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This document includes the transcribed minutes from Utah's Title and Escrow Commission's July 7, 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

GARY R. HERBERT  
Governor  
GREG BELL  
Lieutenant Governor  
NEAL T. GOOCH  
Insurance Commissioner

State of Utah  
Title and Escrow Commission Meeting  
Meeting Information

Date: July 11, 2011 Time: 9:00 AM Place: East Bldg, Copper Room

MEMBERS

Commission Members

Chair Cortlund G. Ashton, Salt Lake Cnty Larry Turner Blake, Washington, Cnty  
Jerry M. Houghton, Tooele Cnty Kirk Donald Smith, Weber Cnty  
Dirk Keyes

Department Staff

Perri Babalis, AG Counsel Suzette Green-Wright, MC Dir. Mark Kleinfeld, ALJ  
Tammy Greening, Examiner Jilene Whitby, PIO Recorder Brad Tibbitts, P&C Dir.  
Adam Martin, Examiner

AGENDA

General Session: (Open to the Public)

- Welcome / Cortlund Ashton, Chair
- Install New Members and Complete Paperwork
- Adopt Minutes of Previous Meeting
- Executive Session - If needed (Closed to the Public)
- General Session - (Open to the Public)
- Reports
  - Concur with Licensee Report
  - Concur with Complaint & Enforcement Reports
  - Request for Attorney Exemption: None
- Administrative Proceedings Action
  - Pre-Hearing: None
  - Stipulation & Order:
    - Jacob Sorensen
    - Daniel Alfonso Blanco
- Old Business
  - Update on Rulemaking Process for R590-99 (R592-14)
  - Update on Rulemaking Process for R592-6-4.
  - Search Standard Rule - Formation of Subcommittee / Jerry
  - Discussion of Rule Regarding Definition of Escrow & Mobile Notaries
  - Status of Salt Lake Title's Orderly Withdrawal / Jerry
- New Business
  - Vote for Chair and Vice Chair
- Other Business from Committee Members
- Adjourn:
- Next Meeting: August 8, 2011, Copper Room

580-1205

2011 Meetings

Jan. 10	Feb. 14	Mar. 14	Apr. 11	May 9	Jun. 13
Jul. 11	Aug. 8	Sep. 12	Oct. 11	Nov. 14	Dec. 12

T & E MINUTES  
7-11-11

1  
2  
3

4 Chair: Okay, we'd like to call to order the Title and Escrow Commission meeting for  
5 Monday, July 11, 2011, noting that we have some new faces up here. Welcome to  
6 our two new commission members. Part of our agenda today will be actually  
7 their installation, and so I'm gonna turn some time over to the department for  
8 handling that for us.

9 Female: We have Somata here who is going to be our notary and so what we're gonna do  
10 is give you the oath of office; and I think we've decided to do that separately, each  
11 of you separately. So, Kirk, if you wouldn't mind standing and raising your right  
12 hand.

13 Smith: Okay.

14 Female: I and say your name.

15 Smith: I, Kirk Smith.

16 Female: Having been appointed to the office of.

17 Smith: Commissioner for the Title and Escrow Com . . . or --

18 Female: You just repeat my --

19 Smith: Oh, okay, sorry, go ahead.

20 Female: I can repeat the explanation.

21 Smith: Okay, I thought it was fill in the blanks.

22 [Laughter]

23 Female: Having been appointed to the office of.

24 Smith: Having been appointed to the office of.

25 Female: Title and Escrow Commission Member.

26 Smith: Title and Escrow Commission Member.

27 Female: Do solemnly swear.

28 Smith: Do solemnly swear.

29 Female: That I will support, obey and defend.

30 Smith: That I will support, obey and defend.  
31 Female: The Constitution of the United States.  
32 Smith: The Constitution of the United States.  
33 Female: The Constitution of this state.  
34 Smith: The Constitution of this state.  
35 Female: And that I will discharge the duties of my office.  
36 Smith: And that I will discharge the duties of my office.  
37 Female: With fidelity.  
38 Smith: With fidelity.  
39 [notarizing document]  
40 Female: Okay, Larry. Mr. Turner. All I need is to just repeat after me like I say, I and your  
41 name.  
42 Blake: I, Larry Turner Blake.  
43 Female: Having been appointed to the office of.  
44 Blake: Having been appointed to the office of.  
45 Female: Title and Escrow Commission Member.  
46 Blake: Title and Escrow Commission Member.  
47 Female: Do solemnly swear.  
48 Blake: Do solemnly swear.  
49 Female: That I will support, obey and defend.  
50 Blake: That I will support, obey and defend.  
51 Female: The Constitution of the United States.  
52 Blake: The Constitution of the United States.  
53 Female: And the Constitution of this state.  
54 Blake: And the Constitution of this state.  
55 Female: And that I will discharge the duties of my office.

56 Blake: And I will discharge the duties of my office.

57 Female: With fidelity.

58 Blake: With fidelity.

59 Female: As soon as she's finished with that, you can go.

60 Blake: She can watch me.

61 Female: She can watch you.

62 Blake: For my John Henry.

63 Female: Just for the Commission's information, we have given to these two gentlemen the  
64 confidentiality form that they've read and will be signing and getting to the  
65 department as well.

66 [Shuffling of papers]

67 Chair: Okay, is that it then, or do we have some more.

68 Female: We're good.

69 Chair: Welcome Commissioners. Why don't we take a minute and just have you  
70 introduce yourselves to us as the rest of the Commission and the department, so,  
71 will start over here with Kirk.

72 Smith: Uh, I'm Kirk Smith. I've been in the title insurance business for about 25, 26  
73 years – started out as a title searcher in 1984 and then I kind of gradually moved  
74 into escrow over the years, so, but a – appreciate the opportunity to serve and  
75 hopefully we can make the competition, so be patient with me of course, so –

76 Chair: Great, thank you. Larry.

77 Blake: Larry Blake from St. George, Utah. I've been involved in the title business since  
78 40 years this February. It goes by in a hurry. Ah, but I got involved when we  
79 were an abstract company – saw the business convert to title insurance and finally  
80 we started an escrow business. I started out in the title side – worked there for  
81 about 20 years and about the last 20 years in the escrow side, so, it's been  
82 enjoyable. I look forward to working with you.

83 Chair: Great. Thank you. We've got Al Mansell, or if Al Newman's ever not here we  
84 can go to some other 40-year veteran maybe here for some institutional memory.  
85 Okay.

86 Male: \_\_\_\_\_ me and I'll stay awake.

87 COMMENTS ON THE JUNE 13 MINUTES

88 Chair: All right, let's take a minute to go over the minutes and we have just three of us  
89 who were here from that prior meeting, so are there any comments? I noted one  
90 item. We had a note to put split closing instruction form on next month's agenda;  
91 and that didn't end up on our agenda. Did we decide to do that? Do you  
92 remember anything about that Jerry? This split closing – was the idea to just  
93 revisit that I think as a new Commission. Okay, so we'll leave that as is but  
94 maybe have you add that to our August agenda, discussion regarding split closing  
95 instructions. Okay. And then there was a question that I was asked just prior to  
96 the meeting on page 2 of the minutes, in our update on mobile notary performing  
97 escrow services discussion – the very last bullet point there. It was a conversation  
98 where I asked Harry – we received a letter from Randon Wilson looking for an  
99 attorney general's \_\_\_. I guess we want to make sure this correctly reflects what he  
100 was requesting. I think he was suggesting that perhaps the Commission get an  
101 attorney general's opinion in that letter. Pete, you're here from the same law firm.  
102 Is that kind of the idea that –

103 Stevens: In a May 31<sup>st</sup> email, Randon sent to Cord, to Perri and to me and it says we have  
104 asked for a legal opinion or reply to our legal – we have asked for a legal opinion  
105 or reply to our legal opinion dated May 22 – May 2, 2011. And have you  
106 requested such an opinion? He wasn't asking. He wasn't as an outsider asking  
107 the AG for a legal opinion.

108 Chair: So he was suggesting that the Commission get a legal opinion?

109 Stevens: Or a reply to . . .

110 Chair: Or a reply to.

111 Stevens: . . . the May 2 memo.

112 Chair: Okay. So if we could maybe just clarify that Mr. Wilson's letter was suggesting  
113 the condition pursue an AG opinion, and then Perri's response would be  
114 appropriate that only the Commission can ask for, that Randon's not her client,  
115 but the Commission is her client. Does that reflect then?

116 Stevens: Correct.

117 Chair: So, if we just maybe insert um after asking, asking . . .

118 Female: The Commission.

119 Chair: . . . the Commission for an AG opinion or response to his letter. Will that work –  
120 does that change – seem appropriate Jerry, Burke?

121 Jerry & Burke: Yes.

122 Chair: Okay. All right. And Jerry, I think you were talking to me about for the next  
123 section?

124 AGENT WITHDRAWAL

125 Jerry: Yeah. There a Salt Lake Title orderly withdraw is second to the last. We'll, we're  
126 read the motion asking you to \_\_\_\_\_ the Commissioner to see if they could  
127 expedite. I think that was to expedite the determination of fees associated with  
128 the assessment that Salt Lake Title was willing to pay. And also if the Insurance  
129 Commission had the authority to compel the insured to take, to take the files or  
130 the underwriter to take the files in that case. So, it wasn't like compelled. It was  
131 like if we were gonna see if we actually even had the authority to compel.

