

ESCROW ADVISORY COMMITTEE MEETING
June 8, 2010

Department of Corporations Represented By:

Louisa Broudy, Deputy Commissioner
Kathleen Partin, Special Administrator
Valinda Roberts, Chief Officer of Finance Mgmt
David Duong, Senior Examiner
Ann Davila, Escrow Specialist
Peggy Fairman, Counsel (Via telephone from Sacramento)
Gillian Small, Acting General Counsel (Via Telephone San Francisco)

Committee Members Present:

Genia Engelstad
Bill Nelson
Joe Lins
Jeff Behm
Matthew Davis
Beulah Stidham
Mark Emmons

Committee Members Absent:

Malia Monroe
Jennifer Woodard

1. Opening Remarks

Deputy Commissioner Louisa Broudy opened the meeting by welcoming everyone and introducing Valinda Roberts. Louisa also stated that this would be the last meeting for two of the members as their term was up. She thanked Jeff Behm for his service and also thanked Malia Monroe for her service. She invited them to continue in the Subcommittee Group. The meeting was then turned over to Kathleen Partin.

2. Follow-up items from the previous meeting were discussed as follows:

Subcommittee (K. Partin)

The Subcommittee met after the last advisory meeting regarding examiner training, but will wait until the fall to present the training. There will be a Subcommittee meeting after this meeting.

Escrow Law Budget Information (V. Roberts)

Valinda passed out a handout and explained how the Fund Balance works. She also assured the group that the Escrow Law is not subsidizing other programs. The difference in assessments from 2007-08 to 2008-09 is due to the difference of what has been billed and what has been collected. There is a possibility of an increase in fees if there is a deficit in the future. She explained that the State's General Fund can take settlement dollars without paying them back, but it cannot sweep "fees."

A discussion regarding the revenue and expenses to regulate the escrow industry ensued. Louisa talked about the amount of time and expense required when the Department acts as a conservator. It has been necessary for the Department to handle conservatorships when an outside conservator is not available. Genia suggested that perhaps an escrow group could be set up to do this. Because of continuity issues this did not seem possible. A question was asked as to how long it takes a license to be revoked when an assessment is not paid. Kathy stated that the process to revoke a license when the assessment has not been paid has been occurring sooner than in the past. A discussion was held on unpaid assessments and the inefficiencies and time-consuming aspects of this. Valinda stated that the State has required the Department to be more assertive in collections.

3. Short Sale Processing, Facilitating, and Negotiating (G. Engelstad)

Kathy confirmed with DRE that a license is required to negotiate with the borrower or lender. Genia and M. Davis discussed different scenarios regarding this issue, including (per Genia) how some escrow companies have "uncleared" people in their office doing short sale coordination. According to both Genia and Matthew, issues pertaining to short sales have been going on for 2 – 3 years. A discussion was held on what was allowed and what was not allowed. A request for an internal opinion had recently been prepared to determine whether there were violations of the Escrow Law. However, after hearing all the different scenarios, Louisa stated that a revised opinion request was a possibility in order to include all issues. What was submitted was related to escrow companies negotiating. Kathy asked Matthew to provide her with a summary of various short sale escrow scenarios/issues that he was aware of.

4. Online Management Training Classes (G. Engelstad)

Genia asked why the Department couldn't schedule Webinars for Escrow Management Training Classes. She stated that she had come across information that showed Louisa doing a Webinar for Mortgage Bankers. Kathy stated that the escrow class was only for officers, directors, owners and

managers, and with a Webinar you could not restrict who attended. The Department is concerned that the examples given in the class may provide information to employees that could assist them in misusing trust funds. A suggestion was made that perhaps a class without specific examples could be held. The point was also made that the information of concern is already available via other sources. Genia will be sending Kathy more information on this topic.

5. Update on Changes in CPA Reporting as they Relate to Escrow Companies (J. Behm)

Per Jeff, the changes are still happening and the process continues. Of primary concern for escrow companies is the handling of leases. All leases will be put on the balance sheet and will also show as a liability. This would affect liquidity. The hope of the oversight bodies for the accounting profession is to have the final proposal for the accounting changes finalized by December 31, 2011, and it is anticipated that the reporting changes would be effective by December 15, 2012.

6. Incorporated Escrow Operations Not Licensed by DOC (B. Stidham)

Kathy stated that she checked with the DRE and a new law took effect this year that states that a broker's escrow fictitious business name must contain the words "a non-independent broker escrow" in the name or in advertising. Beulah stated that she sees escrow instructions with a different name than the broker's license. M. Davis stated that this was misleading to the public. They should not be a corporation; a "division" is okay. Otherwise, they need to be licensed by the Department. Kathy stated she would check with the Office of Policy for guidance as to whether the Department has the power to do anything to curb this.

7. DOC and EAFC Working Together to Monitor Potentially Problem Companies (B. Nelson)

Bill Nelson brought up this topic, and it was acknowledged that the committee had met a few months back regarding this matter. Dan Bovill informed the group that he will now receive e-mails of revocations, which will help to cut losses. Kathy stated that the Department can only share public information. A question was brought up as to whether it is allowable for EAFC to share information with the Department. Dan Bovill stated that per Section 17346 of the Financial Code, EAFC could audit members at any time and give DOC information in order to cut losses.

8. Enforcement Action Update

Kathy passed out the enforcement information and licensee statistics. As of May 31, 2010 there are 762 licensed companies and 1004 licensed locations.

A request for a change in date for the next meeting was made. The next meeting was scheduled for Wednesday, September 8, 2010 at 10:00 a.m.

The meeting adjourned at 11:40 a.m.