

ESCROW ADVISORY COMMITTEE MEETING

March 10, 2020

10:00 AM – 12:00 PM

Meeting was held telephonically

Department of Business Oversight Represented by:

Paul Liang, Special Administrator – Licensing
Gary Suzuki, Special Administrator – Regulatory
Queen Padilla, Examiner – Licensing

Committee Members Via Call-In to the Conference Line:

Alma Rushing, Orange Coast Title Company / Small Business
Benjamin Griffin, The August Law Group, P.C. / Attorney
Bill Nelson, Express Escrow, Inc./Chairperson EAFC**
Claire Bartos, Las Brisas Escrow, Inc. / Immediate Past Chairperson EIC *
Elizabeth LeQuire, Citrus Escrow, Inc. / Other Business Ownership
Heidi Cassel, Solaris Escrow, Inc. / Medium Sized Escrow Company
Juliana Tu, Viva Escrow! Inc. / Business Specialization
Patricia J. (P.J.) Garcia, Beach Pacific Escrow, Inc./Chairperson EIC

* Escrow Institute of California

** Escrow Agents' Fidelity Corporation

1. Welcome, new members, and opening remarks

Paul Liang welcomed everyone to the quarterly meeting. Due to COVID-19, this meeting was held telephonically. Liang did a roll call for committee members and thanked everyone making the efforts to call in.

2. Review and approval of minutes for December 10, 2019 meeting

Liang stated that the minutes and agenda from the last meeting were posted online and asked if anyone has any edits to the minutes. Juliana Tu saw one typographical error “wither” on item number four page 2. Liang stated that it will be corrected to “whether”. Bill Nelson made the motion to approve the minutes. Patricia J. (PJ) Garcia seconded the motion. The minutes was approved.

3. Review action items from 12/10/2019 meeting

Liang went over last meeting's pending action items:

- a. 2018/2019 Escrow Budget - Questions from previous meeting regarding definition for various budget items can only be answered by the DBO Budget Division staff. Since DBO budget staff was not present in the meeting, everyone was encouraged to email their comments and specific questions relating to budget items to Liang.
- b. Last meeting's question regarding why line item for IT was in 2 different categories - The stand alone category for IT contains expenses that were incurred by the escrow program but the IT line item which is part of the Departmental Services were the cost of IT projects that were allocated to the actual program.

4. Update on Budget and Pending Escrow Regulations

Liang discussed briefly on the following issues:

- a. New Budget Proposal - The Governor proposed a budget that expands the department's responsibility and authority to oversee additional industries. The new budget is not expected to have any impact on DBO's current programs.
- b. Family Code Section 7961 – Liang gave a recap on the previous meeting's discussion regarding the code's requirement for licensed independent escrow agents to handle surrogacy transactions. The pending regulations intend to clarify the definition of escrow to include surrogacy transaction. These transactions are not covered by EAFC pursuant to Financial Code section 17312(c). Any licensee who handles this type of transaction will be required to have separate set of books, records, bank accounts, and fidelity bond.
- c. DBO legal is still working on the pending escrow regulations. When it's ready for open comments, update will be share in the DBO Monthly Bulletin. Everyone is encouraged to subscribe to the Monthly Bulletin for updates.

5. Third Party Deposit Instruction Requirements

A committee member requested clarification about third party instruction requirements. Liang stated the requirement for a third party instruction is a common good business practice in the industry. It protects the escrow agent from potential liabilities due to any ambiguity in the instructions. It also provides clarification on how to disburse the funds in the event of a cancellation. Escrow regulation requires escrow agents to maintain its books and accounts in accordance with good business practice.

6. Electronic submission for Annual Audit Reports by CPA

Liang stated the escrow program was working on a process which allows CPAs to submit annual audit reports electronically. This process will ensure timely submission of the required reports and minimize risks of loss due to mishandling. In the past, some CPA's annual reports were sent to DBO Sacramento office. They don't always get to the reviewing examiners timely in the Los Angeles office.

