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This document includes the transcribed minutes from Utah's Title and Escrow Commission's December 12, 2011 meeting, the Agenda with line references to the definitions for Escrow and Settlement, the Notary issue, and the proposed move of title insurance regulation to the Division of Real Estate are included.

Every effort has been made to capture the entire meeting. However, the recording devices are not perfect, voices trail off, there is cross talk, and other activity where the conversation is inaudible. You will see \_\_\_\_\_ to denote something is missing. And sometimes there is not a recording at all.

Please feel free to email me at [pstevens@joneswaldo.com](mailto:pstevens@joneswaldo.com) with questions or suggestions.



STATE OF UTAH  
OFFICE OF THE LIEUTENANT GOVERNOR



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UTAH STATE  
INSURANCE DEPT.

GREG BELL  
LIEUTENANT GOVERNOR

November 25, 2011

Dirk Keys, Chairman  
Title and Escrow Commission  
3110 State Office Building  
Salt Lake City, UT 84114

Dear Mr. Keys,

I have received your letter, dated September 26, 2011, regarding the limitations of duties of notaries public. In pursuing a response to your request, I spoke with Commissioner Neal Gooch of the Utah Department of Insurance last month.

As of the date of your letter, it seems there are several questions which remain unanswered regarding what functions an unlicensed individual may perform in settings involving real estate or similar documents. The Department of Insurance's 2006 letter clarifies that "obtaining and notarizing title and escrow settlement documents may not include explaining the content or purpose of a document being signed or the handling of any escrow settlement monies, or any other duties performed by a title escrow producer."

Based on this letter, it seems justifiable to instruct a notary to refrain from explaining documents or from depositing monies into an account for the transaction; however, it remains unclear whether the notary is allowed to print and/or deliver those documents.

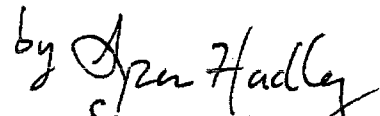
In my conversation with Commissioner Gooch, it was apparent that perhaps statutory clarification of "escrow" and other terms may help provide the guidelines needed for notaries and escrow officers alike. Since I do not regulate escrow officers, I left the option of pursuing clarifying legislation in the hands of Commissioner Gooch and his department.

As to your request for a message to all notaries, I am happy to act as a conduit for any official statements, resolutions, or actions from the Department of Insurance regarding the limitations for unlicensed individuals in an escrow setting. My office has provided and will continue to provide a copy of the Department of Insurance's 2006 letter to inquiring notaries. I am also happy to discuss the option of posting any future official letters from the Department of Insurance on the "notary.utah.gov" website.

Thank you for your continued interest in this matter.

Sincerely,

  
Greg Bell  
Lieutenant Governor

by   
Spencer Hadley

Commission Meeting Transcript  
Date: December 12, 2011  
[Start at 50 minutes into meeting]

**START: LSI S&O**

Chairman: The next item is the review of the stip and order for LSI. When we finished last – [interruption]

. . . additional information on the case. We've had receipt – letters from Pete, representative LSI as well as from the AG's office from Mr. Lemmon, so. Anybody, have a comment on that?

Cort: Uh, I'll, yeah, I would like to maybe just clarify Mr. Lemmon's letter said that the company is based on two violations. How did we determine that that was the scope or, I mean, how did that end up with just two violations? My sense is this is a much bigger problem than two violations. My second question is, you know, he, Mr. Lemmon alludes to some mitigating circumstances in that it was just policies that were signed. But who conducted the escrow? He talked about the trust account violation but who were the escrow officers that were disbursing and signing settlement statements? Were those folks licensed? I guess I just had some questions regarding the scope because as I understood the way LSI had done business and as I turned one of the complaints in, the escrow – some of the agent listed on the document was not licensed to \_\_\_\_\_ Utah. And so I was curious \_\_\_\_\_ that that was the same in all LSI transactions or how they're doing business. Who does the escrow for them? In these two, and I would have thought based on how many documents LSI records that there would have been hundreds or thousands of potential violations and how would we end up with a scope of two cases? Okay. So I appreciate the information and the opinions that the Attorney General gave me but I guess I'd like to refer back to either the investigation or to how [coughing] . . . scope of two cases before I can really weigh in on personally \_\_\_\_\_ on the stip and order we had for Steve last month. So, I guess there's probably nobody here \_\_\_\_\_ to talk about that?

Tammy: The scope of my investigation was limited to the two complaints that I received. I received multiple complaints but they were regarding the same issue.

Cort: In the case of other unlicensed activity that we've seen in the past, one of the procedures seemed to be from the Department's standpoint that we would find out how many transactions they conducted without a license. And we agreed last month, we had Mr. Jensen who we had gone after him for multiple violations, every transaction he conducted without a license. Why did we not do that here? It seems like that's been our pattern over time and how'd we end up just turning in two violations this time?

42 Tammy: I think Mr. Lemmon addressed that, that fairness is done between cases that are  
43 similar in nature. The scope of my investigation was limited to the two  
44 complaints that I received and an internal investigation reviewing the annual  
45 reports. So what you see before you with LSI is the product of that.