132 Chair: So the change would be to expedite the determination of fees.

133 Female: The termination of fees?

134 Chair: Comma, or determine if the department could compel. Does that sound right?

135 Jerry: Correct.

136 Chair: Okay. Dirk, that sounds, that reflects I think what I referenced to, so, okay. So  
137 with those amendments do we have a motion then or any other items for the  
138 minutes?

139 Male: I motion that \_\_\_\_\_.

140 Chair: Dirk, motion to accept the minutes with those amendments seconded by Jerry, all  
141 in favor say "T".

142 (Everyone saying "T")

143 Male: Any opposed?

144 Chair: Motion passes. Thank you.

145 Okay, I'll just maybe take a little extra minute to kind of talk about our agenda  
146 items so your— our new commission members will have a feel for what— with  
147 happened. There is occasion where it becomes necessary for us to talk about  
148 character competency or some other publicly protected topic where we would go  
149 to what's called an executive session. Am I directly reflecting that? Character  
150 confidence and —

151 Female: Yeah, pretty much if we're discussing the character of an individual.

152 Chair: Right, we don't do those in public sessions. We would go into an executive  
153 session unless it's part of a later agenda item where somebody's already stipulated  
154 to some conduct that was incorrect. So we don't have any need for that today so  
155 we'll move on then to our open to the public general session. The first item that  
156 we do is we look at our licensee report and— that's this one. Had a chance to  
157 review that. And then our job as the commission is to concur with this report.

158 Are there any questions? Or comments? Are you ready for a motion?

159 Male: Mr. Chairman I move that we concur with the title agency report for the month of  
160 June 2011.

161 Chair: Okay, we have a motion. Do we have a second?

162 Dirk: Second.

163 Chair: Seconded by Dirk. All in favor say "I".

164 All: "I"

165 Chair: Any opposed? Motion passes. Next concur with the complaint and enforcement  
166 reports. I wonder if we could maybe see if department – Tammy or Suzette–  
167 would one of you just kind of go over these reports, what they are for the new  
168 people. I think that would be very –

169 Female: If you look at it starting from this page, the first thing you're going to see on here  
170 is the open cases and high cases and investigation case and then...

171 Chair: So that means, sorry if I can back up, that means that you've done your  
172 preliminary or you haven't done the preliminary in "I" case?

173 Female: What do you mean by preliminary?

174 Chair: It's streaked.

175 Female: We have decided it's worthy of my case.

176 Chair: Worthy of– okay.

177 Female: Not just a...

178 Chair: So you do an initial screen...

179 Female: Yes.

180 Chair: ...from a complaint and then it ends up as an "I" case if there's something –

181 Female: Correct. And even sometimes we'll find out further in that the file shouldn't have  
182 opened it and then it gets closed for that reason.

183 Chair: Okay.

184 Female: But as you can see there is only one opened in June. It's the last on my list. Then  
185 on the back of that we start the closed investigation case and we keep kind of a  
186 running on this so you see in here – so work with these to kind of see where our  
187 activities lie. It will tell you under "reason closed" what we've done with that

188 case. It could be a warning like a – probably a letter of admonition or it could be  
189 a private letter of admonition or it could be a fine or no violation or it could be no  
190 business activity; yes they let their license lap for a period of time but they didn't  
191 do any business activity during that time period. Could be unjustified, we could  
192 still get further into a case and decide, you know everything was done right by the  
193 title person or agency. Then if it's more severe and its due a fine or a censure, or a  
194 probation, then we would open a new case and you'll see those listed in new cases  
195 as part of the structure and then it's an "E" case – that now means its enforcement  
196 and a report is given to our Attorney General's office and they go forward with  
197 either a stip and o, a hearing, and whatever's warranted for the situation. The next  
198 report you'll see is the open and close investigation report and that just kinda  
199 gives you a tally of where you've been and where we are now so you've got 2008,  
200 7,8,9, that's right, 8, 9, 10 now or 11 and kinda see how it fluctuates – some  
201 months are big some months are not. On the back side of that is a complaint  
202 report, it comes through our– another division it comes through the P&C Division  
203 and they forward us cases that usually become investigations. However, if you'll  
204 see this nice little color coding we have – unjustified mean that they weren't  
205 worthy of forwarding to our division. So, most often it is unjustified on what they  
206 did.

207 Chair: These are consumer complaints?

208 Female: Yes.

209 Chair: Okay. Just differentiated...

210 Female: Correct.

211 Chair: ... the rest of them are industry complaints?

212 Female: Yes. They are sometimes consumer complaints, too...

213 Chair: Oh, it's just where they come from?

214 Female: Yeah.

215 Chair: Okay.

216 Female: And then a similar page that you saw for investigations you now see for  
217 complaints. Then you can see they're not – consumers aren't the big complainers.

218 (Laughing)

219 Female: So it's not very high...

220 Chair: Although we've had a rough 2011 so far.

221 Female: One rough month.

222 Chair: Okay.

223 Female: The next report you'll see is the title insurance enforcement report and I've tried  
224 to keep any case that's not completed will be on here and if they've completed in  
225 the past year they'll still show up on here until that year time period has gone by  
226 and then they'll drop off the list. But you'll see if there is a number or a date over  
227 in the last column that has been completed. Some cases, though, even under  
228 completion, you'll see \$5,000, 6 months pro- well that's not one but you will see  
229 on a couple pages over I think. They may have a payment schedule for the funds,  
230 so they say 6<sup>th</sup> payment of 10.

231 Chair: Yeah, you have on 2778 first of 3 paid.

232 Female: Yeah. And I think there is one that's- another one- thousand and- you know.  
233 And there's a typo on 2833 I just saw it. It should be paid a thousand of 1500.  
234 But there's no date in that last dark column and it's still in process somewhere.  
235 And RHE's are running on some cases as, you know, months behind. So it's just a  
236 matter of how he batches cases that are coming through.

237 Chair: I just had- maybe- I probably missed this reviewing but there's a block of cases,  
238 it's easier- it just kind of sticks out from on the closed investigation summary  
239 report. Bunch of them have been converted to "E" cases starting in 59459 where  
240 there's no box checked for what the complaint was and there's no description. If  
241 we moved over those "E" cases are they going to show on here? Is that how that  
242 works?

243 Female: I will fix that, send it, I didn't catch that.

244 Chair: If we don't, yeah.

245 Female: That's my \_\_\_\_\_. I think I had a lot made for one I just didn't get 'em on  
246 there. Because that looks like a bunch of April stuff.

247 Chair:: Yeah, it looks like they all came in roughly the same time. But the idea is that we  
248 normally would have in one of those columns what the violation was.

249 Female: And it could be in- as she said it could be in formal orders cause looking at the  
250 time frame - is that when annual reports are do?

251 Male: Yes, but some of them. Well, assessments.

252 Female: Assessments, yeah, assessments, it could be in formal orders that she sent out, too.

253 Chair: Okay.

254 Female: And I wouldn't see those documents.

255 Chair: But I think it would be helpful just to have a little visibility for tracking purposes  
256 of . . .

257 Female: Okay

258 Male: . . . what's going on there.

259 Chair: Hey, Jared.

260 Jared: Mr. Chair, I have a question, too. On page 2 and 3, there's a number of – starting  
261 with 58903 and running through 5923 and then again 58969 to 58982 for the  
262 violation it says, alleged unlicensed activity, but then in a reason closed, it says,  
263 no business activity.

264 Female: That's when they've got their license lapse, lapse a week or two and so when  
265 there is no business activity we close them.

266 Male: Is that– are those companies or are those individual licenses?

267 Female: It could be either.

268 Female: It's probably both but if their license lapse but they didn't conduct any business  
269 prior to getting reinstated then there is no violation. So that's what that means.

270 Male: Okay.

271 Female: Would you prefer it say “no violation”?

272 Female: I thought it was more explanatory \_\_\_\_\_. No business activity.

273 Male: I think its okay, just as long as you know what it means. \_\_\_\_\_.

274 Male: Any other questions?

275 Male: Okay...

276 Female: This was not a \_\_\_\_\_. So that's a lot of changes but there were some cases that  
277 got \_\_\_\_\_ so that was– I got \_\_\_\_\_.

278 Male: alright so then with that one change that we made to the \_\_\_\_\_ case \_\_\_\_\_ report  
279 2833. We have a motion that's occurred.

280 Male: So moved

281 Male: Second it.

282 Male: Motion

283 Male: \_\_\_\_\_ and second by Larry any other discussions of motions? All in favor say  
284 "I".

285 All: "I"

286 Male: Any opposed?

287 (Silent)

288 Male: Motion passed.

289 Male: Okay, we don't have any requests occasionally this agenda item is placed where  
290 we would- attorney's can submit real estate- prior real estate and legal  
291 experience in order to waive their three year rule for the experience requirement  
292 and that is where this would go on our agenda, we don't have any of those  
293 Administrative proceedings, we don't have any prehearings but we do have a  
294 couple of stipulations and orders and we defer typically as a commission most of  
295 our hearing to Mark Kleinfeld who is our Administrator Law Judge if I am  
296 understanding your role correctly Mark?

