



Insurance Department

State of Utah

GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor
NEAL T. GOOCH
Insurance Commissioner

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: June 13, 2011

Time: 9:00 AM

Place: East Bldg, **Copper** Room

MEMBERS

Commission Members

xChair Cortlund G. Ashton, Salt Lake Cnty
xCo-Chair Garry M. Goodsell, Iron Cnty
xDirk Keyes

xCanyon W. Anderson, Davis Cnty
xJerry M. Houghton, Tooele Cnty

Department Staff

xPerri Babalis, *AG Counsel*
xTammy Greening, *Examiner*
Adam Martin, *Examiner*

xSuzette Green-Wright, *MC Dir.*
xJilene Whitby, *PIO Recorder*

xMark Kleinfeld, *ALJ*
xBrad Tibbitts, *P&C Dir.*

Public

Angie McKinnon
James Seaman
Connie Bell

Jon McKinnon
Clayton Hansen
Lincoln Scoffield

Keith Peterson
Al Newman
Jeff Wever

MINUTES

General Session: (Open to the Public)

- **Welcome and Introductions - 9:03am** / Cortlund Ashton, Chair
- **Adopt Minutes of Previous Meeting**
Canyon made a **motion** to accept the minutes, Garry seconded it, vote unanimous.
- **Executive Session** - If needed (*Closed to the Public*) *Not Need*
- **General Session** - (*Open to the Public*)
- **Reports**
 - **Concur with Licensee Report**
Canyon expressed concern about the use of escrow in Escrow Security Title's name. Licensing okay with it. Garry made a **motion** to concur with the report, seconded by Dirk, vote unanimous.
 - **Concur with Complaint & Enforcement Reports for April & May**
Why was complaint opened and closed same day on Jan 2011 against First American? Brad Tibbitts reported they were duplicate complaints. Canyon made a **motion** to concur with April and May reports, seconded by Jerry, vote unanimous.
 - **Request for Attorney Exemption: Peter Jay, Attorney at Law** / Suzette
Rejected by Department. Request initially incomplete. Not enough experience. He has option to file for hearing. Clayton said his firm does not appoint agents until they are well trained. He was impressed by Jay's abilities. Garry made a **motion** to concur, Canyon seconded, vote unanimous.
- **Administrative Proceedings Action**
 - **Pre-Hearing:** None
 - **Stipulation & Order:**
 - **Bridgett K. Ellis**, Ecase 2833
Works for Monument title Insurance. License lapsed October 31, 2010 to January 11, 2011. She closed on 22 properties during this period. Forfeiture \$1,500 plus 12 months probation.
 - **Monument Title Insurance Inc.**, Ecase 2834
Forfeiture \$2,500.
Jerry – Concerned about penalizing someone living within state and not able to get at unlicensed entities. Dirk expressed concern about a similar case with double the fine. Tammy noted that each case is judged on its merits. Garry made a **motion** to concur with both stipulations, seconded by Canyon, vote unanimous.
- **Old Business**

- **Discuss Changes to R590-99 (R592-14)**
Canyon provided update of discussion with underwriters. Rule is getting a new number plus change to Purpose and Scope section and last sentence of Section 3.B. **Motion** by Canyon to begin rulemaking, Dirk seconded it, vote unanimous.
- **Discuss Changes to R592-6-4**
Perri made changes requested. Canyon made **motion** to begin the formal rulemaking process, seconded by Jerry, vote unanimous.
- **Search Standard Rule - Formation of Subcommittee / Jerry**
Agents want to know what the search standards are. Searchers do not want to discuss standards. Underwriters need to decide if they direct agencies or not. A sufficient search prevents claims.
 - Garry: There is a trend for underwriters to penalize agent for an inadequate search. This is one reason for standards. Canyon suggested asking underwriters for copies of their standards?
 - One public member asked that underwriters be allowed to make the decisions. They get their answers by calling, emailing and asking questions. It depends on relationship between agent and underwriter and how agent searches. No such thing as a short search.
 - Tammy reported receiving complaints about escrow but not search. Ultimately the insurer is responsible for the acts of their agent.
 - Cort suggested that if underwriter has one standard they should let their agents know.
 - Put "Split Closing Instruction Form" on next month's agenda.
 - Need standardized document. Cort asked Jeff to send him document from Old republic.
 - Garry – We can't step into contracts between agent and underwriter. It is up to the agent to ask about standards. Search standards won't work to fit all circumstances.
 - Leave on agenda.
- **Dual Licensing - How Does Department Interpret Rule? / Suzette**
Suzette is in process of preparing bulletin on the rule. Take off agenda.
- **Update on Mobile Notary Performing Escrow Services**
 - Cort received two letters from attorney challenging the ULTA's memo stating the department's position regarding mobile notaries of July 13, 2006 from Darrel Powel of the department. ULTA was asked to amend their letter to include this letter.
 - Questions asked:
 - Can a notary deliver documents and obtain signatures without a license?
 - What is "handling money"?
 - What is escrow and its duties?
 - When does one need an escrow license?
 - Public member: The notary is responsibility to see that documents delivered are not manipulated or changed.
 - Tammy suggested defining Escrow. Mobile notaries are not the big issue, it is unlicensed outside entities. Most notaries don't know their boundaries. Powel's letter needs updating.
 - Cort asked if the department could issue a bulletin to redefine their position.
Al asked that rule be limited to mobile notary and not include escrow. Define mobile notary.
 - Agenda should read: "Discussion of Rule Regarding Definition of Escrow & Mobile Notaries."
 - Cort asked Perri about Mr. Wilson's letter asking for AG opinion. Perri said only the commission can ask for an AG opinion.
- **Appointment Process for Two New Commission Members / Suzette**
So far no response from the Governor's Office about replacement members. May know something next week. Governor's Office has to send their recommendations to the legislature. If they fail to appoint then Canyon and Garry will need to stay on.
- **New Business**
 - **Salt Lake Title Orderly Withdrawal / Jerry**
 - Angie reviewed problems winding down the business and complying with bulletin 90-1.
Two questions:
 - 1- Could she make out a check now for 2010 and 2011 assessment?
 - 2- Her underwriter (First American) has asked her to store the closed files for 15 years. They don't have the financial means to do so.

- There is no statutory requirement for insurer to take possession of the files. First American has suggested she make arrangements to have them stored.
- Is there anything against monetizing these files? No.
- Tammy: The legislature won't allow the department to take money for future assessments. Department does regulate insurers and might be able to do something.
- Jerry made a **motion** asking Insurance Commissioner to see if they can expedite or compel the insurer to take the files, seconded by Canyon, vote unanimous.
- Put on next month's agenda.
- **ReConTrust Letter from AG / Canyon** (*attachment*)
Discussed Mark Shurtleff's letter that ReConTrust was not a valid trustee. Perri said the letter was drafted regarding foreclosures and not title. Public member noted that the letter implied that all foreclosures were invalid. Perri said the letter was directed to the Bank of America.
- **Other Business from Committee Members**
Suzette gave plaques and letters to Garry and Canyon in appreciation for their leadership and work on the Commission.
- **Adjourn:** 11:30am
- **Next Meeting:** July 11, 2011, Copper Room

2011 Meetings

Jan. 10	Feb. 14	Mar. 14	Apr. 11	May 9	Jun. 13
Jul. 11	Aug. 8	Sep. 12	Oct. 11	Nov. 14	Dec. 12