46 Cort: So, going further in Mr. Lemmon's letter you noticed that there was inordinate  
47 escrows involved with the trustee's sales guarantee but not how many were,  
48 how many trustee's sales guarantees were actually signed and then those with  
49 the trust account violations, there's no numbers as to how many files that were  
50 involved as far as deposits into trust accounts, disbursements from those trust  
51 accounts. So, where before we would have, we would have seen numbers, I  
52 believe that we've seen 'em in multiple \_\_\_\_\_. Looking at it from two viola  
53 – from just two violations, it's probably an appropriate amount. But, we're not  
54 seeing the numbers that are in those – number of trustee sales guarantees that  
55 were signed by somebody who's not licensed and which is – and then the  
56 number of files that included deposits and disbursements from those trust  
57 accounts. So, was there only one that they did? To me, then that says one  
58 trustee sales guarantee was issued and only one file had a trust account  
59 violation. And if there was a number of complaints was there a reason you  
60 only took two?

61 Tammy: They were complaints that were regarding the same thing.

62 Cort: So you never – we never took into consideration multiple – we just took  
63 consideration of two when we come up with the dollar figure here?

64 Tammy: The scope of my investigation was limited to the two complaints and my  
65 internal investigation.

66 Cort: Is that the policy that you normally do? Has that changed over the last two or  
67 three years?

68 Tammy: Has what changed?

69 Cort: That policy of only looking at the two rather than looking for full scope of the  
70 number of violations whether it be the escrow or the number of policies they  
71 signed so on and so forth? I think we're all asking the same question.

72 Tammy: There's no – there's not been a policy change; it's just a matter of the scope of  
73 investigation. I did not do a full-scale audit. I did an investigation of two  
74 complaints that were multiple copies of the same complaint, so I narrowed  
75 them to two. And then an internal investigation reviewing the annual and  
76 control business reports.

77 Cort: So the fine was based on just two rather than multiple?

78 Tammy: It was based on the scope of my investigation.

79 Cort: I guess my – what would it take to broaden the scope of your investigation?  
80 Just to be consistent because we had a year ago, we had some people here who  
81 delivered flowers or some marketing material and we fined them for every  
82 marketing material that they delivered that was inappropriate – like ten flower  
83 vases – I can't remember what it was. Then poinsettias, yeah, poinsettias.

84 Male: And it was five of them.

85 Tammy: Yeah, and they're – but you have to go with consistency and the type of  
86 violation. In that particular case –

87 Cort: Okay, unlicensed activity, let's go to unlicensed activity. Mr. Jensen was here  
88 and he had his own license to activity. We've seen other – every time it's like  
89 here's the scope of – you didn't have a license from August through October  
90 and there were 25 transactions and so here's your . . .

91 Male: 1,056 title insurance policies while not licensed.

92 Cort: For Mr. Jensen, correct? I mean, we've got that, you know, the scope of all of  
93 those cases seem to include the number of violations –

94 Tammy: Actually, you're incorrect there. If I had assessed a \_\_\_\_\_ for all of  
95 those – that 1,056 – it would have been well over \$3,000,000. He was assessed  
96 a forfeiture of \$50,000 – of which \$25,000 was paid – the other \$25,000 was  
97 forgiven by you.

98 Cort: Right.

99 Tammy: So, had I genuinely gone with the every, every file, every action in the file,  
100 you're looking at about \$3,000 per file that he conducted. And that was just on  
101 him, the individual, not the agency. So, it could have been double that. So,  
102 \$6,000,000 would have been reasonable? I don't think so.

103 Brett: Well, Mr. Chair, if I may, it seems to me the question we want to get to – go  
104 back and recap Mr. Jensen but the question seems to be with regard to the  
105 scope of the matter immediately before the Commission and, in this case, you  
106 explained that you did not do a full-scope audit, you only investigated two  
107 complaints that makes sense to me. That's why what the Commission has is  
108 two. The question seems to be why didn't we do a full scope and in the case of  
109 Mr. Jensen, at least it was reported to the Commission, that there were a  
110 hundred and – a thousand fifty-six violations. So, it sounds like that's the  
111 question the Commission is answering is that they'd like to know the scope of  
112 potential violations of LSI and that's not this investigation cause you didn't –  
113 you did your two complaints, investigated that and that's what the  
114 Commission's considering. But in a broader question, it seems to be that you  
115 would want answer to what is the scope of their violations – potential  
116 violations. And I guess we can't do that unless we do a full-scope  
117 investigation.

118 Tammy: Correct.

119 Brett: So, how do we get to do a full scope is – is that the question?

120 Jerry: Look, we have some numbers, I mean, this is – it looks like two violations –  
121 the other, the other issue is, if you take in Mr. Jensen’s then should it only be  
122 like a \$200 fine? On the other issue, it’s two violations versus 1,056 that they  
123 found. So should we just file, you know, work the numbers to make it fair,  
124 cause that’s what it’s all about is trying to make it fair. But without getting in  
125 those numbers, how do we know that it’s fair or not?

