

ESCROW ADVISORY COMMITTEE MEETING
June 17, 2014

Department of Business Oversight Represented By:

Richard Malme, Special Administrator
Kristie Jaynes, Senior Examiner
Mona Elsheikh, Senior Examiner
Ann Davila, Escrow Licensing Specialist
Colleen Monahan, Counsel (Via Telephone)
Kathleen Partin, Deputy Commissioner (guest)

Committee Members Present:

P J Garcia, Beach Pacific Escrow, Inc. – Past Chair Escrow Institute
Juliana Tu, Viva Escrow! Inc. – Small Business
Jeff Behm, Behm and Company, An Accountancy Corp. - CPA
Steven Garcia, Law Office of Steven Ray Garcia - Attorney
Paula Franks, Advantage One Escrow, Inc. – Chairperson Escrow Institute
Jennifer Woodard, Oak Escrow, Inc. – Vice Chair EAFC *
Leslie Sapone, Traditional Escrow, Inc. – Medium Sized Company
Michael Culver (Via Telephone), Elance Escrow Corporation – Business
Specialization

Committee Members Absent:

Bill Nelson, Express Escrow Company – Chairperson EAFC *
Diane Boudreau-Tschetter, California Business Escrow, Inc. –
Other Business Ownership

*EAFC – Escrow Agents’ Fidelity Corporation

1. Opening Remarks

Richard Malme opened the meeting by welcoming everyone and then introduced Senior Examiners Kristie Jaynes and Mona Elsheikh. Both Kristie and Mona introduced themselves further by providing their experiences with the Department. Richard also acknowledged Licensing Specialist Ann Davila and Deputy Commissioner Kathleen Partin.

2. Review and Approval of the Minutes of Last Meeting

Richard asked if he could have a motion to approve the minutes of the last meeting of December 10, 2013. P J Garcia made a motion to have the minutes approved and Julian Tu second the motion and the minutes were approved.

3. Proposed Revisions to Section 1741.5 – Audit Instructions (Colleen Monahan)

Colleen Monahan stated she is still working on the draft revision of the annual report instructions and will be seeking comments through the rule making process. Richard stated that the proposal would include the inclusion trust assets and liabilities on the face of the balance sheet. However, the changes to supplemental procedures currently required would be minimal.

4. Topics for Discussion (Committee Members)

a. Issuance of commission checks to real estate agent's unlicensed corporations

Richard stated that the BRE (Bureau of Real Estate) directs how commission checks are paid. He then read from a Spring 2000 BRE Bulletin covering this subject. To summarize “. . .a real estate broker can pay a commission, once earned by his or her salesperson, to the salesperson's corporation in accordance with the broker's instructions..” The escrow company would need to obtain an instruction to pay an agent's corporation from the broker.

b. Kickbacks and solicitation of business

Paula Franks presented a scenario in which escrow companies are sending out discount coupons to agents to bring in sellers, or sending coupons directly to sellers, or to sellers and buyers. PJ requested the Department come out with a position on the marketing schemes currently in use.

Richard told the group that if they have evidence of kickbacks, to please forward it to him.

5. New Business

a. Lease accounting update

Jeff Behm stated that the lease accounting change continues to be held up. There are three small issues pending, but implementation could happen soon. He stated that he thought that Jan (Commissioner) still had the re-write of the regulation on her desk. Kathleen stated she was waiting to see what happens in the accounting rules through the AICPA.

b. Lender Confidentiality Agreements

The Wintrust lender instructions were discussed. Richard stated the Department did not have a position on this matter. The Department is exempted from the agreement as we are a regulatory agency. Richard suggested each company look to their counsel for guidance.

6. Enforcement Action Update (R. Malme)

Richard distributed the handout showing the latest administrative actions and licensing statistics. There were 38 actions, including the revocation of five escrow agent licenses and nine bar actions. As of May 31, 2014, there were 676 escrow agent licensees and a total of 950 locations. Less surrenders have been received this year, as compared to last year.

7. Comments

Richard asked if there were any Public comments, but none were made. He then thanked Jeff Behm, Juliana Tu, and Diane Boudreau as their terms are expiring in September. As a result of this, there are now three openings. Richard stated that applications for these openings should be sent to his attention.

The meeting adjourned at 11:00 a.m.