

ESCROW ADVISORY COMMITTEE MEETING
March 10, 2015

Department of Business Oversight Represented By:

Richard Malme, Special Administrator
Mona Elsheikh, Special Administrator
Kristie Jaynes, Senior Examiner
Ann Davila, Escrow Licensing Specialist
Colleen Monahan, Counsel (Via Phone)

Committee Members Present:

Jennifer Woodard, Oak Escrow Inc., Chairperson EAFC*
Ginger Frankel, Mara Escrow Inc., Vice Chairperson EAFC*
Nancy Silberberg, Altus Escrow Inc., Chairperson EIC**
Paula Franks, Advantage One Escrow, Inc. – Past Chairperson EIC**
Jeff Behm, Behm and Company, An Accountancy Corp. - CPA
Steven Garcia, Law Office of Steven Ray Garcia - Attorney
Leslie Sapone, Traditional Escrow, Inc. – Medium Sized Company (Via Phone)
Dave Brooks, Seright Escrow - Small Business
Heidi Birenbaum Cassel, FNF Escrow Holdings - Other Business Ownership
Michael Culver, Elance Escrow Corporation – Business Specialization

*EAFC – Escrow Agents’ Fidelity Corporation

**EIC – Escrow Institute of California

1. Opening Remarks

Richard Malme opened the meeting by thanking everyone for coming and introduced Mona Elsheikh and Kristie Jaynes.

2. Review and Approval of the Minutes of Last Meeting

Richard Malme asked if he could have a motion to approve the minutes of the last meeting of December 10, 2014. Nancy Silberberg made a motion to have the minutes approved and it was seconded; the minutes were approved.

3. Rulemaking Update: Proposed Revisions to Section 1741.5 – Status of public comment process and committee input (Colleen Monahan)

Colleen Monahan stated that the Department has been reaching out to get more input from CPA’s and the Industry. The Escrow Institute provided some procedures for DBO review. Richard stated that the idea of a compliance audit is still open for consideration. The Department continues to solicit information from CPA’s and is working internally to create adequate trust bank reconciliation procedures for an “Agreed upon Procedures” engagement for consideration.

4. Topics for Discussion

a. Discuss the new C.A.R. contract amendments

Richard Malme stated that C.A.R. had contacted the DBO regarding this matter and submitted an escrow amendment that would meet the disclosure requirements of Section 1738.5 (CCR) . Such information needs to be on the face of the instructions or be a separate instruction. Richard distributed a copy of the Draft of those instructions pertaining to cancellation. Richard stated that C.A.R. is moving forward on this and the form will be published for use in April. Richard also stated that the escrow company can also prepare their own form. The form has to be signed by both principals. A discussion followed on some concerns regarding the form. Richard stated that the Department reviewed C.A.R.'s form for disclosure compliance of the above regulation and it was found satisfactory. It is important to note that the Department's review was for adequacy of disclosure only. The Department is not endorsing or approving the content of the instruction.

b. DBO website posting update

Richard Malme stated that during the system conversion process there was a posting delay on the website for new licensee information. Those issues have now been corrected.

c. Update on vetting

Richard Malme stated that he had received a package from Nancy Silberberg this morning regarding vetting information. This information will be passed on to senior DBO management to determine if there are any issues that the Department may have to address.

5. New Business

a. Escrow Administrative Offices/restrictions of use

Richard Malme stated that any location where escrow activity is processed has to be licensed. An unlicensed administrative office/headquarters could handle such matters as accounting, human resources, and other functions for administration. Richard stated that no escrow activity may be conducted at such locations and all persons in an administrative office must be reported to DBO and EAFC.

b. Escrow Liability Report filing update

Richard Malme stated that most companies have complied with filing their reports. He indicated that the Department is serious about receiving these reports timely. The Department will initiated administrative action, including license revocation against companies that fail to file. Companies should be monitoring their designated emails for information or requests from the Department.

c. New CFPB definitions of settlement/consummation date

Nancy Silberberg informed the committee that lenders are stating that execution of their Note is considered the consummation date. The closing date on their form is the consummation date. There will no longer be a HUD 1 form. The new closing document now will show the closing date of loan and closing date of escrow, which remains the document recording date.

6. Enforcement Actions and licensing update

Richard Malme distributed the handout showing the latest administrative actions and licensing statistics. There were 28 Enforcement Actions involving 14 escrow companies since the last meeting. Nancy asked what were the most common problems so they could relay this info to their members. Among the common issues are capital deficiencies and trust account reconciliation problems. In addition, Richard Malme and Mona Elshiekh stated that the Department will be looking more closely at repeat violations found during audits. The DBO will be taking administrative action on such uncorrected issues.

Currently, there are 638 main locations compared to 669 locations last year. However, this includes a one-time adjustment of 32 companies that were reclassified from active to inactive due to conservatorships and pending surrenders.

7. Public Comments

Comments were made by PJ Garcia regarding vetting and the harm it causes to escrow companies, as well as to consumers.

Nancy Silberberg made a request for a copy of the Department's budget and Jeff Behm stated he wanted to see the information regarding staffing costs. Nancy also voiced her disappointment that no discussion regarding AB 1341 was brought up in the Advisory Committee.

Attorney Matthew Davis suggested that the Department might want to start looking at the age of the Financial Code as it pertains to CFPB changes being implemented. He felt that the Code may need to be updated to be consistent with CFBP regulation.

8. Closing Remarks

Richard thanked everyone for coming.

The meeting adjourned at 11:55 a.m. The next meeting is tentatively scheduled for June 9, 2015.