126 Pete: Thank you. You’ve read Mr. Lemmon’s letter. I don’t know that this group  
127 has the authority for that. There was an investigation; the allegations were  
128 presented; responses were given to those allegations. You have to assume that  
129 the department did its job.

130 Cort: Well, Mr. Stevens is not our legal counsel. Perri’s our legal counsel, so.

131 Pete: I didn’t – I didn’t represent that I was your legal counsel.

132 Cort: I know.

133 Pete: I’m citing Mr. Lemmon’s letter.

134 Cort: Sure. And, but you inferred that we don’t have the authority to ask for what  
135 we’re asking for and, uh . . .

136 Pete: I repeat, I’m citing Mr. Lemmon’s letter. The other part of this is the two  
137 employees on two TSG violations were subsequently indicted, so LSI rogue  
138 employees. Now, LSI doesn’t feel like it was targeted, and I think I may like  
139 to revise that statement as I sit and listen to this. Now, everybody knows, that  
140 has the courage to say anything here, that you don’t like individually LSI’s  
141 practices. LSI is duly licensed with a qualified individual. Statutes are unclear  
142 as to what license is required that you keep asking about. So, if you would like  
143 to present that to us, and I would be even more than happy to answer that  
144 question. So, there was no questions about escrow in the complaints. There  
145 were two TSGs and as to the matter of – so we’re clear on this – as to the  
146 matter of the banking issues, the rule states that you have to have a licensed  
147 individual or an individual that just deals with accounting. And that’s what  
148 LSI did. We don’t know that we violated that. We had accounting people do  
149 the accounting work. And so if there were other things about disbursements  
150 and they weren’t the allegations. So we answered everything that was before  
151 us. We reached an agreed upon settlement, and we’ve asked you to impose the  
152 penalty. And unless you’re going to do that, you’re going to have to come up  
153 with some law that says that they had to do things that you’re accusing them  
154 without any basis of law of doing. So, you show me where the escrow and the  
155 individual that all, all of the \_\_\_\_\_ by the appropriate parties.

156 Male: If we could have some of that – that’s what we’re asking for is to broaden  
157 scope cause we handed . . .

158 Pete: [cross-talking] to do an investigation. You may not like what’s happened here  
159 and I think if you read Mr. Lemmon’s, and you can seek the thoughts from  
160 your counsel as to whether Mr. Lemmon is correct. But I don’t know,  
161 basically – you’re introducing facts that weren’t in evidence.

162 Jerry: Well, it goes back to what we’re talking about. How do we know that the  
163 Department is investigating what complaints have been filed with the  
164 \_\_\_\_\_, the regional. There’s no feedback.

165 Pete: This board has said repeatedly why can’t you investigate more? Why isn’t it  
166 more? Does anybody deny that? The minutes are clear. You know, you’re  
167 not happy with what the Department does. And if that’s the case, you can’t use  
168 LSI as the whipper, as the whip for that. This is not the first time this has  
169 come up.

170 Cort: Mr. Chairman, could we table this item until we can talk to Perri and get some  
171 input on what we can and can’t do \_\_\_\_\_.

172 Male: I’ll second that.

173 Chairman: \_\_\_\_\_, all in favor?

174 All: Aye.

175 **START: DEFINITIONS REAL ESTATE CLOSINGS & SETTLEMENTS (NOTARY)**

176 Chairman: Okay. Old business items, discussion of gross to escrow settlements and real  
177 estate closings.

178 Cort: Mr. Chairman, I’m gonna ask that we defer this to another meeting \_\_\_\_\_  
179 and I didn’t have an opportunity to get with Larry and to work on any  
180 definitions. Mr. Stevens did send some suggestions to us and I appreciate that.  
181 And I haven’t had a chance to really do any work on that yet.

182 Chairman: Okay. Do we need a motion to \_\_\_\_\_.

183 **START: T&E POSITION ON DRE REGULATION**

184 Chairman: Okay. Alright. This is the discussion on whether the Title and Escrow  
185 Commission should provide a position statement regarding the report for the –  
186 to the governor’s council for optimizing extreme \_\_\_\_\_ to government to  
187 move the Federal Escrow Commission under the Real Estate Licensing  
188 Division. Yes, Tyler?

189 Male: Please you say that again?

190 Cort: No, you should \_\_\_\_\_ [laughing – inaudible].

191 Male: So, Mr. Chairman, I asked for this to be put on the agenda because I think it's  
192 appropriate for the Title and Escrow Commission to discuss this whether we  
193 think – to determine whether we want to issue a position statement as to  
194 whether it's our opinion whether we think that we should – it's in the best  
195 interests of the title insurance and escrow insurance industry to – our escrow,  
196 I'm sorry, no \_\_\_\_\_ insurance but escrow industry to be a moved under the  
197 Real Estate Division or if we feel like it appropriate to stay where it current is  
198 at under the Insurance Department. My personal opinion is I believe we're –  
199 even with some faults shall have a, at – I think it best suits the – our industry to  
200 remain under the regulatory body of the Insurance Department. And I think  
201 that by sending this then we put out in advance and make it easier for some of  
202 the legislators and possibly the governor's office to maybe make some early  
203 statements so that it doesn't get too far down the road in discussion in the  
204 legislature, and becomes a bigger problem trying to last minute make phone  
205 calls and everything to try to prevent this. And that's just my opinion. I don't  
206 know what the \_\_\_\_\_.