297 Mark: Yes.

298 Male: And he hears those and then- then the HE works with the defending party to  
299 come up with stipulation and order and typically that's our job then to sign off on  
300 both the penalties, well, in the stipulations with the penalties that are included. So  
301 we'll turn time over the agenda to Mark and he'll- remember we have a couple  
302 new commission members that will...

303 Mark: Sure, these were- I know they were- they were scanned in copies were sent to  
304 you so ideally you've had an opportunity to review them. And these are  
305 stipulations for the avocation \_\_\_\_\_ there is a discussion between the alleged  
306 offender and the attorney general and that's through Mr. Gale Lemon. Gale's  
307 rather Ms. Babilis. And they entered through stipulation resolved the matter I do  
308 no partake of that directly. I review it, it's presented to me, if it appears on its  
309 face to be reasonable based on what I am seeing I recommend it onto the  
310 Commission, and commission will make the final determination if they think  
311 that's the appropriate resolution. If they sign off then the case is closed  
312 effectively, if there's- if they don't feel it is appropriate commission doesn't feel  
313 it's appropriate than they cannot agree, it will go back either to renegotiate or  
314 possibly to a hearing which I would do that. These two matters, the first one deals  
315 with Mr. Daniel Alfonzo Blanco whose license number is 90232 and he worked  
316 for Prime America and in February, curiously on Valentine's Day, February 14<sup>th</sup>,  
317 2011 the department received notification from Primerica that Mr. Blanco had  
318 been terminated from their employment for, in their view, cause for having failed  
319 to disclose to Primerica recent federal criminal indictment. On February 23, 2011  
320 the matter was referred to \_\_\_\_\_ for investigation and they made contact with  
321 Mr. Blanco, he mailed a written statement in that he was unaware that there was a  
322 duty. And there is a duty under \_\_\_\_\_ 31a-23a-105 that a party within 30 days of

323 any criminal prosecution on any level state, local, or federal, has to inform the  
324 department of that. The failure to do that is a violation of the sanction based on  
325 discussions Mr. Lemon and Mr. Blanko entered in through stipulation that there  
326 be imposed administrative forfeiture in the amount of \$250.00 dollars to be paid  
327 to the department within 30 days of issue if the commission agrees with that. In  
328 Mr. Blanko's correspondence with the department, again, he said he was unaware  
329 of that but he would keep the department apprize of what's going on in the  
330 proceeding and as far as it would appear at least as of April 5<sup>th</sup> it hasn't proceeded  
331 any further, I had no idea what the Federal indictment is about.

332 Male: The question that \_\_\_\_\_ America is not a \_\_\_\_\_ I recall, it was— was he also  
333 licensed with other lines and that's why he .....

334 Mark: That...

335 Male: ... \_\_\_\_\_ to proceed the letter from Primerica?

336 Mark: Yeah I am...

337 Female: Yes.

338 Mark: ... I am just going what the face is, maybe Mrs. Green might know.

339 Green: \_\_\_\_\_ he has other than a title license.

340 Male: Okay. But including a title license?

341 Female: And \_\_\_\_\_ America is required to notify us...

342 Male: \_\_\_\_\_ okay. Just one question, and the other questions is, what do we  
343 do with that information, I mean obviously the legislature set that up so that we  
344 get notice of somebody who is being investigated. What do we do with that once  
345 we receive?

346 Female: We are innocent until proven guilty...

347 Female: That's right.

348 Female: \_\_\_\_\_

349 Male: No I understand that.

350 Female: He's having the initial hearing but he hasn't been— I don't know if there's actually  
351 been anything that's moved any forward, but he knows that we know.

352 Male: Is it just to help us track licensing and perhaps...

353 Female: Well in our particular case when you look at the details of the case it's a cause of  
354 concern. So when we looked at this we made sure that his current employer gave

355 us a written letter stating that they knew what Mr. Blanko was being charged with  
356 and that they need to basically watch him, and so some suggestions were given as  
357 to certain areas of the escrow that he should not be involved in.

358 Male: Okay.

359 Male: Any other comments, questions?

360 Male: Alright so we take this one individually then, do we have a motion?

361 Male: Mr. Chairman I \_\_\_\_\_ the stipulation and order for important case number  
362 2842.

363 Male: \_\_\_\_\_ half a second

364 Male: \_\_\_\_\_

365 (Laughter)

366 Male: So we'll count yours as a second.

367 Male: Alright.

368 Male: By \_\_\_\_\_ second by Jerry thank you. any other discussion of that motion? All in  
369 favor say "I".

370 All: "I"

371 Male: Any opposed?

372 (Silent)

373 Male: Motion passes. Okay, Mark

374 Mark: The second matter deals with a Jacob Sorenson license number 2306538  
375 enforcement case number 2875 and this is the stipulation entered into between  
376 Mr. Sorenson and the attorney general's office on behalf of the department. On  
377 June 29<sup>th</sup>– I take that back– assigned by myself on June 29<sup>th</sup>– excuse me, on June  
378 14<sup>th</sup>, 2011 then recommended by myself to the commission on June 29<sup>th</sup> and the  
379 facts of that said court and stipulation is on or about November 8<sup>th</sup> the department  
380 has it typically does a regular basis generate a list of agency and individual  
381 producers who have their license reinstated during October of 2010. It revealed  
382 that Mr. Sorenson's license has lapsed on May 31, 2010 and was reinstated  
383 October 1, 2010. Contact was \_\_\_\_\_ to with Mr. Sorenson requesting a  
384 statement as to how many closing he might have been involved with during June  
385 1<sup>st</sup> the day his license lapsed and through October 1, 2010 when his license was  
386 reinstated. On March 30<sup>th</sup>, 2011 Mr. Sorenson replied responded that he had  
387 conducted 20 closing during that period and then discussion between Mr.

388 Sorenson and attorney general's office resulted in the stipulation and the closing  
389 doing unlicensed period under 31a-23-103 is the violation. Based on those  
390 discussions, the stipulation, the accessed forfeiture \$1,500 to be paid in three  
391 installments. The first installment \$500 dollars to be paid within 30 days of the  
392 imposition of the penalty by the commission. Second payment \$500 dollars to be  
393 paid within 60 days and the final installment of \$500 dollars to be paid within 90  
394 days or the total to be paid within 90 days of the imposition.

395 Male: Any questions?

396 Male: \_\_\_\_\_ is there any penalty associated with \_\_\_\_\_ that he works for \_\_\_\_\_  
397 individual penalty, or?

398 Male: We, we talk about this regularly...

399 Male: Oh.

400 Male: ... so in some scenarios the company is involved as well and in other I think it  
401 just depends. Tammy do you have any comments? Or Suzette on that for us?

402 Female: It wasn't my case so I don't know.

403 Female: Yeah.

404 Male: How would that normally come about? What's kind of the guideline?

405 Female: We normally guess— we would— this is an individual licensee and then we would  
406 also look to the agency that he worked for to see what type of policies and  
407 procedures they had in affect at— I don't know if this did or didn't happen with his  
408 agency, I don't know who he works with. And there could be something coming  
409 down the pipe for the agency, it just hasn't been stipulated to yet or they could've  
410 refused— it's not my case so I don't know.

411 Male: Maybe they were waiting for this stipulation in order to proceed.

412 Male: I think the sense of the commission Kirk, is that we like agencies and agents  
413 where they're both, you know, have some duty and responsibility to know what's  
414 going on to kind of see both of them involved. And we've seen that over more  
415 and more over the last few months I think. I seems to me like we're getting the  
416 companies as well as the agencies.

417 Male: Any other questions?

418 (Silence)

419 Male: Do we have a motion then?

420 Male: To approve.

421 (Laughter)

422 Male: You guys can speak up to.

423 (Laughter)

424 (Inaudible)

425 Female: We're on Sorenson.

426 Male: Oh, excuse me, sorry.

427 Male: All set.

428 Male: Okay motion in the second comments, Jerry? Do you have a comment?

429 Jerry: I spoke- I spoke to these before as far as the- and I know it's- it's been a such a  
430 \_\_\_\_ contention but go on after these cuz they're not going \_\_\_\_\_ not seein any  
431 yet from ones that we know have been turned in \_\_\_\_\_ per \_\_\_\_\_.

432 Male: If I might just add gratuitously I don't know if there is one in the pipeline so to  
433 speak \_\_\_\_\_ of the company. I receive this the 29<sup>th</sup> and rather than have it lay  
434 around and there maybe one I haven't seen it yet. My policy is to get to you ask  
435 soon as possible. If that - it- what I think I can do, and I should have been these  
436 before, and I apologize, is probably visit with Mr. Lemon when this one comes in  
437 on the individual. Do you have one in the mails that I can form a guess  
438 \_\_\_\_\_ returned yet, when I can confirm hat and I'll make an effort to do that  
439 \_\_\_\_\_ individual one.

