

ESCROW ADVISORY COMMITTEE MEETING
September 13, 2016

Department of Business Oversight Represented By:

Richard Malme, Special Administrator
Kathleen Partin, Supervising Examiner
Martha Martin, Executive Secretary

Committee Members Present:

Nancy Silberberg, Altus Escrow Inc., Chairperson EIC**
Jeff Behm, Behm and Company, An Accountancy Corp. - CPA
Heidi Birenbaum Cassel, FNF Escrow Holdings - Other Business Ownership
Dee Anna Pope, Hallmark Escrow, Vice Chairperson EAFC*
Dave Brooks, Seright Escrow - Small Business
Juliana Tu, Business Specialization - Viva Escrow!
Laura Ghosn, Medium Sized Company - Pickford Escrow Company, Inc.
Beulah Stidham, Immediate Past Chairperson, EIC**
Bill Nelson, Chairperson, EAFC*

*EAFC – Escrow Agents’ Fidelity Corporation

**EIC – Escrow Institute of California

1. Opening Remarks

Richard Malme opened the meeting by stating that he and Kathleen Partin will be conducting the meeting. ED Gill and Chuck Lilly were unable to attend. Richard Malme asked that the phone participants introduce themselves. Richard Malme stated that the new members for the committee have not been approved by the commissioner yet. Eleven people from small business, four people from special ownership, and three CPA’s for the CPA position have applied.

2. Review and Approval of the Minutes of Last Meeting

Richard Malme asked if he could have a motion to approve the minutes of June 21, 2016. Nancy Silberberg made a motion to have the minutes approved. The motion was seconded by Juliana Tu and the minutes were approved.

3. Proposed Revisions to Section 1740.2 and 1740.3

Richard indicated that the legal department still reviewing the proposed changes to 1741.5 regarding the “agreed upon procedures” methodology. This will be put out for public comment when finalized. Richard will notify all committee members when it is available. Sections 1740.2 and 1740.3 language was written

back in 2012. Legal is determining if any changes need to be made in the original proposal.

4. Topics for Discussion

a. Task force of escrow and DBO lenders roundtable

Nancy Silberberg stated that lenders had a meeting with the commissioner. CNBA and EIC have had joint meetings. This is a mutual beneficial for both industries. As soon as she has a date of the next event, she will notify Richard.

Platform fees and vetting fees were discussed. The DBO is concerned that an upfront vetting fee paid to a third party vetting company is a “pay to play” kickback. However, there may be justification for a lender’s platform fee. Beulah Stidham does not agree on having to pay any kind of platform fee.

b. Cyber Security and proper internal controls

Richard stated that it would be best to email Luhmen Tesoro information to add or update phone numbers and email addresses as she enters this info through the DBO’s internal system. DBO’s system does update monthly to the public’s website.

5. New Business

a. Kathy Partin stated that holding enough funds in escrow to pay any change in invoice amounts is a solution to prevent close shorts. Requiring the principals to address any shortage of funds before closing is the best option.

b. Advertising

DBO does hold the escrow licensee accountable for providing free advertising for real estate agents, including on social media sites such as Facebook.

c. Administrative Action

The list of enforcement actions were discussed.

6. Public Comments

Dave Brooks stated that he was under the impression that escrow offices have to be locked. It is a violation if non escrow employees are allowed access to the escrow office.

Nancy Silberberg had a question in regards to referring 17420 FC violations. What is the procedure? Richard stated that licensees can refer violations to his email address. The DBO sends a letter to the company requiring a response that the company will cease such activity.

Jennifer Tu asked a question about vetting issues. She asked if the DBO can provide a certificate of good standing form, similar to the Secretary of State, regarding their licensees. Richard and Kathy stated that DBO cannot give such a form because compliance/good standing is an ongoing process.

7. Closing Remarks

Richard thanked the three members who will be retiring; Heidi Birenbaum Cassel, Dave Brooks, and Jeff Behm. He thanked them and handed them signed letters and certificates of service from the commissioner.

The meeting adjourned at 12:00 p.m. The next meeting is tentatively scheduled for Tuesday, December 6, 2016.