207 Male: Mr. Chairman, as a review, what has taken place up to this point as far as  
208 communication and correspondence back to that committee from us? Has  
209 there been anything or perhaps you could answer that?

210 Chairman: Yeah, I don't know that anything has – any correspondence, formal  
211 correspondence has been initiated or approved by the Commission back to the  
212 author of that report or to the governor's office who was the recipient of that  
213 report. The commissioner has on his own responded to the report to the  
214 governor's office and the commissioner does not support that recommendation.  
215 I want to say its recommendation number 13 – somewhere in there with regard  
216 to moving the title insurance industry under the Real Estate Division. I believe  
217 that the – I know that the ULTA has sent a letter to the governor's office also  
218 indicating and I know they're here, and they could probably better speak to the  
219 action that the ULTA has taken with regard to that recommendation as well.

220 Male: Wayne Phillips, president of the ULTA, I know has talked with \_\_\_\_ and Dave  
221 also – we've also spoken with the insurance commissioner as far as their  
222 position (?) with the ULTA. I was invited to \_\_\_\_ that in the \_\_\_\_\_. We  
223 also had the lobbyist from the ULTA. They talked to us a little bit about, as far  
224 as the ULTA side is, what the strategy probably should be, and recommended  
225 if we could start to get the word out early then we may be able to, for lack of a  
226 better word, nip it in the bud before it gets too far down the road, so.

227 Male: It seems like to me we ought to \_\_\_\_\_ record along with the ULTA. If  
228 we're just gonna sit mute on the situation, I think we're better served working  
229 with the Insurance Department than under the Real Estate Department so I  
230 would move that we go \_\_\_\_\_ record with that letter or whatever we need to  
231 do to go of record to stay with the Insurance Department and not move with

232 the government – the governor’s recommendation for us to move to the Real  
233 Estate Department.

234 Male: Okay.

235 Cort: Well, is that a motion?

236 Male: I think I might make a motion.

237 Male: I don’t like it, I’ll second it.

238 Male: All in favor?

239 All: Aye.

240 Male: Well the question that comes up with the letter.

241 Male: The question?

242 Male: \_\_\_\_\_, you bet.

243 Male: Jerry can come up with the letter. He’s the one \_\_\_\_\_.

244 Male: \_\_\_\_\_ Jerry. He’s good.

245 Male: But I’ve got something that I could work with – the ULTA’s \_\_\_\_\_ is  
246 somewhat \_\_\_\_\_.

247 Cort: Well, and you know, and your comment in your motion, were some of the  
248 reasons \_\_\_\_\_.

249 Male: I think we’re better served and \_\_\_\_\_.

250 Male: So, would you be willing to take on the \_\_\_\_\_.

251 Larry: Frankly, I think it’s a conflict that we’re being governed by the Real Estate  
252 Department, maybe I’m being a little crazy by saying that, but I think we’re  
253 better served with the Insurance Department. I think there’s too much conflict  
254 there with the Real Estate Department trying to tell the title and escrow what  
255 we should do and how to govern us, so that’s my opinion.

256 **START: NOTARY LT. GOVERNOR’S LETTER**

257 Chairman: Okay, \_\_\_\_\_ I really appreciate it. Okay. \_\_\_\_\_, the next item is  
258 \_\_\_\_\_ . We received a letter back with the Lt. Governor’s office  
259 regarding the letter we sent. Specifically, this is in the unlicensed activity  
260 insert, specifically with helping in one of the avenues of unlicensed activity  
261 which would be the notary arena. And so we sent the letter to Governor Bell’s

262 office – Lt. Governor Bell’s office and he did respond to us. I think there was  
263 – these were available weren’t they \_\_\_\_\_.

264 Cort: In our \_\_\_\_\_.

265 Woman: Oh, \_\_\_\_\_.

266 Cort: It was – yes, it was in our packets.

267 Male: So, summarizing, I think that, I guess that basically the Lt. Governor’s office is  
268 willing to help address the issue of license activity. But to go along with the  
269 conversations that we’ve had here is that they need more help – just like  
270 Tammy’s mentioned, she needs more clarification in our – enforce unlicensed  
271 activity. [cough] to dealing with what is an escrow, what is a real estate  
272 closing and those kinds of things. It’s \_\_\_ I know that this is something most  
273 definitions – there’s something we’ve been working on for a period of time but  
274 we had – we were able to do something like that to get a more firm definition  
275 of those transactions that the Lt. Governor’s office is willing to help with what  
276 scope that they can. So, I think \_\_\_\_\_ but we probably looking to, I think,  
277 \_\_\_\_\_ that \_\_\_\_\_ you know, the definition of what those transactions are to  
278 have that in the code so we can have an enforceable position.