440 Male: Thank you. Okay we do have a motion from Kirk who is seconded by Larry to  
441 accept the stipulation and order. Any other discussion to motion? All in favor say  
442 "I".

443 All: I

444 Male: Any opposed?

445 (Silent)

446 Male: Motion passes. Okay lets- the next item in our agenda we talk about our old  
447 business. These are agenda items that we have kept on our agenda that have no  
448 reach resolution or conclusion and the first up- we'll- maybe Jilene and you just  
449 walk us through these first two items? Just kind of take a step back and talk about  
450 the rule making process and what happens and where we are with each of those  
451 rules.

452 Jilene: Sure. So we have filed- both of these rules and I don't have with me as to what  
453 date we filed them but we file them and then there is a 15 day window in which

454 the department of administrative rules puts them into a booklet form and then puts  
455 them on the website— on the 1<sup>st</sup> through the 15<sup>th</sup> of each month they come out and  
456 are published and it begins— begins the comment period which lasts 30 days.  
457 We're in the midst of that comment period for both of these rules and they are  
458 both comment period ends August 1<sup>st</sup> of 1911— 2011, excuse me. And then there  
459 is a 7 day wait until we— until we're sure that there's all the mail is in and then the  
460 rule can be put into effect from that day on. They have 120 days from the date  
461 that they are— begin the comment period until they need to be action taken on  
462 them or they die.

463 Male: And we have the opportunity as we begin that process to schedule a hearing on  
464 them or not. We've pretty well betted these in may multiple meetings

465 Man: . . . then recommended by myself to the Commission on June 29<sup>th</sup>. And the facts  
466 of that as set forth in stipulation is on or about November 8<sup>th</sup>, the department as it  
467 typically does on a regular basis generates a list of agency and individual  
468 producers who had their license reinstated during October of 2010. It revealed  
469 that Mr. Sorensen's license had lapsed on May 31, 2010, and was reinstated  
470 October 1, 2010. Contact is \_\_\_\_\_ to with Mr. Sorensen requesting a  
471 statement as to how many closings he might have been involved with during  
472 June 1<sup>st</sup>, the day after his license lapsed, and through October 1, 2010, when his  
473 license was reinstated. On March 30, 2011, Mr. Sorensen replied, responded that  
474 he had conducted 20 closings during that period. And then discussions between  
475 Mr. Sorensen and the Attorney General's Office resulted in the stipulation and the  
476 closing during unlicensed period under 31A-23-103 is a violation. Based on those  
477 discussions, the stipulation, the assess of forfeiture of \$1,500, to be paid in three  
478 installments, the first installment of \$500 to be paid within 30 days of the  
479 imposition of the penalty by the Commission. The second payment of \$500 to be  
480 paid within 60 days and the final installment of \$500 to be paid within 90 days or  
481 the total to be paid within 90 days of the imposition.

482 Chair: Okay. Any questions?

483 Man: Cort, is there any penalty associated with the company that he works for, is this  
484 more just an individual penalty or?

485 Cort: We talk about this regularly, so, um, in some scenarios if the company is involved  
486 as well, in others I think it just depends. Tammy do you have any comments  
487 issued out on that for us? How that kind of works?

488 Tammy: It wasn't my case, so I don't know \_\_\_\_\_?

489 Cort: Okay. How would that normally come about? What's kind of the guideline?

490 Tammy: Um, we normally, yes, we would, this is an individual licensee and then we would  
491 also look to the agency that he worked for to see what type of policies and  
492 procedures they had in effect. I don't know that this did or didn't happen with  
493 this agency. I don't know who he works with. Um, and there could be something

494 kind of \_\_\_\_\_ for the agency. It just hasn't been stipulated to yet, or  
495 they could have \_\_\_\_\_. It's not my case so I don't know.

496 Cort: Maybe they're waiting for this stipulation to be able to proceed with that. I think  
497 the sense of the Commission, Kirk, is that we, we like agencies and agents where  
498 they're both, you know, have some duty and responsibility to know what's going  
499 on to kind of see both of them involved. And we've seen that over, more and  
500 more over the last few months, I think. It seems to me like we're getting the  
501 companies as well as the agents \_\_\_\_\_. Any other questions? Do we  
502 have a motion then? Approve. You guys can speak up too.

503 [Laughter]

504 Kirk: I make a motion to approve, uh, \_\_\_\_\_.

505 Man: \_\_\_\_\_ stipulation.

506 Female: We're on Sorensen.

507 Kirk: Oh, excuse me, Sorensen \_\_\_\_\_.

508 Larry: I'll second.

509 Cort: Okay, motion and second. Comments? Jerry, did you have a comment?

510 Jerry: I spoke to these before as far as, and I know it's been a subject of contention, but  
511 going after these because they're easier not going \_\_\_\_\_, I'm not  
512 seeing any yet from ones that we know have been turned in that, for unlike  
513 \_\_\_\_\_.

514 Kirk?: If I might just add gratuitously, uh, I don't know if there is one in the pipeline, so  
515 to speak, dealing with a company. I received this the 29<sup>th</sup>, and rather than have it  
516 lay around and there maybe one, I haven't seen yet, my policy is to get it to you as  
517 soon as possible. If that – what I think I can do, and I should have been doing this  
518 before and I apologize, is probably visit with Mr. Lennon when this one comes in  
519 on the individual. Do you have one in the mails and then I can \_\_\_\_\_ guess  
520 which one just hasn't been returned yet. If – when I can confirm that and I'll  
521 make an effort to do that each time I see an individual one.

522 Cort: Thank you. Okay. We do have a motion from Kirk that was seconded by Larry to  
523 accept the stipulation and order. Any other discussion to the motion? All in favor  
524 say "Aye."

525 Group: Aye.

526 Cort: Any opposed? Motion passes. Okay. Let's, um, the next item in our agenda we  
527 talk about our old business. These are agenda items that we have kept on our  
528 agenda that have not reached resolution or conclusion. And, the first up, we'll –

529 maybe Jilene can you just walk us through these first two items, just kinda, you  
530 know, take a step back and, uh, talk about the rulemaking process and what  
531 happens and where we are with each of those rules.

532 Jilene: Sure. Um, so we have filed these – both of these rules – and, uh, I don't have  
533 with me as to what date we filed them, but we file them and then there's a 15 day  
534 window in which the Dept. of Administrative Rules puts them into a booklet form  
535 and then puts them on the website on the first and the 15<sup>th</sup> of each month. They  
536 come out and are published and it begins the comment period which lasts 30 days.  
537 We are in the midst of that comment period for both of these rules. And they are  
538 both – the comment period ends on August 1, 19 – 2011, excuse me. And then  
539 there's the seven-day wait until we, ah, until we're sure that there's all the mail is  
540 in. And then the rule can be put into effect from that date on. They have 120 days  
541 from the date that they are, ah, begin the comment period until they need to be  
542 action taken on them or they die.

543 Cort: And we have the opportunity as we begin that process to schedule a hearing on  
544 them or not. We've pretty well gutted these in many multiple meetings, and so, if  
545 I'm remembering right, we've decided we would if we got it on comment, but we  
546 didn't default to schedule them for a public hearing. So, these rules, um, deal  
547 with recording of documents that would otherwise help clear title. That's that old  
548 590-99. The new rule is 592-14. And the other 592-6-4 is the changes to the  
549 unfair inducements marketing rule. And so those are both have been, you know,  
550 the topic of conversation for many months, for you two new guys. And, uh, it will  
551 come back to us for final ratification, is that right, Jilene?

552 Jilene: Oh, yes.

553 Cort: If there's no comment, . . .

554 Jilene: Yes.

555 Cort: . . . it will be at our, maybe, our next meeting even.

556 Jilene: Your next meeting. Unless, unless we receive comments from ten individuals or  
557 an association of ten members or more.

558 Cort: So, for example, the ULTA could request, or the UAR or somebody could request  
559 . . .

560 Jilene: In writing.

561 Cort: . . . in writing that we have a hearing on those \_\_\_\_\_.

562 Jilene: Right.

563 Cort: Okay. Or if we get ten or more comments.

564 Jilene: Right.

565 SEARCH DISCUSSION

566 Cort: So those are working their way through. Any other discussion on – questions on  
567 those? Okay. Let's move on to search standard rule. Jerry.

568 Jerry; Alright, there's nothing new to report other than I thought there was some good  
569 information at the ULTA convention and might help in some direction as far as  
570 after the presentation that we received from the president of the ALTA there. So  
571 probably be looking more at that directly towards that \_\_\_\_\_.

572 Cort: So we'll keep that one moving? We'll keep that on the agenda it sounds like.  
573 There was, there was Ann Anastasi, the president of the American Land Title  
574 Association, showed up to last weekends, um, six-state annual title convention,  
575 and talked about what some of the other states are doing, and their search  
576 standards and really the important role that the title industry plays in helping to  
577 maintain public records and how critical those are to our economy. So, um,  
578 especially with the curative things that we undertake as we work in the title  
579 record. So, we'll keep that on the agenda then.

