

ESCROW ADVISORY COMMITTEE MEETING

March 8, 2022

10:00 AM – 12:00 PM

Meeting was held telephonically

Department of Financial Protection and Innovation Represented by:

Paul Liang, Special Administrator – Licensing

Gary Suzuki, Special Administrator - Regulatory

Committee Members Via Call-In to the Conference Line:

Benjamin Griffin, Griffin, P.C. / Attorney

Bill Nelson, Express Escrow, Inc. / Chairperson – E AFC**

Claire Bartos, Las Brisas Escrow, Inc. / Immediate Past Chairperson EIC *

Heather Siracusa, Orchard Hills Escrow, Inc. / Small Business

Heidi Cassel, Solaris Escrow, Inc. / Medium Sized Escrow Company

Jeff Behm, Baldwin Moffitt Behm LLP, Certified Public Accountant

Juliana Tu, Viva Escrow! Inc. / Business Specialization

Patricia J. (P.J.) Garcia, Beach Pacific Escrow, Inc./Chairperson EIC

Timothy Brigham, Resorts West Escrow, Inc. / Other Business Ownership

* Escrow Institute of California

** Escrow Agents' Fidelity Corporation

1. Welcome and opening remarks.

Paul Liang welcome everyone to the first quarterly advisory meeting. Liang did a roll call for advisory members.

2. Review and approval of minutes for 12/7/21 meeting

Advisory members were provided the last meeting minutes prior to the current meeting. Advisory members do not have any corrections or comments for the minutes. P.J. Garcia made a motion to approve the minutes. Heidi Cassel seconded the motion. The minutes was sapproved.

3. DFPI Updates

A. DFPI offices are still closed to the public.

On March 4, 2022, Los Angeles County has lifted its indoor mask order, regardless of vaccination status. Businesses can choose to retain their mask requirements for both customers and employees. Residents can still choose to wear a mask in any public place. This update from the local health authority affected DFPI offices in downtown Los Angeles. Currently, DFPI's 4th street office in downtown Los Angeles is still closed to the public. DFPI has employees working in the office to perform essential tasks, but the office is not open to the public to provide in-person services at this time. Several inquiries were submitted to DFPI whether it will reopen its offices to the public for submitting applications in-person, viewing public records, or meetings. DFPI will review the guidance from local health authorities and inform the industry when its offices are reopened to the public.

Advisory members were asked if they have any concerns to attend future advisory meetings in-person. Some advisory members stated that they prefer in-person meetings over telephonic meetings because in-person meetings are more effective. Benjamin Griffin shared that in the legal field, mediations were done over the phone or video over the past two years. He started to see more pressure from everybody to shift meetings to in-person because in-person meetings seem to have a positive effect for parties to come to a resolution. Liang thank all the members who provided feedbacks about in-person meetings. If the next advisory meeting will be held in-person, advisory members will be informed in advance.

B. DFPI continues to monitor how the pandemic has impacted the escrow industry

Liang asked advisory members to share observations on how the lifting of mask mandates around the State affected the independent escrow industry, and whether escrow licensees are requiring their employees to return to the office. Timothy Brigham shared that his company had its employees in the office for quite some time since the main lockdown. He stated the current rule from Cal-OSHA is that the masks are not required; however, masks could be available for employees or visitors. The company also has separate offices for the public for signing so the public members don't have to engage with its employees if they don't want to. Brigham stated that is the way the company has been operating for a while. Garcia shared that her office was never fully closed. Her employees have been in the office early on during the pandemic. The company followed local health authority's guidance when meeting customers in person. Juliana Tu shared that her staff has been in and out of the office half and half. The company does not allow customers in the office except for signing documents. There is a separate signing room designated for that purpose. Cassel shared that all her offices are bringing some employees back. Some of her offices still require masks for visitors, and in-person meetings with customers are by appointment only.

Garcia stated that remote work arrangement in the industry does not seem to go away two years into the pandemic. It is difficult for businesses to get employees to come to work in the office or to take a job without some remote work flexibilities. Tu concurred.

C. Examiners may return to conduct more in-person examinations

Liang stated that it is helpful to learn about the industry's remote work. If employees are returning to the office or working on a hybrid basis like some advisory members described, the escrow program may work with the industry to return to conduct some in-person examinations. Liang stated currently in-person examinations are conducted on a case-by-case basis while majority of the examinations are conducted remotely. Some in-person examinations were conducted upon licensees' requests. And some examinations simply cannot be conducted remotely.

Not all licensees' books and records are digitized to support remote examinations. Remote examination could be difficult and costly for some licensees whose books and records are not digitized. Recently there were several licensees requested DFPI examiners to review their hard copy records in-person because it will pose a financial hardship to the company to scan those records for remote examinations. Certain risk-based examinations cannot be conducted remotely such as inspection of unlicensed escrow branch offices.