279 Male: Any thoughts?

280 Cort: I think this is great. I’m glad to hear that \_\_\_\_\_ and \_\_\_\_\_ that the memo in  
281 2006 that those who wanted \_\_\_\_\_ and we can put stuff on our  
282 website. That’s terrific. Probably get this now rolled up in the definitions  
283 section issues. [inaudible]

284 Male: [Inaudible]

285 **START: AGENCY SUPERVISION**

286 Chairman: Okay. The new business. This is another my turn, I guess. Discussion of  
287 agency supervision by the a qualified owner, or a manager rule. I received an  
288 anonymous email from a member of the community that had some concerns  
289 about supervision by a person in the license – and they were provided some  
290 language that they thought would help with that. \_\_\_\_\_ make it in, I don’t  
291 see a copy of that language \_\_\_\_\_.

292 Woman: \_\_\_ you didn’t load it. I don’t remember seeing it.

293 Chairman: It’s okay. Well we may need to – not having it here I don’t have a copy with  
294 me either but I [inaudible].

295 Cort: Mr. Chair if I can just comment on it – you did forward that to me and I was  
296 able to review that. You know, in the federal world of mortgage lending,  
297 mortgage broker has a separate branch office. They’re required now by federal

298 statute as I understand it to have a BLM at that facility. Not the same company  
299 but it'd be like if you had a different office. Federal law requires a BLM at  
300 each branch office. And we're not talking about that extreme here and \_\_\_\_  
301 we're talking about per company – that each company ought to have a  
302 designated person qualified and experienced within the industry experience per  
303 company. And this was like our version of, you know, I think the legislature's  
304 intent in saying that you have a minimum experience requirement was to  
305 protect the consumer and the industry, and the underwriters, and make sure  
306 that we had at least one person at each company who is qualified and capable  
307 of at least by time on paper to manage a title and escrow operation. The  
308 interesting thing I noted was that the mortgage lenders – their requirement for a  
309 BLM at each branch – they don't handle any money. They don't – some of  
310 'em don't do their own underwritings. You know, they defer back to the  
311 lender and we make – we do both of those in our fiduciary capacity – we're  
312 making underwriting terminations with our underwriter and we're handling  
313 funds as a fiduciary for the party. And some problems we see, in my opinion,  
314 is through the justification \_\_\_\_ we're talking about here.

315 Pete: I'd like to make a comment as to the legislative intent. I was one of the parties  
316 that drafted that language. The purpose was to stop and there were layoffs –  
317 everybody that got laid off from opening up an agency. As I look back at it, it  
318 didn't solve the problem. There are more agencies here than – so I don't  
319 know, as long as you're talking about definitions, you know, this is probably a  
320 good thing to look at. This is driven by the department after a series of layoffs  
321 and it was posted for almost 18 months by the legislature.

322 Male: [Inaudible] next week . . . revisit that and look at what we \_\_\_\_\_ and  
323 forward that, so.

324 Male: [Inaudible]

325 Pete: I'm sorry, there is no other line of insurance authority that has this  
326 requirement. So, all somebody has to do is minimally re-license. So, now if  
327 you've been applied some other strict -- scrutiny from the title industry, there  
328 should be a reasonable basis for that.

## 329 **START: MINIMUM SEARCH REQUIREMENTS**

330 Chairman: Thank you. Alright. The discussion of the rule inviting the minimum  
331 mandatory search and \_\_\_\_, is that for a year?

332 Tammy: The department received a letter from department of administrative rules --  
333 DAR regarding the – any statute that went into play is by session and you have  
334 180 days to get a rule in place. The one piece that it if following your purview  
335 had to do with the minimum mandatory search. And I'm just bringing it back  
336 for you as I promised. DAR knew we would because that is now in play due to  
337 language change that was put into \_\_\_\_\_ by us in session.

338 Woman: Isn't that what?

339 Tammy: \_\_\_\_\_ what code section is that?

340 Male: You know, it's in, it's in HB 19, line 2, or 2692/2694. It specifically says –

341 Pete: 31A-23A-406.

342 Chairman: Thank you. The language simply says title insurance producer conducts a  
343 search for real estate located in the state. The title search producer shall  
344 conduct a minimum mandatory search as defined by rule by the title and  
345 escrow commission subject to 31A -2-404.

346 Tammy: And if recall, the Commission asked for that language change to be in the deal  
347 so \_\_\_\_\_.

348 Cort: For those who Jerry had taken the task of putting together a subcommittee and  
349 met up here several times and it invited underwriter participation and became  
350 apparent that it was a much bigger task than anticipated and so we had as a  
351 commission with \_\_\_\_\_ and not Jerry, the Commission was just – it's been  
352 bigger than what we have been able to figure out – how to solve thus far, so.  
353 What happens if we \_\_\_\_\_?