580 NOTARY & DEFINITION OF ESCROW DISCUSSION

581 Next agenda item is discussion of rule regarding definition of escrow and mobile  
582 notaries. This came – this is another one of our little preface for our new  
583 members. This is a – we've had this on our agenda for several months. Um, there  
584 was some direction originally given several years ago by the Department as to  
585 what notaries could do and could not do that perhaps needs some clarification for  
586 the industry. We've had a request by an attorney, Randon Wilson, for us to try to  
587 understand – or to make sure that we're – that we are, as a Commission, are acting  
588 appropriately when it comes to regulation of escrow in notary services. In our  
589 discussions, really, we've of late, I think, the question really for me is boiling  
590 down to when do you need an escrow license and when do you not need an  
591 escrow license. For the signing of documents, for the collecting of funds, for the  
592 preparation, I mean all these different tasks that happen relating to a closing,  
593 which of those tasks require an escrow license. And, and that's why this subtitle  
594 here, "Definition of Escrow," is really here is we have a license and maybe we  
595 need to help draw a bright, clear line just to understand when that license is  
596 needed in a transaction, when a notary license would be sufficient, when no  
597 license is required. So that's what this discussion item is for. Um, Jerry,  
598 \_\_\_\_\_, do you guys want to add anything to that at all for background purposes  
599 or –?

600 Man: Well, Mr. Chair, I think it would help if, um, if Tammy would go over some of the  
601 questions she's gotten from mobile notaries as to when she needs – when they  
602 need a license. Because I think she's been right on task with advising them,  
603 knowing you're crossing over into escrow. Because I know she's told us of some

604 examples before where there was actually someone, I think Tammy told us, that  
605 thought that they were a certified closer as to whatever that meant. And so, um,  
606 so I don't know if there's certifications out there that the notary industry gives or  
607 if this is just something that this notary made up on their own or . . .

608 Tammy: Um, there are these certified \_\_\_\_\_ signing agents that are done through the  
609 notary services or even through the lenders. And basically it's a packet of  
610 information that's gathered where they show them their credentials and then they  
611 say, oh, you're certified. You're certified to sign for our company. So that's kind  
612 of where that came from. I'm guessing. Um, in one – in the emails that I have  
613 back and forth with somebody who was angry with the Department stating that  
614 we were saying they couldn't conduct closing, I in turn asked her what is it that  
615 you do? So, when I asked her that specific question, she says I do everything that  
616 the escrow officer does except prepare funds. And so, there you go. It couldn't  
617 have gotten any plainer than that and she put it in writing for me so, but I, there  
618 were certain people who know their boundaries. There are notary signers who are  
619 attorneys and who understand their boundaries and where you can't cross. There  
620 are some who – just of human nature. It is human nature to want to help out and  
621 when they see, they know what that truth in lending means, they want to explain  
622 the difference from the note rate to the APR and they fell for em and this is what I  
623 get: well I just explained that it's this and it's this and I said well, that, that's not  
624 part of the notary. That's not part of the notary's job. So since we haven't defined  
625 escrow, I don't – I can't say; so I just say that's not a notary's job. So, so that's  
626 kind of where I'm at.

627 Man: So we're still following that 2006 I think letter?

628 Tammy: Well that's the last . . .

629 Man: The last official department position.

630 Tammy: That's what the department is, has lastly stated and so that's what we'll follow.

631 Man: Okay.

632 Female: And, and part of the issue is the definition of what is a closing, besides what is  
633 escrow.

634 Man: Right. Right. That's exactly right. I saw a hand, David?

635 David: On the \_\_\_\_\_ system I get a lot of phone calls from people who  
636 want to get licensed – who want to go through my school. And I do the same  
637 thing that think Tammy does is that, you know, I ask em what are you doing? Do,  
638 you know, do you get a letter of instruction that says you know to you know what  
639 you're you know, what you're duties and responsibilities are? Almost always yes.  
640 I says do you collect checks? Do you collect money? Even though they might  
641 not go through a, you know, a trust account, they're collecting money. They're  
642 collecting money at for them now on. They're you know, they're handling, you

643 know, negotiable instruments. You look at the you know the definitions under –  
644 in an escrow statutes, know they're doin everything that is defined under that  
645 section as doin an escrow. And so, you know, every...I mean I've 15, 75 people  
646 call me and I went to you and says are you explaining the documents? Are you  
647 doin this, you doin that? Almost all the time they're saying yes. And so it's very  
648 interesting how far, you know, they're going beyond just notarizing documents.

649 Man: One of the questions that a – or one of the thoughts that I had as we go through  
650 this. You know I thought about well, what if we do get an attorney general's  
651 opinion? It's just for our benefit right Perri? I mean it would just be for the  
652 Commission. We're your client and it would, we wouldn't necessarily be able to  
653 promulgate that . . .

654 Tammy: Not make \_\_\_\_\_ loss. Is that what you're asking?

655 Man: Well, or, or can we clarify? Can we use an attorney general's opinion that would  
656 be provided to the Commission to answer some of these questions? Could we  
657 promulgate that to the industry and say here's, here's what the AG thinks. In my  
658 understanding you're our client, that would be something you would prepare for  
659 us . . .

660 Tammy: Right. Then it's your decision what you do with it.

661 Man: It is? Okay.

662 Man: Whether it's a rule or?

663 Tammy: No, whether it's private or not.

664 Man: Whether to keep it private or to let it go forward.

665 Perri: But, it's just an AG opinion. It's . . .

666 Man: Right.

667 Perri: You know, can certainly be challenged.

668 Chair: Right. Right. I, I think the industry is looking for some guidance. I know that  
669 we're proceeding forward on, you know, unlicensed folks. I know Tammy's been  
670 working to try to identify those who are operating escrow without licenses in the  
671 state of Utah. That, you know, that's really kind of what brought this whole  
672 discussion to light is when unlicensed title companies conduct the business of  
673 escrow using rates that aren't filed in the state of Utah; and people who aren't  
674 licensed in the state of Utah and they're common mode of op...MO – *modice*  
675 *operandi* – is to hire a mobile notary to go conduct the closing on their behalf.  
676 And so the notary's are roped into this larger discussion of the unlicensed  
677 business of escrow and that we done several months ago. So I'm just not sure  
678 where to take it. It seems like we need somebody to help us define escrow, define

679 – what does it mean to conduct a closing and then maybe we can give some  
680 clarity to you know when is a license required, when is it not. I saw a hand. Yes.  
681 \_\_\_\_\_ if you'd introduce yourself. I forgot. Anytime you speak, anytime I  
682 call on you, if you would just introduce yourself. Dave we know you well enough  
683 that you can just speak up, but if you'll introduce yourself.

684 Troy: I'm Troy Lilly I have done thousands of loan signings. I have never committed  
685 escrow. I don't intend to commit escrow. I represent a – I've actually worked  
686 with Representative Morley and he's one of the sponsors of this – created this  
687 Commission. We've stopped to talk to \_\_\_\_\_. I've talked to Suzette and the  
688 Commissioner of the \_\_\_\_\_ Insurance Commissioner about what is permissible  
689 and what is not permissible; and most of the professional signing agents who  
690 know what they're doing, do not do any of that stuff or – and will not do any of  
691 that stuff. It is very clear to us what we can and cannot do. We don't need any  
692 additional legislation or instruction on what we can and cannot do. What we need  
693 to do is make sure that we don't have people continuing to infringe in our  
694 business where they're not, where there is no statutory reason to do so. I have  
695 asked Suzette, you know, certainly if there is somebody you need to come after, it  
696 would be me. And Suzette, I've asked you several times if you're going to do  
697 something and you said no. Is that correct?

698 Suzette: No to what?

699 Troy: That am I doing anything inappropriate?

700 Suzette: You're not.

701 Troy: Am I committing escrow?

702 Suzette: No you are not.

703 Troy: I am not. Okay. So for those of us – maybe some of these other notaries need to  
704 be educated. That's why you also have title companies who need an education  
705 too; because just because a notary does the signing, has no more validity than the  
706 title agent – or title company. In other words, crap happens to the title company  
707 just like it happens with a notary. Having additional rules that have no statutory  
708 bearing aren't going to solve those problems. We have a different – a little bit  
709 different perspective. We, we do not, we have run our businesses above board. I  
710 have talked with those people who, you know, I've talked with everybody. I've  
711 talked with \_\_\_\_\_ Suzette. I haven't talked with Tammy. I left her  
712 messages. I haven't had any response from her; but these letters that you sent out  
713 – this last one says basically that we can do what we have said that we can do; but  
714 there have been letters before this that said you that you are requiring us to have a  
715 title producer's license. Then we were required to have an escrow license.

716 Chair: Let's be clear really quickly if I can just interrupt Mark – it's Mark right?

717 Troy: Troy.

718 Chair: Troy. Sorry Troy. The letter you are holding up was a Utah Land Title  
719 Association letter and nothing to do with the Title and Escrow Commission.

720 Troy: Well these have a chilling effect on our business and our clients get these letters  
721 that have been basically directed from Tammy or whoever.

