minimum, but it may be best left to insurers and underwriters to regulate by contract.
 - Commissioner Kiser says he would prefer to see the industry regulate it themselves. He notes that tail coverage is very important, and companies should understand what tail coverage is and that they should purchase adequate coverage.
 - Nancy says when her company winds down agents, they require tail coverage. All underwriters should want it, because that's when claims happen. She would prefer that the industry regulate it themselves.
- **Other Business**
- **Hot Topics**
 - Guidance from UID regarding R592-6-4(24)
 - R592-6-4(24): "Advertisements may not be placed in a publication, including an internet web page and its links, that is hosted, published, produced for, distributed by or on behalf of a client."
 - James is opposed to opening the rule, but would like to get a working group together with the UID, TEC and industry to issue some guidance or a bulletin. He says some of the issues are:
 - The rule could be interpreted overbroadly to infringe upon free speech issues.
 - "Advertisements" and "publication" aren't defined anywhere.
 - Some companies have gotten in trouble for having their names on industry websites, like the Association of Realtors website. He says it might be a stretch to call those advertisements, but the UID has asked companies to take them off.
 - Private communications from clients could be considered publications if they recommend or talk about a title company.
 - The industry is operating under the concern that any communication like that could be subject to investigation by the UID. He'd like to get guidance and clarity from the UID.
 - Jeff is nervous that convening a working group will result in the rule being opened. There needs to be a specific issue; it's hard to get guidance with generalities. If we're going to go down this path, it's going to change the rule. He is opposed to a working group.
 - Blake Heiner asks what's driving the question. Are companies asking for guidance? James says the nature of the business is changing and Utah has stricter interpretations of what can and cannot be done with regard to advertising. He has been involved in a situation where a title company was recommended in a private communication by a client, and it was considered a potential violation by the UID. His company has also been asked to have their names taken off association websites that were put up without their knowledge. James doesn't think it's critical enough to open the rule over.
 - Nancy says this is an area that agents will call her about. She would have two agents call the UID about the same issue, and they would get conflicting answers. She always advised her agents to

get it in writing. In the past, guidance hasn't always been consistent. Commissioner Kiser asks Nancy and the industry to let the UID know if this happens again. The UID needs to be giving consistent information.

- Randy says he understands the reluctance to opening the rule, but if the rule does get opened, he has some things that he'd like to look at in terms of housekeeping within it.
- James says it appears the resolution will be offline discussions with the UID to get clarity for his company.
- Reed went to an NAIC meeting last week and there was a presentation about the ALTA Registry. It sounded like a helpful tool for dealing with fraud. James says his understanding is that it is a way for consumers to verify that they're working with legitimate title companies and agencies. Tracy thinks it was developed for lenders so they can verify that the title agent they're working with is the title agent on the registry. It involves an ID number. James says it's to the company's benefit to be listed.

Executive Session (None)

- **Adjourn** (9:59 AM)
 - **Motion by Randy to adjourn. Seconded by Alison.**
- **Next Meeting: September 10**, 2018 — Copper Room

2018 Meeting Schedule in Copper Room

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