



# 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:** July 11, 2011

**Time:** 9:00 AM

**Place:** East Bldg, **Copper** Room

### MEMBERS

#### Commission Members

Chair Cortlund G. Ashton, Salt Lake Cnty  
Jerry M. Houghton, Tooele Cnty  
Dirk Keyes

Larry Turner Blake, Washington, Cnty  
Kirk Donald Smith, Weber Cnty

#### Department Staff

Perri Babalis, *AG Counsel*  
Tammy Greening, *Examiner*  
Adam Martin, *Examiner*

Suzette Green-Wright, *MC Dir.*  
Jilene Whitby, *PIO Recorder*

Mark Kleinfeld, *ALJ*  
Brad Tibbitts, *P&C Dir.*

#### Members of Public

Pete Stevens  
Jeff Wever  
Matt Sager  
Lincoln Scoffield

David Moore  
Al Newman  
Jack Marinello  
James Seaman

Jim Dufficy  
Bjorn Stringham  
Brian Coleman  
Matt Wirth

### MINUTES

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

- **Welcome** / Cortlund Ashton  
Cort opened meeting at 9:05am, and introduced new members.
- **Install New Members and Complete Paperwork**  
Oath of office performed for new members Kirk Smith and Larry Blake by Jilene Whitby. Both signed Confidentiality agreement.
- **Adopt Minutes of Previous Meeting**
  - Cort asked that Split Closing Instructions be added to the August meeting agenda. It was left off this month's agenda.
  - The last bullet under Mobile Notary section should read:  
"Cort asked Perri about Mr. Wilson's letter asking the Commission for an AG response to his letter."
  - Cort asked for the following change to the second to the last bullet under "Salt Lake Title Orderly Withdrawal."  
"Jerry made a motion asking Insurance Commissioner to see if they can expedite the termination of fees or, determine if the department can compel the insurer to take the files,..."
  - Dirk made a **motion** to accept the minutes with the noted amendments, Jerry seconded it and the vote was unanimous.
  - Cort explained the reason for an executive session to the new members.
- **Executive Session** - Not need.
- **Reports**
  - **Concur with Licensee Report**  
**Motion** by Jerry to concur with the report, seconded by Dirk, vote was unanimous.
  - **Concur with Complaint & Enforcement Reports**
    - Suzette explained the reports to the new members.
    - Cort noted that one column did not show which violations were closed cases. Suzette will fix.
    - Jerry noted that some violations show no business activity. Suzette said these were individuals and agencies that did no business while licenses were lapsed.
    - Jerry made a **motion** to accept the report, Larry seconded it and the vote was unanimous.
  - **Request for Attorney Exemption:** None
- **Administrative Proceedings Action**

- **Pre-Hearing:** None
- **Stipulation & Order** / Mark Kleinfield
  - **Jacob Sorensen**  
Conducted twenty closing while his license was lapsed. Proposed Forfeiture \$1,500. Kirk asked if agency was also responsible. Tammy said it depends on the policies and procedures of the employer. **Motion** by Kirk to approve penalty, Larry seconded. Mark said that in the future he would check to see if action was taken against agency. Vote was unanimous.
  - **Daniel Alfonso Blanco**  
Terminated from employment for failure to disclose a recent federal criminal incident. Forfeiture \$250. Dirk made a **motion** to approve penalty, Jerry seconded it and the vote was unanimous.
- **Old Business**
  - **Update on Rulemaking Process for R590-99 (R592-14)**  
Comment period ends 8-1-11. Commission will decide next step to be taken at August meeting.
  - **Update on Rulemaking Process for R592-6-4.**  
Comment period ends 8-1-11. Commission will decide next step to be taken at August meeting.
  - **Search Standard Rule - Formation of Subcommittee** / Jerry  
Nothing new to report. Keep on agenda.
  - **Discussion of Rule Regarding Definition of Escrow & Mobile Notaries**
    - Cort asked when an escrow license is needed? What tasks require an escrow license? The department and industry are still following the 2006 letter issued by the department.
    - David had 75 people call him about this issue. Most notaries are going far beyond just notarizing documents. Perri said the Commission can get an AG opinion and determine if it is private or not.
    - Troy, who is in the business of mobile notaries, said most escrow people he knows do not ask notaries to exceed their authority. Notaries do not need more legislation. Education may be needed. The recent letter regarding mobile notaries is killing their business.
    - Pete suggested defining "notary business." Two issues here: 1. Can't indict notary industry because of a few people violating the law. 2. The ULTA letter looked like it was from the department.
    - Cort asked Perri to define what an escrow is and when it is needed for next meeting. Perri suggested putting it in a rule. Bjorn suggested the rule state what functions require an escrow license.
    - Troy asked what instruction companies give mobile notaries and was told only to be on time and dress professionally. David said Title 7 requires a person to get with financial institutions for authority unless they are an attorney or have a title license.
    - Cort asked Perri what their authority was to make definitions. Perri said they could make definitions and use Department of Financial Institution codes as guidelines.
    - David suggested defining a "closing." Suzette agreed.
    - Perri said the Commission could define "escrow." May need to amend the statute to define "closings and settlement." When is a license required? Troy said that if a currier needed an escrow license then so would a Fed-ex currier and anyone else.
  - **Status of Salt Lake Title's Orderly Withdrawal** / Jerry
    - Cort asked if the department could compel an insurer to take the files. Perri and department will have a meeting to determine this. A title company has to keep files 15 years. Tammy said that once an agency withdraws they have to tell the department where their files are.
  - **Assessments**  
An assessment cannot be paid until the department sends the bill. It cannot be done earlier as per 31A-23a-415. The annual and recovery fund assessments are billed together and due April 30 each year. It only applies to functioning agencies. The 2011 assessment is due in 2012.
- **New Business**
  - **Vote for Chair and Vice Chair**  
Dirk made a **motion** to nominate Cort as chair, seconded by Kirk. Motion amended to nominate Dirk as chair and Cort as vice chair, seconded by Jerry, vote was unanimous.
- **Other Business from Committee Members**

- Cort will write a letter providing intent of \$10,000 good funds change and how it fits in with current statute. Welcomed input. Suzette asked it be ready for next month's meeting so department could include it in their bill. Put on New Business for next month.
  - Jeff – The part that says "reasonable grounds to believe sufficient moneys will be available for withdrawal." Clarify so agents understand that they don't qualify for collected and cleared funds.
- Jeff - Pull out split closing instruction form that Glen helped write for discussion next month.
- **Adjourn:** Kirk made a **motion** to end meeting, vote was unanimous.
- **Next Meeting:** August 8, 2011, Copper Room

#### 2011 Meetings

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