722 Female: No, they're not directed from the department at all.

723 Female: No, we've not ever even seen them until they already come out.

724 Troy: Okay. Wherever these are coming from, this kills our business, okay? This  
725 destroys our business right here. When this comes to our businesses, when these  
726 go out to other title companies, this shuts down our business. They call us and  
727 they say we cannot do business in the state of Utah with mobile notaries, okay?

728 Man: Looks official doesn't it?

729 Troy: It looks official and it's crap. It doesn't have any statutory . . .

730 Man: \_\_\_\_\_ the Utah Insurance \_\_\_\_\_.

731 Chair: So just to be clear, that came from a third-party organization, not from the  
732 department for the Commission, so and the correct memo I think just quotes the  
733 department's prior 2006 letter of dealing as best they could at the time that with  
734 that, with that issue. So if we have -- I guess the question for the Commission and  
735 the department, where do we, where do we go? Do we need to do anything else?  
736 Do we have everything we need to be able to move forward or do we want to try  
737 to define a little more clearly. What does it mean to conduct a closing? In the  
738 escrow section right? Is that where that is in the escrow section it talks about  
739 conducting a closing, you have to have an escrow license or wherever that is? If  
740 one of the things that's itemized on there is to conduct a closing, what does that  
741 mean? Do we need to perhaps define that or get some clarification as to what  
742 does it mean to conduct a closing? Yes Pete.

743 Pete: In the Insurance Code it's not defined as clearly as it is in Title 7.

744 Chair: Right.

745 Pete: And David keeps referring to Title 7 which has no relevance here. So, it wouldn't  
746 be a bad idea if we just stuck with the definition that's in the Insurance Code.  
747 Which is a real estate closing. But I do agree and I do suggest that you, if you're  
748 looking for a strict, for a more strict interpretation, you're going to need to create  
749 it as opposed to allowing all the other people to make their own interpretations.  
750 But there's two missions. Troy makes a valid point. You can't indict the notary  
751 industry and the thousands of closings that were done because there's a minor  
752 number of people, a small number of people doing something inappropriate. Like  
753 the agent who was unlicensed, his agency should be, you know, prosecuted also,  
754 so that you should find out -- I would suggest you should find out what companies

755 they're working for and then notify those companies that they're also in violation  
756 \_\_\_\_\_. They're asking people to violate the law if this is the law. Okay? So  
757 that would be step 1 which would be the easiest step, but I agree with Troy. The  
758 ULTA sends out a letter which looks very official and states in it that this is the  
759 department's position, and in the minutes you talk about the ULTA doing this, so,  
760 I don't know that we can draw a bright line between the Commission and the  
761 ULTA.

762 Chair: Other than the ULTA obviously doesn't have any regulatory authority.

763 Pete: No.

764 Chair: So, that's . . .

765 Man: But it's a scary \_\_\_\_\_.

766 Man: All they need to know is . . .

767 Chair: I understand.

768 Troy: I've got emails – mine is \_\_\_\_\_ also \_\_\_\_\_ random, literally  
769 thousands as well and I've got emails from the clients that hire me from out of  
770 state that say well we've received this memo that we just can't use you anymore.  
771 You have to be licensed and I sent a specific email back to them stating I've  
772 spoken with members of the Title and Escrow Department, Commission and they  
773 have said that that is not their disposition, that it was an unauthorized use of, of  
774 Utah Insurance Department of, you know, headings or the titles. They got back to  
775 me and said yeah, Pete, you're right, we jumped the gun on that one. But, it just,  
776 you know, whenever you're dealing with regulation or any type of regulatory  
777 control over their business, they become scared. They, they – and so ULTA I  
778 believe put this memo out in order to support their members to scare off the  
779 business of the mobile notaries from taking it outside of their office or their  
780 client's offices – to force more business within the title industry, within the  
781 escrow industry and give the mobile notaries to be marginalized outside of that  
782 business. That's my personal opinion.

783 Chair: Okay. All right, any other comments?

784 Man: Just a question. In this discussion of the rule regarding the definition, do we want  
785 to have the AG office come up with something or is that – has that been  
786 discussed?

787 Tammy: No, I believe at the last minute, we put it back on you. You guys come up with  
788 the definition. You represent the industry, so you come with the definition.

789 Man: What an escrow \_\_\_\_\_?

790 Tammy: Mh, mh. And what a closing is.

791 David: I think maybe I'd like to just – for my, my a, I would like to know for example  
792 Perri, if, can we look to Section 7, Title 7 of the Utah Code.

793 Perri: We can look at it. I mean we don't have any regulatory – I mean we could look at  
794 it for guidance.

795 Man: Right.

796 Tammy: I mean it's not gonna have any effect. If they want to \_\_\_\_\_.

797 Man: It clearly doesn't?

798 Tammy: It clearly doesn't.

799 Man: Even to definitions that might . . .

800 Tammy: Right.

801 Man: Okay.

802 Tammy: Mm, you could look at it for guidance if you were drafting something new.

803 Man: You could mirror their definition.

804 Man: The, the bigger question with the mobile notary is where does the HUD get  
805 prepared? Where does the documents get reviewed with the customer if you're in  
806 fact no going over the documentation that questions are asked of every person that  
807 is signing, what does this mean, what does this mean? That's the bigger question  
808 that we got on the table that I think we need to go down that road.

809 Man: That, that's very simple. That all happens with the loan officer or the title, the  
810 escrow agent who's handling the signing or the closing.

811 Chair: Licensed in the state of Utah?

812 Man: Well, that that's . . .

813 Chair: That's the bigger question.

814 Man: We have no idea . . .

815 Chair: I asked . . .

816 Man: How would I know?

817 Chair: I understand that. That's the bigger question we . . .

818 Troy: I think that's probably the case most of the time, okay, but it's not up to me to  
819 regulate their industry. It's up to me to make sure that I follow the guidelines that

820 I've given as a notary public and make sure that I don't step outside the bounds  
821 and into becoming an escrow or a title producer or an escrow producer, okay?  
822 And as long as I make sure that I don't – that I personally fall within those  
823 bounds, it's not my responsibility to make sure that that person is a licensed title –  
824 licensed in the state of Utah to do business.

825 Man: David.

826 David: Cort, I – one of the things that I think you know that we have a problem with is  
827 that we are using terms interchangeably. What is an escrow for some of us means  
828 the closing. You know, what is the closing . . .

829 Man: It's a verb or a noun.

830 David: Is that, is that the physical meeting of the people? I mean you guys sent  
831 California, you know, they called started talking about settlement conference as  
832 the meeting which we would call a closing here in Utah. And so, you know, there  
833 really is a need for a real good definition because, you know, what we're talking  
834 about – you know some people are talkin escrow, they're really meaning the  
835 closing. Some people are talking about escrow as the whole process of gathering  
836 payoffs -- preparing not just settlement statements, but preparing documents.  
837 And they're preparing everything . . .

838 Man: Disbursing funds.

839 David: Well that's, that's also the preparing documents, you go through the signing,  
840 meaning whether they – escrow or part of the escrow or not, that becomes a  
841 definition question. They do have the post-closing requirements of getting  
842 approval, give money – disbursing.

843 Male: . . .post closing requirements and getting approval, getting money, disbursing, I  
844 mean we're talking a big process when, you know, and like I think Cort was  
845 saying , you heard him . At what point does the license become required? And  
846 the other problem is I think Tammy's you know running into and I you know, Cort  
847 you and I used to talk about a certain closing that I got in – That I saw copies of,  
848 where literally we're seeing title companies outside the state of Utah conducting  
849 closings in the state of Utah without filed rates, you know, they are getting these  
850 signing services in all– to complete it here locally but they're doing closings and  
851 escrows in the state of Utah. And they're unlicensed, you know, unfiled rates, you  
852 know, at what point– you know we gotta go to definitions - closing, escrow,  
853 settlement, when's the license required, and then when, you know– you know–  
854 when does the license require for what section?

855 Troy: A mobile notary doesn't even have the ability to do the majority of that. We don't  
856 have the ability– I don't– I can't produce – I'm not a title company so I can't  
857 produce documents, okay? I also can't – I don't do any of that stuff except  
858 receive the documentation and have it notarized and then send it back to the title  
859 company. So we don't even have the ability to do the majority of that stuff.

860 David: And the only question is there's some documents that are notarized and some  
861 documents that are not notarized that you would get signatures on. You know, if  
862 we are just talking about the notarized documents, you know, I fully agree with  
863 you but if you are not notarizing a document is that— where does that fall within  
864 the definitions. You're not acting as a notary...

865 Troy: Right but they can sign documents – I don't explain those documents to them,  
866 they can sign the documents and if they have a problem signing the documents  
867 they are more than welcomed and encouraged to call their loan officer or their  
868 escrow officer to make sure that they are done appropriately. I do not have the  
869 authority and I am not going to tell them how to sign their documents or what  
870 those documents mean.

871 Male: In my – so— In my my experience Troy you're the exception not the rule, I'll  
872 have to tell you that so...

873 Male: Is it Mark?

874 Female: No Troy

875 Male: No Troy

876 Male: Sorry, I messed everybody up, so.

877 Male: Well you know we have notaries and we have people in our business just like you  
878 have in your business. I pick up a lot of business because I have notaries show up  
879 in flip flops that are half drunk. Okay? So that doesn't indict the whole business  
880 that just means that we have people who are unprofessional...