354 Tammy: We will be asked to report and I'm gonna ask Brett for those dates to DAR. I  
355 never wanted apartments or \_\_\_\_\_ January but the December date \_\_\_\_\_.

356 Male: The notice we received from the Administrative Rules Committee [cough]  
357 indicated that if your agency has a rule that has not yet been – oh I'm sorry.  
358 Essentially we need to go to the committee and explain our progress or lack  
359 thereof. And the two dates that were thrown out were December 21<sup>st</sup> and  
360 which is a Wednesday, and Monday, January 16<sup>th</sup>, which I noticed is the  
361 Martin Luther King holiday. I don't know if they're going to move that \_\_\_\_\_

362 Woman: They won't.

363 Male: . . . the Monday the 16<sup>th</sup> meeting.

364 Woman: They won't move it.

365 Male: Okay, so those are the two dates the department also has another bill where we  
366 did not fit – make the rule in time and so the department will be there as well  
367 explaining on what other law or values meet that deadline. We don't know yet  
368 whether it will be on the 21<sup>st</sup> of December or January 16<sup>th</sup>. We'll communicate  
369 with the chairman and members of the committee – or the Commission – once  
370 we find a \_\_\_\_\_ date. But I would think that the chairman or the chairman's  
371 designee would need to be available at that meeting ought to go to the  
372 Administrative Rules Committee and explaining the progress or where we are  
373 on that rule requirement.

374 Cort: I think it's impossible for us to have, you know, something in place \_\_\_\_\_. So,  
375 we'll need to pick one up of whichever date you're there and we'll go with  
376 him. That would be my suggestion.

377 Male: Yeah. \_\_\_\_\_.

378 Cort: If they get that \_\_\_\_\_.

379 Male: I guess the question I'll ask – are we going to tackle.

380 Cort: Well, we've got some new lives on the committee. We've got some new fresh  
381 blood or fresh meat, whatever you – [laughing and cross-talk]. So we better  
382 schedule it on our next month's agenda.

383 Male: Right.

384 Male: [Inaudible -- \_\_\_\_\_ section, there was not really a lot of progress  
385 made to \_\_\_\_\_.

386 Male: There was quite a wide range of opinion as to which \_\_\_\_\_ was any real  
387 consensus made on even one issue regarding the search standards.

388 Cort: Maybe it would be – Jerry, would you consider recapping for our new  
389 members what happened and if there were any agreed(?) proposals that – at our  
390 next meeting if you could maybe just let us know and share with us input you  
391 got and if there were any things that \_\_\_\_\_.

392 Male: [Inaudible] . . . if I came up with a sample of \_\_\_\_ that was specifically written  
393 very limiting so that we could put everything in on the table and then discuss  
394 every potential requirement just so that we get it but at the same time there  
395 were some that were outspoken on both sides of the rule and then there was a  
396 lot of anonymous – well, not anonymous to me, I know who they were but  
397 they were asked that their name be kept confidential as to what part that they  
398 did wrong because there is a little bit of a discrepancy between what  
399 underwriters would like to see versus what agents would like to see. And on  
400 some of the agents, it depends on what their situation was, if they're smaller or  
401 whether they have a large market present. I mean it was all over the board, so.

402 Male: As I recall, the one riding, written proposal at least as I can remember had the  
403 problem that in effect you had, if anything wasn't shown in the title policy,  
404 then that was in effect an automatic recording (?) fee. I couldn't write over  
405 something because I felt it was an insurable risk and then the next company  
406 brings it up. The way that rule was written as I recall would have  
407 automatically given my underwriter a claim. I thought, in my memory, that  
408 whatever rule was written was basically going to say that the agent had to  
409 comply with the underwriter's requirements \_\_\_\_\_ or adequate search, an  
410 examination because that seemed that most of us agreed. As I recall that's the  
411 way it boils down. Anyway, I had to keep my underwriter happy and you had

412 to keep yours happy. And what basically what we can insure over is similar  
413 but sometimes it's – there's a question.

414 Male: There's a lots of parts to that and as far as I – first off whether they're required  
415 a licensed person to sign off on the policies and the title commitment. Also,  
416 what timeframes needed to be covered by a search which there were some  
417 research done and some examples given from other states that required in as  
418 far as naming number of years and also dates that it had to be searched from.  
419 That was one of the issues that was brought up. There was also – to the other  
420 extreme – was that there – that it also consent – she also says that if an  
421 adequate search and an adequate search determined by is determined by the  
422 underwriter so, you know, it could be that you'd have a different requirement  
423 from your underwriters so far to go back – have them do \_\_\_ per \_\_\_ in court.  
424 So, it could – there is no standard, it depends on what your agreement plus if  
425 multiple underwriters, it could be different for this \_\_\_\_\_.

426 Male: [Inaudible] . . . Mr. Chair, in regards to what Al's saying – probably two  
427 separate issues, \_\_\_ search parameters and the underwriting \_\_\_\_\_.

428 Cort: What was the rule about clearing the typing, that's one of the issues that Al  
429 brought up was the period not recording \_\_\_\_\_ documents.

