

ESCROW ADVISORY COMMITTEE MEETING

March 18, 2019

10 a.m. – 12:00 noon

1515 K Street 2nd Floor Video Conference Room, Sacramento, CA 95814
300 S. Spring Street, 15th Floor Video Conference Room, Los Angeles, CA 90013

Department of Business Oversight Represented By:

Edgar Gill, Senior Deputy Commissioner
Scott Cameron, Senior Deputy Commissioner
Scott Wyckoff, General Counsel
Mona Elsheikh, Deputy Commissioner
Miranda LeKander, Deputy Commissioner
Sherri Kaufman, Senior Counsel
Colleen Monahan, Senior Counsel
Paul Liang, Special Administrator – Licensing
Ann Davila, Licensing Specialist

Committee Members Present:

Bill Nelson, Express Escrow, Inc./EAFC Chairperson **,***
Claire Bartos, Las Brisas Escrow, Inc./Chairperson EIC *
Nancy Silberberg, Altus Escrow, Inc./ Past Chairperson EIC *
Patrick Felde, Patrick D. Felde, Certified Public Accountant/Certified Public Accountant
Elisa Guerrero, Four Seasons Escrow, Inc./Medium Sized Escrow Company ***
Elizabeth LeQuire, Citrus Escrow, Inc./Other Business Ownership
Alma Rushing, Orange Coast Title Company/Small Business ***
Benjamin Griffin, Attorney
Juliana Tu, Viva Escrow! Inc./Business Specialization
Jennifer Woodard, Oak Escrow Inc./EAFC Vice Chairperson **,***

- * Escrow Institute of California
- ** Escrow Agents' Fidelity Corporation
- *** Attended meeting via call-in to the conference line

1. Welcome, Introductions, and Opening Remarks

Ed Gill commenced the meeting by having everyone introduce themselves. Then he continued the meeting with the announcement that Kathleen Partin had decided to retire after 37 years of service. Paul Liang will temporarily handle Partin's duties until her replacement is found. He then turned the meeting over to Paul.

Paul also mentioned Partin's retirement and that the announcement to fill her position was out. The deadline to apply is by the end of the week.

2. Review and Approval of Minutes of 12/17/18 Meeting

Silberberg pointed out what she thought were missing items in the prior minutes; namely; a comment regarding no actions taken by DBO regarding zero fees and a missing statement reflecting that any discount would be considered a kick-back including notary fees not charged. Silberberg also stated that the breakdown of the 3.1 million loss was not included. Liang stated he would go back and review what is included in the loss. A question was also brought up about the budget numbers. Gill said he would follow-up on this and that there could have been a mistake in the budget. He stated he would get back to all this week. Silberberg made a motion to have the minutes approved. The motion was seconded by Felde, and the minutes were approved.

3. Examination Delays and Progress

Liang shared that as of last Friday, there was approximately 38 aging exams that are scheduled to be completed next month or the following month. After the completion of these exams, a new round of cut-offs will take place and the Department will be back to the next cycle. Better planning will take place to avoid this in the future. Elsheikh added that examiners were pulled from other programs to help complete these exams. She also stated that she has weekly meetings with the examiners, and that come May, the Department will be doing cut-offs; annual reports will also be coming up.

Silberberg inquired as to when the next exam would be done – 4 years from when the examiner returned or 4 years from the initial cut-off. Elsheikh stated that it would be 4 years from the original cut-off date. A member of the public Matthew Davis stated that his clients have concerns being short-changed on the next audit cycle. They feel the audit cycle should be from when the examiner returned, in some cases 18 months later. Elsheikh stated that the examiners did not spend additional time and that the Department is allowed to go in earlier. Liang discussed different time frames and durations. Elsheikh shared that she had spoken to about 50 owners regarding the exams and they did not have issues or provide any negative comments.

Juliana Tu asked what the examiners' review preference was regarding files – whether to see a PDF copy, the actual file, or printed file. Elsheikh stated the printed file was preferred for examiners in the office.

Davis asked what financials are being reviewed, 2017 or 2018, and whether the company should receive credit for 2018. Liang provided an explanation regarding this topic. Examiners always review most current financial information to determine compliance unless a company has a history of repeat failure to be in compliance. For those repeat offenders, the examiners will review current and past financials to determine the pattern and extend of violation, and make recommendation for administrative actions.

4. Update Regarding DBO/DRE Collaboration

Liang stated that the Department has open communication with the DRE and that the departments share information. Referrals go both ways between the departments and

if the escrow industry has concerns regarding the DRE, they can be referred to the Department; specifics cannot be shared.

LeQuire stated that at the last meeting Partin had mentioned that DBO was going to DRE for joint visits. She was wondering if this had happened. Liang stated that the joint visit did not occur but the two Departments shared information.

5. Escrow Management Training Class

The training has been postponed to possibly the second quarter of 2019. Liang has been working with PJ on the materials. PJ asked if the class was a prerequisite to become an escrow manager. Liang stated it was not. The Escrow Institute would like permission to deliver the manual electronically. Currently they may have 40 to 60 individuals likely to attend. They already have 12 to 15 on the waiting list. A webinar was suggested during the discussion, but for now the webinar does not seem possible.

6. Enforcement Actions and Licensing Update

Since the last meeting, six Enforcement actions were taken. Liang distributed a hand-out showing the Enforcement actions and the licensing statistics. He stated that he expects Enforcement actions to be higher at the next meeting. He then discussed the licensing stats.

7. Public Comments

The issue of discounts needing clarity was brought up. Elsheikh stated that this was still under review by the Legal team. Someone had been referred to 61-C Commissioner Release for reference. LeKander suggested that an Interpretative Opinion request be done. She also stated that the industry could rely on what has been issued so far – Public Opinion, Statutes, and Regulations.

Pothier asked if examiners are writing up zero seller fees. Elsheikh said yes. Davis took exception to this and said he considered it underground regulations. Pothier wanted to know under what basis were zero fees to seller disallowed. LeKander stated under sections 17420 and rule 1740.1. She also stated she could not address specifics as this was handled on a case by case basis. A further discussion was held on zero fees being considered a violation. LeKander stated that although the Department does not regulate escrow fees, it does regulate referral fees and violations of RESPA. Davis felt that the Department was taking a different position than in past years.

Silberberg inquired if there were any updates regarding 1741.5 Rulemaking. LeKander stated that she expected them to come up this year and that the industry would be able to comment on what is there and on what should be there.

Someone asked about e-signing. Liang had referred them to the 2009 Bulletin. The group wanted to know since there were now more offices that are 100 percent

paperless, if they still needed to keep hard copies of signatures. Liang gave them an example of where cutting and pasting of a signature had been done. He also stated that they needed to have instructions for accepting electronic signatures. PJ suggested that maybe the industry could come up with concerns, etc. and what they considered important for the DBO to consider. Steven Garcia pointed out that congress had adopted the Uniform Electronic Transactions Act of 2000 which is different from the Department's position. Guerrero suggested that the Department should take into consideration what Banking uses. Liang stated that the original has to be available at one point. He stated that the discussion could be continued and to send him comments and information. He is open to listening to ideas and thoughts.

8. Closing Remarks

Liang thanked all for coming. The next meeting is tentatively scheduled for Thursday, June 13, 2019. The location is not known yet.