881 Male: Sure sure.

882 Male: ... just like you have people unprofessional in your business. I've walked into  
883 title companies after doing years of assignments, okay, and having years of  
884 experience in the banking industry and had some 22 year old who has an escrow  
885 license, have no clue what they're doing and this misinforming the client. How  
886 do I know that? Cuz I am sitting there as a notary watching him tell— talk— try to  
887 explain the hud and these other documents and being full of crap, has no idea  
888 what he is doing but he's bluffing through the whole process. So...

889 Male: He has a license to that.

890 (Laughter)

891 Male: ... So he has a license to lie to the client (Laughing)

892 Female: Can you give me his name please?

893 (Laughter)

894 Male: How many title companies you want me— I've gone into title company after title  
895 company and saw 22 year olds who have these— it's just like real estate agents. I  
896 had a real estate license I sucked as a real estate agent cuz they did teach me how  
897 to do anything in real estate. I might— you know I was out there they teach you, a  
898 lot of these classes how to pass a test to become a real estate agent. It has nothing  
899 to do with being a real estate agent.

900 Male: Perri I wonder if you wouldn't mind giving us a little guidance as a commission  
901 as to what we can do. Can we or are we within our authority as a Commission to  
902 help write a rule?

903 Female: Yes.

904 Male: ... to define these terms that aren't defined in statute.

905 Perri: It might be difficult though to— I'll have to look at the authority where we're  
906 gonna put it...

907 Male: Okay.

908 Female: .. to see if we have the authority to define an escrow.

909 Male: Okay.

910 Female: But we can start there.

911 Chair: If you would maybe for our next meeting or in the \_\_\_\_\_ let us know what our  
912 options are, if we want to try to help this, you know, misunderstanding we've got  
913 notaries that, you know, are they okay are they not okay? The main question for  
914 me is when do we need a license? What functions currently, you know, and what  
915 is the code say, maybe that's \_\_\_\_\_ opinion I don't know tell me what it might  
916 be. When do we need an escrow license? And what...

917 Female: Well, and I'll tell you what— the commissioner has asked me to look into what is  
918 an escrow.

919 Male: Okay... Great.

920 Female: Of course Utah law doesn't say. So I've been looking into other jurisdictions and  
921 it is across the board.

922 Male: Okay.

923 Tammy: So I think that's why in the last meeting you know we kinda decided that the  
924 commission should make input on "What is an escrow?" You guys do business in  
925 Utah you know what it is. And start jotting ideas down because really if we look  
926 at law from all the other jurisdictions it's everywhere. And there really isn't...

927 Male: Some of them are not even licensed...

928 Female: Right right

929 Male: ... I mean some jurisdictions don't even have the equivalent of an escrow license,  
930 I know that.

931 Female: So at a minimum I think we need to define what escrow is, may- really from  
932 experience and then put that in rule if a rule doesn't work and it would have to be  
933 legislation.

934 Male: Okay, another hand?

935 David: Yes, this is your \_\_\_\_\_ again. I think that also part of that needs to be what  
936 aspects of the escrow functions are subject to the regulatory control which are  
937 licensable functions such as the preparation of the HUD or the calculation of the  
938 APR on the \_\_\_\_\_ of London. Or the separation of documents that require  
939 notarization wording that have the statutory requirements for venue and validating  
940 someone's identity. Those function versus the documents that don't require that.  
941 And some of those are also very sensitive and controlled by \_\_\_\_\_, then you  
942 start getting into this well if they're not notarized it won't \_\_\_\_\_ maybe the notary  
943 doesn't have to be there for those documents those can be handled just over the  
944 phone or a separate \_\_\_\_\_.

945 Male: Troy what type of \_\_\_\_\_ well probably not the \_\_\_\_\_ -- What kind  
946 of instructions do you receive from these parties that hire you?

947 Troy: Well \_\_\_\_\_

948 Male: They obviously they have a list of the documents they're sending you, correct?

949 Troy: No.

950 Male: No?

951 Troy: No they won't send those to you in advance \_\_\_\_\_ staff you are that's at  
952 the front of the documents but you don't those until...

953 Male: No red instructions from who you're working from as to what you're to do?

954 Troy: Well they want you to show- they want you to show up and be professional, they  
955 want you to dress professional, they want you to be on time, they want to make  
956 sure that the documents are transported to them and appropriate- in other words  
957 in a proper time and you have care \_\_\_\_\_ control over the documents. Those are  
958 the main guidelines that all of these agencies require of you.

959 Male: That's right I think what he is asking is-

960 Troy: Yeah I know...

961 Male: You normally have a-

962 Troy: No those instructions, those instructions are closing agents, those instructions are  
963 not for notaries. Those instructions a lot of the documents are signed later by a  
964 closing agent where it says at the bottom "closing agent". Those documents and  
965 instructions are followed by the closing agent. We are not a closing agent.

966 Male: But you're not saying these companies send you instructions and listed a number  
967 of documents that you need to have signed and put you in charge of those  
968 documents in the signing that would mean that you're the person they ask a  
969 question as to what is this document and what am I signing.

970 Troy: No absolutely not.

971 Male: Okay.

972 Male: But the answer could be maybe— you know, as Troy mentioned and I have  
973 experience in this, some title companies that send people documents and often  
974 times it's not the title company that sends them the documents. It could be the  
975 signing agency that the title company has hired who has found me to act on their  
976 behalf and then those documents get resent back to the title company \_\_\_\_\_.

977 Male: Well back to the \_\_\_\_\_.

978 Male: It's just— it's a hodge podge of standards but in general there is within the  
979 documents your standard set of documents that you would find at closing. You'd  
980 have the HUD-1, the escrow instruction, the lender instruction, you know-

981 Male: I know, I mean basically the 90 or 100 pieces of paper that we find in any type of  
982 loan package. But the instructions in terms of telling what we need to do , what  
983 we should do, it's kind of—

984 Male: you made \_\_\_\_\_

985 Male: There's an industry standard...

986 Male: but typically it is not.

987 Male: ... that they expect you to follow as a professional; however, they're not going to  
988 say, well on this document you did this and this document you did that. It's just  
989 general go out and meet the person get the signing and then submit the documents  
990 \_\_\_\_\_.

991 Male: Well— oh sorry Dave.

992 David: ... You know and I— we talked about title 7 and I think you'll— as you start getting  
993 into this matter you do need to refer to chapter 7 because under 7 it says you  
994 cannot do an escrow unless authorized under the Department of Financial  
995 Institutions. And then it \_\_\_\_\_ certain, you know, functions out of that, like a  
996 realtor collecting \_\_\_\_\_ money, the attorney functioning under, you know, a trust  
997 account, and title, you know, department of fi— Department insurance is kind of  
998 accepted out of that. But so as you start defining escrow you have to realize that  
999 there is a statute out there that says if you're doing escrow you have to authorize  
1000 unless you're \_\_\_\_\_ within the licensing class \_\_\_\_\_ insurance or attorney or you  
1001 know whatever.

1002 Male: So maybe a starting point would be, \_\_\_\_\_ if you could kind of help us  
1003 understand what our authority could be in helping to clarify this, you know?  
1004 Could we write some definitions? Or as part of our authority can we— and is there  
1005 any interplay between, you know, cuz the definition of escrow still apply in this  
1006 case if what Dave is saying is correct it says hey this is a business of escrow and  
1007 unless you fall under one of these categories do we get to them still hang on some  
1008 of those definitions perhaps? I mean it sounds-

1009 Male: I was \_\_\_\_\_ -

1010 Perri: No we don't get to hang on DFI's definition just because the title from the Utah  
1011 code are completely separate.

1012 Male: Right.

1013 Female: I mean you're exempted out of title 7 but title 31-a is not saying refer back title 7  
1014 for the definition.

1015 Male: Okay.

1016 Female: So...

1017 Male: So that's pretty clear, okay.

1018 Female: That's very clear, right.

1019 Male: Okay.

1020 Female: So I think where— what we do is come up with a definition of escrow and we'll  
1021 look-

1022 Male: We can look to 7 for guidance perhaps.

1023 Female: We can look to 7 for guidance and I think— I think we can do it in a rule. We'll  
1024 see.

1025 Male: Okay.

1026 Male: Don't you want to do closing too besides just escrow? What are the \_\_\_\_\_, you  
1027 know insurance \_\_\_\_\_ statute talks about closing and settlement.

1028 Male: Suzette that would be your preference that— help us clarify both of those two.

1029 Male: Question?

1030 Male: Yes, Jack

1031 Male: To our \_\_\_\_\_, you don't actually— you're not involved in the closing transaction  
1032 you're doing what would be part of what we would refer to as settlement in the  
1033 state of Utah. That portion of the settlement that \_\_\_\_\_ to notarization of the  
1034 documents that need to be notarized.

1035 Male: Right, right

1036 Male: You're not necessarily involved in every aspect of what a settlement would be if  
1037 someone went to a title agency where wired money is being wired to you or  
1038 \_\_\_\_\_.