430 Male: [Inaudible]

431 Cort: That was not really a part of your rule I think.

432 Male: [Inaudible] . . . comments back for the next month and we put it on the agenda  
433 to address, was there a timeline \_\_\_\_\_ for Brett?

434 Male: \_\_\_\_\_ we upped it.

435 Woman: \_\_\_\_\_ under seven.

436 [laughing]

437 Male: Well, Mr. Chair if I can make a suggestion I would like to \_\_\_\_\_  
438 first of all. [laughing]

439 Male: Public record \_\_\_\_\_.

440 Male: But I would at least maybe have a plan or be able to present to the Commission  
441 where you are and, you know, what you may anticipate having the rules  
442 submitted on the formal, formal public rule making process.

443 Cort: So, would maybe if we just – Jerry, would you mind bringing what you have to  
444 the summary of your experience from your subcommittee meetings to our next  
445 meeting and maybe written documents that you might have for us to review.

446 Maybe if you can get ‘em out even sooner, we can review ‘em sooner and then  
447 I think that would be a good place to start.

448 Male: [Inaudible]

449 Male: Anybody that has any suggestions, you can email one of us suggestions.

450 Male: Wouldn’t it be easier to repeal the bill than \_\_\_\_\_ the rule.

451 Male: That was the B plan.

452 Woman: Is it possible for you to just -- like on the files that have been filed escrow  
453 charges to have that as a minimum – you could always charge more. Why  
454 don’t you look at a minimum standard for searching at a very minimum that’s,  
455 that’s protected by the consumer and then if you want to do more, you can  
456 always do more. Or is that what you’re all not agreeing on?

457 Male: Not to –

458 Woman: What the minimum –

459 Male: \_\_\_\_\_ that’s what we were doing is minimum.

460 Woman: And no we can agree on a very minimum like let’s go back two hours, three  
461 seconds, twenty [coughing].

462 Male: I don’t even think two hours would \_\_\_\_\_.

463 Woman: Well, and the other thing is to consider, too, is what counties you’re dealing in.  
464 Because some counties – Duchesne being one of ‘em – there still in the 1912’s.  
465 Whereas Salt Lake, you, you know, you have a little bit – I think it just – and I  
466 don’t know how to do that but – so, is it the minimum that you can’t agree on?

467 [Cross-talking]

468 Woman: Are your underwriters \_\_\_\_\_?

469 Male: \_\_\_\_\_ . . . it’s not just the minimum that can’t be agreed on but whether  
470 an agreement should be established that’s written in stone, yeah.

471 Woman: There should be something that a consumer can rely on, so.

472 Cort: And that’s if you get a different story from underwriter A and underwriter B,  
473 and underwriter C of what that means. And that’s really where this broke  
474 down.

475 Woman: And your underwriters are – are they cooperating?

476 Male: [Inaudible]

477 Woman: Are they cooperating, are they giving you their input?

478 Male: [Inaudible] [Laughing]

479 Jerry: \_\_\_\_\_, they're not cooperating. They \_\_\_\_\_.

480 Male: If your approach to that – just my two cents – if you approached it from the  
481 standpoint of what the consumer can rely upon, last I checked Utah is not an  
482 abstract state. So, what the consumer is relying on is a title insurance policy  
483 and if we issue the title insurance policy, that's what they're relying on – not  
484 the \_\_\_\_\_.

485 Male: So there you go.

486 Woman: You guys just seem to agree on something. I mean go back 12 years and, I  
487 mean, and I'm – it is different cause if you – you've got a subdivision, your  
488 gonna have to go back to when Adam and Eve. You know, I mean, so I'll  
489 leave that to you. I'm just gonna sit over here and be quiet.

490 Male: Well, there again, we \_\_\_\_\_ that would make to comment, we  
491 would appreciate feedback, so. So we can try to get to some agreeable terms to  
492 get this done.

493 Woman: The consumer has no idea I can tell you that. The consumer is absolutely  
494 oblivious which is why we're here, right?

495 Male: How many comments have been made over the search and there have been a  
496 lot of claims where – due to missed documents or search \_\_\_\_\_, it's still  
497 \_\_\_\_\_.

498 Woman: I do ask in the \_\_\_\_\_ for myself, but not in the search standard, not  
499 \_\_\_\_\_ the only thing that comes about for title insurance is a gross  
500 misunderstanding by the consumer. And you have to remember too a lot of the  
501 stuff that I do is reactive and it's not proactive, so I'm dealing with past. So,  
502 I'm looking at different ALTA forms and the amendments change. Or if they  
503 didn't agree with an underwriter's decision, they'll file a complaint. And some  
504 [inaudible]. It's always on escrow or who's given desserts for somebody's  
505 Thanksgiving dinner or who's advertising on Face Book – that is pretty much  
506 what I do. Or escrow – I didn't get my money.

