

Escrow Advisory Meeting

September 12, 2017
10 a.m. – 12 p.m.
320 W. 4th Street, 7th Floor Conference room
Los Angeles, CA 90013

Department of Business Oversight Represented by:

Edgar Gill, Senior Deputy Commissioner
Kathleen Partin, Supervising Examiner
Colleen Monahan, Attorney, Legal Division

Committee Member Present:

Bill Nelson, Express Escrow, Inc./EAFC Chairperson*
Dee Ann Pope, Hallmark Escrow/EAFC Vice Chairperson*
Nancy Silberberg, Altus Escrow, Inc./Chairperson EIC**
Dave Brooks, Seright Escrow, Inc./Past Chairperson EIC**
Jeff Behm, Behm and Company/Certified Public Accountant
Alma Rushing, Marina Vista Escrow/Other Business Ownership
Jennifer Felton, RELAW APC/Attorney
Julianna Tu, Viva Escrow!, Inc./Business Specialization
Joanna Belanger, The Escrow Source/Small Business

*Escrow Agents Fidelity Corporation

** Escrow Institute of California

I. Welcome, Introductions, And Opening Remarks

Kathleen Partin introduced herself and Ed Gill and asked everyone to introduce themselves. She stated that the date of the Escrow Industry Roundtable has not been set, but we are looking at having it in October 2017. Ed Gill added that when a date is set, the meeting will be held in Los Angeles.

II. Review and Approval of Minutes From June 28, 2017 Meeting

Kathleen Partin asked for approval of the minutes. Nancy Silberberg stated that the minutes had her company name spelled wrong. Both Nancy Silberberg and Dave Brooks approved the minutes.

III. Rulemaking Update

A. Status of proposed revisions to section 1741.5

Section 1741.5 contains instructions to CPAs for preparing the annual audit reports of escrow licensees. Colleen stated the language for the revisions will be drafted by the end of the week. She also stated that they will be going out with a 30-45-day notice for comments and input on the revised language.

B. Status of proposed revisions to section 1740.2 & 1740.3

New accounting rules that take effect in a few years will require all leases to be shown on the financial statements. Kathleen explained that the proposed revisions involve eliminating leases from the net liquid asset calculation. It is unclear how the DBO will proceed. Ed added that General Counsel will determine DBO's perspective.

IV. Topics for Discussion:

A. Escrow Law Budget

When the agenda was prepared, a representative from DBO's Budget Office was to attend to discuss the Escrow Law Budget and present a financial statement. The Escrow Law financial statement was not available, and Nancy asked if it would look like past statements. Kathleen stated that the report would look similar to what had been presented in the past.

Someone asked when the financial statement would be available. Ed said he thought it would be expedited and available within the next two weeks. He also stated that it would be distributed to committee members when it was available.

B. Increase in Examination Fees

Kathleen stated that a bulletin was sent to all escrow licensees informing them of the increase, from \$80 to \$95 per hour, in examination fees. She told the group that the fees have not increased since the 1990s. She explained that the new rate will apply to all exams assigned starting in August. Examinations started prior to August, even if not complete before August 1, will be billed at the old rate.

In response to a question about special assessments, Kathleen stated that the examination fee increase will mitigate the need for a special assessment.

C. Temporary Escrow Employees – Reporting Rules

Kathleen told the committee that all employees must be fingerprinted and reported to the DBO and EAFC by the 10th day of employment. If previously fingerprinted, only the application is required. For temporary workers, the 10 days of employment with the same company do not have to be consecutive days.

Dan said that EAFC gives them 10 days to file and suggested that DBO may want to do the same.

D. Posted Actions on DBO Websites

Kathleen told the committee that DBO posts all public actions on its website and that the goal is post them within two business days of issuance.

Nancy asked about postings of public and nonpublic actions. Kathleen stated that orders are public and are posted to the DBO website. Dave asked what happens if we cannot serve the escrow companies that are in violation? Kathleen responded that she believes that we wait for service before anything is posted. She explained that they must be served. Ed reassured the committee that DBO has a high success rate in locating these people.

Concern was expressed about problem employees who have been terminated for wrongdoing at one company, seeking temporary positions at other escrow companies. The concern was about timely informing the industry about these employees. It was suggested that the DBO send an email blast to all licensees recommending that they vet all temporary employees. Kathleen told the committee that she will consider this and get back to them.

Dan Bovill of EAFC added that he believes this is a big problem that EAFC is seeing more frequently.

E. Thank You Gifts -- 17420 Issues

Kathleen told the committee that gifts under \$10 are a violation and any type of gift is considered a problem. BRE licensees may not accept gifts because it is a violation and it does not matter what the amount is. Kathleen noted that if someone receives a general item that anyone can receive because it is there for anyone to take, that is fine. She gave the example of a cup of pens on a desk that are available to anyone who wants one.

Nancy asked if giving pocket calendars to buyers and sellers in a transaction would be a violation? Kathleen explained that the buyers and sellers are not the problem, the problem is the realtors. So, if they are placing pocket calendars for anyone to take, it is ok. If they are giving them exclusively to the realtors, that would be considered a gift and a violation. Matthew Davis, who attended as a member of the public, stated that he did not agree that giving minor items to anyone is a violation.

V. New Business: Escrow Law Annual Report – For Posting on Website

Kathleen told the group that the Commissioner is considering an Escrow Law report like those produced by other Financial Services Law areas. Kathleen sent an email prior to this meeting seeking suggestions on what should go into this report.

Nancy said that when this issue came up last year, she had a conversation about this with Richard Malme before he retired. She wanted to know what the goal was for the report, what information would it reflect, and what would be the burden for escrow agents and the DBO.

Ed answered by stating that it will be used to collect data for trend analysis. He went on to say that people want to know what is happening in the Escrow Industry. The report would provide a lot of industry data. He also said that at this time, it is unclear if escrow can provide data that would show a trend analysis.

Nancy asked if there was room for discussion in this matter. Ed suggested that this would be a good subject to discuss at the Escrow Industry Roundtable.

VI. Enforcement Actions and Licensing Update

Kathleen informed the committee that since the last meeting, the DBO took over and appointed Peter Davidson as conservator of Amerilink Escrow. The DBO finalized the issuance of orders barring two individuals, revoked one escrow license and issued an accusation to suspend another.

She also stated the number of licensees has increased since a year ago, and now stands at 656 companies with 975 locations. Main office applications have remained steady.

Nancy asked whether the DBO has seen many ownership changes. Kathleen said yes, the DBO does receive and process many applications for change of ownership.

VII. Public Comments

Kathleen invited questions from the public.

One person asked when the next new manager training class would be held. Kathleen stated that she is working with Liz from EIC on a date, but it most likely will be early next year. Nancy stated that two classes every year is good and even those who are not new managers want to attend for a refresher.

One person suggested giving the training as a download on flash drives or a webinar with a live Q&A would make it easier to conduct the class. The webinar format tracks how long a person is participating in the program. Kathleen indicated that she would consider this.

VIII. Closing Remarks

Kathleen Partin adjourned the meeting, thanked everyone for coming and said the next meeting will be held on December 5, 2017.