

## Escrow Advisory Committee Meeting

**March 14, 2017 Minutes**

### **Department of Business Oversight Represented by:**

Edgar Gill, Senior Deputy Commissioner  
Richard Malme, Special Administrator  
Kathleen Partin, Supervising Examiner  
Colleen Monahan, Attorney, Legal Division

### **Committee Members Present:**

Nancy Silberberg, Atlas Escrow, Inc., Chairperson EIC\*\*  
Dee Ann Pope, Hallmark Escrow, Vice Chairperson, EAFC\*  
Dave Brooks, Seright Escrow Inc. – Past Chairperson, EIC\*\*  
Julianna Tu, Viva Escrow!- Business Specialization  
Alma Rushing, Orange Coast Title/Other Business Ownership  
Joanna Belanger, The Escrow Source/ Small Business  
Jennifer Felten, Attorney- RELAW APC  
Dan Bovill, President EAFC

### **Board Guests:**

Ray Snytsheuvel, Paramount Rep. CMBA\*\*\*  
Susan Miazzo, Paramount Rep. CMBA\*\*\*

\*Escrow Agents Fidelity Corporation

\*\* Escrow Institute of California

\*\*\*\* California Mortgage Bankers Association

#### **1. Opening Remarks**

Richard Malme opened the meeting by thanking everyone for coming. Richard introduced the DBO participants and asked for all other committee members to introduce themselves.

#### **2. Review and approval of minutes from December 13, 2016 meeting**

Richard Malme asked if he could have a motion to approve the minutes from December 13, 2016. Motion was made and approved.

#### **3. Rulemaking update:**

##### **a. Proposed revisions to section 1741.5**

Richard Malme gave a brief description of this process and how it pertains to procedures for CPA's to follow when preparing annual reports. Colleen Monahan stated that the draft for the new process will be available in about 90 days. Colleen explained that once the draft is ready they will expect comments and will be seeking any informal input before they propose final language. Richard Malme stated that input from the

recent AICPA SSAE 18 will also be taken into consideration regarding these new procedures.

**b. Proposed revisions to section 1740.2 & 1740.3**

Richard Malme indicated that these revisions are a result of AICPA changes on how leases are to be reported, the DBO language defining current liabilities, and the liquid asset calculation. Richard explained that this bill has already been drafted and is in the queue with 1741.5. Legal will be addressing the issues of the leasing bill and it should move forward as scheduled.

**4. Topics for Discussion:**

**a. Cyber- Attack Updates/ Questions:**

Richard Malme updated the members on the current status of cyber-attacks. He stated that in the last 3 weeks there have been 3 cyber-attacks in the form of a fake email, changing the last minute disbursement of proceeds out of Escrow from a check or a wire from a local location to some out of state location under the name of an organization.

Various opinions were given by the group on how to address the problem, including new regulation and training. Richard Malme has seen cases where the real estate broker is getting hacked. He also agrees that the actions of a broker are not controllable by the escrow company. Richard Malme handed out the CAR form titled "*Wire Fraud Advisory*". This form, developed by the California Association of Realtors, explains the threat of cyber theft to the consumer. This form could be something escrow companies could adapt to use in their instruction package.

Kathleen Partin stated that when examiners are examining the escrow company's they discuss the threat of cyber-attacks. Nancy Silberberg says that all we can do is continue to educate all employees. Richard suggested that the Escrow Institute incorporate cyber theft into their Escrow Officer Training Program, a full day devoted to this subject.

Everyone agrees this is an issue also needs to be addressed through the bank side as well, and maybe determine a holding period for wired funds.

**b. Escrow and DBO lenders meeting / Report from the EIC February 15, 2017 workshop**

Nancy Silberberg thanked Ed Gill, Richard Malme and Kathleen Partin for allowing this DBO licensee conversation. Nancy stated that the California per diem rule is still a problem. They need clarification on what is it that the lender actually needs to have for proof of disbursement date, and it would help to agree on the same documentation (certified closing statement), and disclose the actual disbursement date.

The group agrees that there is a lack of clarity for all parties in the transaction process. Ed Gill commented that there is some new language coming out from the DBO about this subject matter. Nancy requested to have a copy of the new updated release.

**c. BRE exempt Escrow Divisions that incorporate**

Nancy brought to our attention that there has been false advertising that is causing industry concern. There are BRE escrow companies that are claiming to be incorporated. They are also using fictitious names that are closely if not almost the same name as DBO escrow companies.

Kathleen mentioned that this was a past issue, and was brought to BRE attention. At the time, BRE was unaware that this was happening but never updated Kathleen on the outcome. Richard stated that the exemption is for the broker, and recommends that we follow-up this issue with BRE.

**5. New Business**

**Regulatory Examination Costs are under review by DBO**

Kathleen Partin told the committee that the special assessment is currently on hold, but the need is still there. The problem is that the escrow program needs to support itself; and DBO is looking at different ways to accomplish this. Currently the DBO is looking at the examination hourly rate (\$80) and is re-evaluating the amount to match the current actual cost of performing the regulatory exam.

Richard indicated that more information will follow on this project.

**6. Enforcement actions and licensing update**

Richard told the committee that there are currently 13 pending enforcement actions. As of 2/28/17 we have 18 pending main office applications. Main office companies total 653. Including branch locations, we have 963 total licensed locations. There are 12 pending surrenders.

**7. Public Comments**

Richard asks the group if there are any Public comments or questions.

Nancy asked if there is a potential Round Table meeting in the works. Richard informed the committee that there is a potential meeting scheduled for April 13<sup>th</sup> in Sacramento. Ed went on to express his appreciation to everyone to making the effort to participate in these meetings.

**8. Closing remarks**

Richard thanked everyone for coming.

The meeting adjourned at 11:44am. The next meeting is tentatively scheduled for Tuesday, June 13, 2017.