507 Male: If I'm asking this rule is being a bit superfluous.

508 Woman: Don't talk with legal-eze. Talk \_\_\_\_\_.

509 Male: I don't see it as totally necessary.

510 Male: Yes, Bob's point is very relevant in that his search is done, it ties to the policy.  
511 So, if we have – if someone failed to do the minimum search, if they have the

512 policy, they are covered. There's not going to be any requirement to fall back  
513 on a violation of a rule for lack of minimum standard if they have a policy. So,  
514 I see this as being completely superfluous as long as there's a policy that  
515 covers.

516 Woman: \_\_\_\_\_ are about a company your gonna stand behind –

517 Male: We'll stand behind even if the agent – the agent issued a policy – didn't put his  
518 name on the search – we'll stand behind the policy so we have that policy.

519 Woman: Right. And you \_\_\_\_\_.

520 Male: We'll just \_\_\_\_\_.

521 Male: And so I see this, you know, there was discussion previously that she left the  
522 underwriters, and I think it still should be left to the underwriters. We have the  
523 liability, we set those standards. We have all types of different type of policies  
524 that do not require a full search. And so to say that everybody, every type of  
525 search has to be a full search when actually a limited policy just doesn't make  
526 any sense. It's cost \_\_\_\_\_.

527 [Inaudible] . . . name of the search or not but \_\_\_\_\_ as to with our agents so I  
528 really do see this rule as being unnecessary cause we – the insurer is the one  
529 who is protecting the consumer. I don't think someone could make a claim or  
530 \_\_\_ or a claim of violation and have some other type of additional protection.  
531 I don't think they're getting anything extra – there's a violation of a  
532 commitment of service \_\_\_\_\_.

533 Male: Know anything about that may be true but it requires a major rule.

534 [Cross-talking]

535 Male: Just to dress up the \_\_\_\_\_ conflicts rules, you know, make an  
536 agreement with what the other underwriter have said [coughing]. On the other  
537 hand, these are title companies would have title licenses and so I think there  
538 can be an expectation that a title company is able to be able to do a search. In  
539 order to do that search, they would need to have records or the capability to  
540 search back a period of time.

541 Woman: How many years is that? How many years would they have to go back? How  
542 many years do you think that an underwriter should hold files?

543 Male: An underwriter's not supposed to hold files \_\_\_\_\_.

544 Woman: Come on, how far back do you think that they should?

545 Male: As a title \_\_\_\_\_.

546 Woman: As a title producer which encompasses all –

547 Male: This is an entrapment.

548 [Laughing and cross-talking]

549 Male: But I think there can be an extra occasion put on the \_\_\_\_\_. The underwriter can  
550 state how far they're gonna make him search. But if there's gonna be a rule  
551 that I don't know if we'd be able to be able to produce titles, be able to  
552 perform a search, they're licensed to do that.

553 Woman: If you tie the rule back to you, then is there something that you have in writing  
554 that we would be – we as the department could then alert you and –. I mean I  
555 know that you'll be fully responsible for it but if you have a \_\_\_ allegiance that  
556 you're supposed to go by \_\_\_\_\_ – that could be \_\_\_\_\_.

557 Male: [Inaudible]

558 Woman: Right. \_\_\_\_\_. I understand how far back you go, but would Suzette, if she  
559 would have reviewed the file, she reviews one of my files and says, so now  
560 what \_\_\_\_\_.

561 Male: \_\_\_\_\_ my question would be this, though. Did you review that file and find a  
562 minimum violation to rule, to what – what, what did you find a violation of  
563 what we're – what would you have against that agent? They're covered by a  
564 policy, there's still a policy there. So, it could be, it would be no consumer  
565 damage, the damage the insurer. We'd go after the agent, so if he falls back on  
566 the insurer –

567 Woman: And then it's a repeated process then we'd have an issue, but –

568 Male: [Cross-talking]

569 Male: We'd cut an agent, we have too many claims.

570 [Cross-talking]

571 Male: \_\_\_\_\_ this is my own fault but when you're speak, we need to – please state  
572 your name, we all know ya, but it's hard for Blaine in the minutes, so I  
573 apologize for that. I should have been on top of that better, so. Al.

574 Al: I think we're getting in to some title client question which for years and years a  
575 lot of companies what the title people have tried to do get rid of \_\_\_\_\_ so  
576 we had to stand by the clients. And I hope to go in business – you'd have to  
577 have access to a title client because they don't have the geographic indexes.  
578 And so you have to either have your own title plan or an agreement when – to  
579 use another client. In Utah we have track indexes – that's all the indexes in  
580 every county recorder's office so anybody that can get licensed then that has

581 access to the records. So, I don't know again how you'd describe what – how  
582 many years or that cause you'd have access to the records all the way back in  
583 Utah.

584 Chairman: Any further public comment? We'll note – we'll leave it on the agenda, then.  
585 I think that's have a reasonable place to start on this. That'd be – we'd  
586 appreciate the \_\_\_ the input and in written form, please, so. Any other items  
587 for \_\_\_\_? Okay.

588 [Cross-talking]

589 Male: I'll make the motion to \_\_\_\_\_.

590 Male: Jerry, all in favor?

591 All: Aye.