Cassel shared her positive experience for remote examinations. Cassel stated the department's examiners were able to communicate with her staff effectively and review the electronic records efficiently.

D. Preliminary data for 2021 aggregated escrow liabilities

The preliminary 2021 aggregated escrow liability information is available after the February 15 submission deadline for annual liability reports. The aggregated liability for 2021 was approximately \$36.2 billion. It was about \$26 billion in 2020 and about \$23 billion in 2019. The preliminary data suggested a more than 40% increase of business volume comparing to a year ago. For the same period, the department also see a steady increase in the number of licensed companies and licensed locations. It appears the industry experienced a boom during the pandemic.

4. Remote work - update

The escrow program understands the benefits for remote work from public safety, licensee staff retention and talent acquisition perspectives. However, current escrow law does not allow escrow activities to be conducted at an unlicensed location. Unless a licensee designates an employee's home office as a branch office location and meets all the compliance requirements for licensure, there's no authority in the escrow law to permit licensee's employees to work remotely from home. The DFPI issued a guidance memorandum in early pandemic regarding staff remote work. The guidance memorandum provided that it does not amend any of the Department's statutes or regulations, and that the DFPI will not criticize any escrow licensee's remote work arrangement provided licensees follow this guidance. If the industry believes provisions of the escrow law may be amended to allow remote work without weakening the protection for consumer funds, the industry may start a dialogue with the DFPI to find a workable path which satisfies a business need and the need for consumer protection. The two needs are not mutually exclusive.

The escrow program continuously reviews escrow licensee's remote work arrangements. It assesses the risk of cyber-attack, employee theft, and breach of consumer confidential information at a remote work location. It also assesses whether a licensee's bonds would cover loss at a remote-work location, and how licensee maintains its books and records remotely. It is unclear how remote work would affect current branch offices. About one-third of licensed locations are escrow branch offices. Whether some of those branch licenses would be surrendered, if remote work is permitted, remains unclear.

The remote work issue cannot be resolved by program interpreting certain provisions in the escrow law differently from the department's historical interpretations. A permanent resolution will require amendment in the statute or regulations. Liang also shared that he's aware of a bill introduced to allow remote work for a different industry licensed by DFPI. He is monitoring the progress for that bill.

5. Remote examination

Gary Suzuki thanked those who provided feedbacks about their recent experience for remote examinations. Suzuki also shared in one recent remote examination, a licensee contacted the department to verify the examiner's identity since the licensee did not recognize the examiner. Suzuki stated that the escrow program recently hired several new examiners after a number of examiners retired. If any licensee does not recognize their examiner when they commence a remote examination, the licensee may contact the department to confirm the examiner's identity. Licensees

may obtain DFPI's contact information from its website and contact the department to confirm examiner's identity. Licensees may also call or email Suzuki or Liang directly.

Suzuki went over statistics for examination survey for recently completed remote examinations. Each examination survey category received satisfactory results. The survey results also provided constructive feedbacks which will help the program to improve its examination. Suzuki also shares examiners' experience about remote examinations. Most examiners reported that remote examination generally takes longer time to complete because it takes longer time for licensee to provide electronic records and it also takes time to organize and review the electronic records if they are not provided in an organized manner. It is generally easier for examiners to conduct in-person examinations because licensee seems to be more engaged and focused on getting what examiner needs.

Cassel commented that an examiner typically gives licensee a short amount of time to provide certain information when the examination was commenced remotely. If licensees are given time to verify the examiner's identity, additional time should be given to licensee to respond to the examiner's request for information. Suzuki concurred and stated he will work with the exam team to ensure licensees are given sufficient time to verify examiner's identity and provide information requested by the examiner.

6. Enforcement actions and licensing update

Liang briefly summarized enforcement actions taken since the last advisory meeting. Liang stated these actions were posted by DFPI Enforcement staff on DFPI's website for public viewing. Liang also reviewed licensing statistics. Comparing to a year ago, the number of licensed companies and the number of licensed locations both increased. A separate handout for these statistics was provided to the advisory members.

7. Public comments

A member of the public made a comment about remote work. The person questioned whether consumers were injured as the result of escrow companies allowing staff to work remotely. The person believed the industry did a great job safeguarding consumer funds when its business volume increased tremendously comparing to a year ago.

Another member of the public commented that the consumers had a better experience overall with the efficiencies that were provided by escrow licensee staff who works remotely. The person also commented that branch locations will unlikely go away because escrow companies still need branch offices in different areas to meet clients and sign documents. The person doesn't believe escrow staff should meet clients in public places such as a coffee shop.

Cassel commented the difference between a branch office and an employee remote home office may be that the branch office has a branch trust account attached to it.

8. Closing remarks

Liang thanked everyone for calling-in and their participation. The next meeting is scheduled for June 7, 2022, from 10:00 a.m. to noon. Meeting announcement will be posted on the department's website. At about 12 noon, the meeting adjourned.