Juliana Tu asked how DBO examiners feel about receiving the documents electronically instead of the actual paper file, do they find it easier to review the reports sent electronically or will the licensees be required to submit electronically in addition to submit hard copies. Gary Suzuki stated that examiners agree that electronic submission is sufficient and if they need any specific documents in hard copy, they can do so at their discretion.

Liang stated that the process may roll out before the next advisory meeting and asked any CPA to contact him if they are interested to participate in this pilot process.

7. Enforcement actions and licensing update

Liang went over enforcement actions and licensing updates referring to the worksheet titled Administrative Action Taken from December 11, 2019 to March 9, 2020. There were 15 enforcement actions including order to revoke escrow agent's license, order to bar, accusation to bar, accusation to suspend, desist and refrain order, and order to discontinue escrow activities. All enforcement actions were posted on DBO website. If committee members cannot locate a specific action from the website, please notify Liang.

Liang went over the licensing stats. By the end of February 2020, there were 660 main office licenses and 998 licensed locations. The total of main office licenses is lower by 6 compared to a year ago, but the total of licensed locations is increased by 3 from a year ago. The numbers of licenses and locations are consistent over years. Currently, there are 19 pending surrender of main office licenses, 22 new main offices and 16 new branch offices applications pending.

Juliana Tu inquired whether there is any report on licensees moving from DRE to DBO. Liang stated license applicants are not asked if they are changing their operation from controlled to independent escrow. He understands there are differences between a controlled escrow and independent escrow. When a controlled escrow is switching to be independent, all escrow laws and regulations apply. DBO typically conducts a preliminary examination on newly licensed companies to ensure it has good policies, procedures and practices to avoid violations of the escrow law.

8. Public Comments:

a. DRE Bulletin

A committee member shared the December 2019 DRE Fall Bulletin about audits performed on controlled escrow companies. DRE audits disclosed around 50% of the controlled escrow companies being audited had shortages amount up to \$1.8 million dollars. Liang asked if any committee members knows the population of broker-controlled escrow companies just to put the numbers in perspective. LeQuire stated that it is not required for brokers to report to DRE their in-house escrow transactions. It is her understanding, being a broker herself, that reporting is voluntary. Liang stated that he has observations that certain individuals that DBO had taken actions to bar from management, control, and employment with independent escrow companies went on to work for broker-controlled companies. He encouraged everyone to share any comments or suggestions for solutions to protect consumer funds from being mishandled by these individuals.

b. DFPI – Department of Financial Protection and Innovation

LeQuire suggested that the new DBO (DFPI), be given the authority to investigate broker-controlled escrow companies. Liang stated the authority of DBO is given by the legislature. Broker-controlled escrow companies are exempt from the escrow law under current statute. In order to remove the exemption, the law has to be changed.

c. Commissioner’s availability for EIC annual conference

Commissioner’s availability to attend EIC’s annual conference in May cannot be confirmed at this time. If any committee member has any question or topic would like the commissioner to address, please submit those questions or topic to Liang so he can forward those to the commissioner if he will attend the EIC conference.

d. Covid19 emergency

Liang shared that as of the day of the meeting, Southern California has 16 confirmed cases in Los Angeles County. This pandemic affects individuals and businesses at every level. A member of the public inquired whether DBO will require licensees to shut down for self-quarantine or work from home in the event their employees are tested positive. This could mean working from home at an unlicensed location. Liang stated that DBO is actively monitoring the situation and relies on federal, state, and local health agencies’ guidance to formulate its action plan. At the moment, there’s no update about office relocation or moving of escrow records to an unlicensed location. Heidi Cassel stated that an emergency continuity plan should be in place as precautionary measure when unforeseen disasters happen which is not limited to this virus spread. Liang also

stated that historically the DBO has been prompt in providing guidance for licensees impacted by disasters such as earthquake and wildfire. He stated he would relay committee members' concerns and anticipation for formal guidance to the executive team. He thanked the committee members for expressing industry's concerns to the DBO.

9. Closing remarks

At 11:59 a.m., Liang thanked everyone for calling-in. He announced the next meeting on June 9, 2020, and he adjourned the meeting.