

**ESCROW ADVISORY COMMITTEE MEETING**  
**December 8, 2015**

**Department of Business Oversight Represented By:**

Edgar Gil, Senior Deputy Commissioner  
Richard Malme, Special Administrator  
Kathleen Partin, Supervising Examiner  
Ann Davila, Escrow Licensing Specialist  
Colleen Monahan, Counsel (Via Phone)

**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  
Ginger Frankel, Mara Escrow Inc., Vice Chairperson EAFC\* (Via Phone)  
Dave Brooks, Seright Escrow - Small Business  
Jennifer Felten, Attorney - RELAW APC (Via Phone)  
Juliana Tu, Business Specialization - Viva Escrow!  
Laura Ghosn, Medium Sized Company - Pickford Escrow Company, Inc.

**Committee Members Absent:**

Jennifer Woodard, Oak Escrow Inc., Chairperson EAFC\*  
Paula Franks, Advantage One Escrow, Inc. – Past Chairperson EIC\*\*

\*EAFC – Escrow Agents’ Fidelity Corporation

\*\*EIC – Escrow Institute of California

**1. Opening Remarks**

Richard Malme opened the meeting by thanking everyone for coming and by asking phone participants to introduce themselves. Richard introduced Ed Gil, Kathleen Partin, and Ann Davila.

**2. Review and Approval of the Minutes of Last Meeting**

Richard Malme asked if he could have a motion to approve the meeting minutes of September 15, 2015. Nancy Silberberg made a motion to have the minutes approved and Heidi Cassel seconded the motion; the minutes were approved.

**3. Rulemaking Update: Proposed Revisions to Section 1741.5**

Richard introduced Colleen Monahan who led this discussion. Colleen stated that she had received many comments from the industry and CPA’s in October. The Department is now in the process of revising language and is working towards a

revised draft. It is anticipated this process should be completed sometime in the first quarter of 2016. Jeff Behm asked if the proposal was still the same in substance. Richard Malme stated that they had gone over the procedures extensively based on the comments received, to make them clear and to eliminate duplication. Dan Bovill asked if the Department was still in the informal comment process. Colleen confirmed that the process was still informal.

#### **4. Topics for Discussion**

##### **a. Update to the Special Assessment Project**

Richard explained how the Department has the ability to collect a special assessment when the cost of the escrow program exceeds its revenue. As of June 2015 the Escrow Program had an operating deficit of \$675,765.00. Therefore, a special assessment has become necessary. The Department previously met with industry representatives to answer questions on this issue. The Department will be sending invoices to all licensees in January 2016 for the special assessment amount. Nancy Silberberg expressed her appreciation that the Department consulted with the Committee and EIC in this process.

#### **5. New Business**

##### **a. Lender TRID Platforms and required costs**

Nancy reviewed the TRID Platform that has been developed by certain lenders called Closing Insight. The annual registration is free for now, but then it will be \$250 plus transactional fees. Nancy believes the lender should be picking up the costs and this may be a “pay to play” scheme that would be prohibited.

Ed Gil suggested the formation of a task force to work with both our lending laws and escrow to look into this matter. He stated that we will work with the Advisory Committee to address these concerns.

##### **b. Lender’s requirement for escrow to be liable for TRID disclosure errors**

Concerns were voiced about how lenders are attempting to assign their liability for proper disclosure onto the escrow companies. There is also concern over lenders not allowing a “pad”, or extra amount retained in the escrow, to pay for variances at close.

##### **c. DBO requirements for escrow compliance with TRID**

Richard stated that examiners will review closing statements for general compliance with TRID. The Department will hold escrow responsible for their disclosures. Richard further stated that the examination process is flexible and can change as needed.

## **6. Enforcement Actions and licensing update**

Richard distributed the handout showing the latest administrative actions and licensing statistics.

Currently, there are 933 licensed locations and about 90 various types of applications in process.

## **7. Public Comments**

Nancy Silberberg commented on the case of an escrow company offering \$100 per transaction, which was reported to the Department by another licensee. She asked that others also report kickback issues. There was a discussion regarding a barred person now working for a bank licensed by the Department. Kathleen Partin stated that the Department bar orders only prevent working in the independent escrow industry and have no effect on other types of employment.

Jeff Behm gave an update on the lease matter. Jeff stated that the AICPA lease reporting changes will be effective 2019. The Department will review this change and its impact on capital requirement calculations for possible regulation changes when necessary.

A question was also brought up regarding the issue of when the website will be updated for bars orders. Ed Gill said that he is actively working with the IT people and the outside contractor regarding this matter.

A question was brought up regarding the timing of the regulatory letters. Kathleen stated that there should only be a little lag time between the end of the exam and when the company receives the letter, about 90 days.

A discussion was also held regarding the Portal Registration and Designated Email for escrow liability reports. Richard informed the group to complete their portal registrations as soon as possible.

## **8. Closing Remarks**

Richard thanked everyone for coming.

The meeting adjourned at 11:15 a.m. The next meeting is tentatively scheduled for Tuesday, March 15, 2016.