1039 Male: The only difference of is— just picture it this way, okay? You have notary come  
1040 into a title company and notarize the documents -

1041 Male: For the title company

1042 Male: or escrow producer right there, okay? The only difference is we're no longer in  
1043 this office, we're at their home and they have the ability if they have questions to  
1044 call this person in an office to complete the transaction if they need to. That is the  
1045 only difference between the two. We simply have— we simply provide a service  
1046 for these folks for a lot of types, you know, there at 7 o'clock at night and they  
1047 work double shifts and they can't come into a title office. You know that have—  
1048 they need a 7 o'clock, they have kids they have to take care of and we provide a  
1049 service for them so that they can do that while the kids are asleep or whatever and  
1050 they can call a title producer and most types \_\_\_\_\_ 7 o'clock if the title producer  
1051 \_\_\_\_\_ should have a number that that person can reach them at.

1052 Male: So clarify my thinking, all though you may have in front of you all of the  
1053 documents that the lender has sent you're not speaking to anything except that I  
1054 need to have your signature here and my duty is notarize that signature.

1055 Male: When they say-

1056 Male: But what about all these other documents? You just say you're free to read  
1057 through those and if you have any questions...

1058 Male: What I do a do— if they have a specific question I say no those questions have to  
1059 be direct back to your license title officer. If they are wanting to know where in  
1060 the documents that can find something I have enough knowledge to point them in

1061 the right direction. If they want to know the APR or they want to know a legal  
1062 description , they want to know what their \_\_\_\_\_ cancel dates are, things of that  
1063 nature that are just generally human nature to want to know about-

1064 Male: You point directly to the document?

1065 Male: ... I can point to the documents and this is where you can find that information  
1066 but I can't give an opinion or direct even with definition of what it all means.  
1067 Even though I may know because I've done them thousands or a lot of- besides  
1068 that and \_\_\_\_\_ goals is to not explain anything that's just to give them- point  
1069 them in the right direction and show them what their information is.

1070 Male: And then finally I think you made the statement earlier not your responsibility in  
1071 the role of a notary to verify whether the party asking you to notarize these  
1072 documents are in fact licensed to practice \_\_\_\_\_.

1073 Male: That's correct.

1074 Male: Jeff?

1075 Jeff: I just gonna make a quick comment to go back a few months originally when this  
1076 topic was brought up we're now creating \_\_\_\_\_ or rules to define these  
1077 things. But one of the main focuses was to identify escrow officers or title  
1078 officers that are not licensed here in the state of Utah and from some of the  
1079 discussion Jack just brought that up, you know, I think there is some caution on  
1080 the part of the Notary Association as their in defense of their actions but at the  
1081 same time I think they have information that could greatly assist us in regulating.  
1082 Finding out whose licensed, who's not licensed because they're involved and  
1083 could tell who they're doing business for.

1084 Male: So I just want to point that out to the commission that may be an opportunity or  
1085 something to explore down that road.

1086 Male: And then turn in their customers \_\_\_\_\_

1087 (Inaudible)

1088 (Laughing)

1089 Male: Yeah that works really well-

1090 Male: AI?

1091 AI: The main- the main problem I think that hasn't been addressed is where is the  
1092 escrow if out of the state lender is sending it to the notary, the notary is getting is  
1093 signed and returning it to the out of state- how are we involved in that licensing  
1094 at all? Then you get into whose issue in title insurance, who's doing search and  
1095 examination, you might be- have a license questions there but on the documents

1096 that's coming from an out of state lender we're not involved. Our industry is not  
1097 involved so let's go home.

1098 (Laughter)

1099 Male: \_\_\_\_ Troy do you-- do you ever as part of your closing do you ever receive funds,  
1100 checks as part of a closing?

1101 Troy: If those individuals wish to put funds in the FedEx envelope that is totally up to  
1102 them. I have no \_\_\_\_\_ control over that. They wish to do so they can and  
1103 if they don't have to wish to do so they don't have to. I have no more responsible  
1104 for those fund than a FedEx or UPS carrier.

1105 Male: Sure.

1106 Male: I would say also 99% of the time they've already dealt that with their title agency  
1107 and in some cases they'll handle it after the closing or after I've left. They'll wire  
1108 funds \_\_\_\_\_ or whatever and set up a transfer out to the title company.  
1109 They'll get the routing and transit information sometimes it's actually included in  
1110 the documents, this is where to send your funds needed to close funds, they'll  
1111 we'll just leave that with them with their copies and they'll handle that as a  
1112 separate function.

1113 Male: Okay.

1114 Male: But no I am not-- I do not have \_\_\_\_\_

1115 (Inaudible)

1116 Male: Never transport funds.

1117 Male: Okay.

1118 Male: Let's \_\_\_\_\_

1119 Male: Now I can't see, excuse me one more thing, I can see however but that would be  
1120 something that the an experienced or inexperience notary would do just without  
1121 thinking about it, not knowing that that would be \_\_\_\_\_ I think that's where  
1122 the rubber meets the road here is that what are these functions? What are the  
1123 definitions that qualify as an natural function?..

1124 Male: Yeah, yeah

1125 Male: And if those are defined and \_\_\_\_ in way that we know where the black and white  
1126 is within the regulation I can act professionally knowing what I am suppose to act  
1127 against an d not just guess-- maybe that is maybe that isn't, I don't know, what is a  
1128 closing? What is a escrow? What are transportation of the -- transporting the

1129 funds? You know what— where is the definition of what those terms and \_\_\_\_\_  
1130 are?

1131 Male: So Imna kinds maybe wrap this one up a little bit here. I think Larry you had  
1132 another comment or were you okay?

1133 Larry: Well I was just— I just made the comment it looks like we are boiling this down if  
1134 we try to come up with a rule and what part can a mobile notary play in an escrow  
1135 closing? As we define what's an escrow what the license allows you do-

1136 Female: So can I— I don't think we want to look at it that way...

1137 Larry: Okay

1138 Female: ... because we don't regulate mobile notaries.

1139 (Inaudible)

1140 Male: No no no I am just saying we've got to let the — if the notary comes in what part  
1141 do they play so when we write our rule we can— If I am a notary it would be nice  
1142 to know what I can do. Is that what you're sayin Troy?

1143 Troy: \_\_\_\_\_ exactly

1144 Male: And I think we-

1145 Troy: Well yes and no... it depends on— I mean—I am sorry that I am this way but I am a  
1146 little bit suspicious of people who own title companies who have seems like tried  
1147 to take me out of the picture, okay? Just I am not accusing anybody of anything  
1148 it's just well apparently those people making the rules for me, okay? I don't— I am  
1149 not on this commission I don't have any representative...

1150 Male: Okay.

1151 Troy: ... I don't have any ability to effect this commission other than being here. the  
1152 rest of you can just meet and afterwards say crap on the notaries we make sure we  
1153 run them out of business because it effects our business. I am not saying that but  
1154 you could do that, okay? I don't have any representation but what I do have is— I  
1155 do have representation from our city— state legislature and as I've talked to him  
1156 in-depth on this he's told me if there is any regulation going to happen specifically  
1157 in this area is going to come from him and the state legislature, will not come  
1158 from commission. And he has said that over and over as we've had these  
1159 discussions. Any legislation that is passed needs to come from the state  
1160 legislature not from the commission. Again, I am not trying to tell you what to do  
1161 or what not to do I am simply telling you what he has said to me.

1162 Chair: Okay so Perri could you maybe just send a little email to us with what the statute  
1163 currently \_\_\_\_\_ there is any definition of escrow, if there is any definition of

1164 closing, and when a license would or just either tell us what we've got currently  
1165 by way of definitions and by way of application of licenses as expand in 31...

1166 Male: In the- sorry

1167 Male: ... and then we can perhaps- and if you would include in that whether or not  
1168 we're within our authority to add some definitions by rule to help give a little  
1169 clarity in the industry.

1170 Female: As I looked at this right now we definitely could define escrow, I am struggling  
1171 with where we could us settlement or closing. Without the \_\_\_\_\_ statute.

1172 Male: Isn't it referred to?

1173 Female: Well I am not seeing it, but.

1174 Male: Okay

1175 Male: No I mean- are settlement and closing terms used in 31 now?

1176 Male: Yeah there's 31a-1-301-57 defines escrow as being a closing or settlement.

1177 Female: Well I am sure somewhere...

1178 Male: But there's no definition of closing or settlement.

1179 Perri: Right so I don't know that we can enact a rule to clarify a definition. We could  
1180 enact a rule- so like in say in 31a-23a-306 the word escrow is used- this is going  
1181 to be a problem. We might have to just add- we might have to amend the statute.

1182 Male: Okay, will you just kind of formally look at that and let us know. Both with, you  
1183 know what a currently defines if there is a definition and when a license is  
1184 required is with that is that can be boiled down and then what our opportunities or  
1185 restrictions might be to help get \_\_\_\_\_. Does that sound like a place to start?

1186 Male: It's a place to start, yeah.

1187 (Laugh)

1188 Male: \_\_\_\_\_ the last time it- as I discussed it with Representative Morley, he owns a  
1189 commercial construction company and he's- he has documents carried to and  
1190 from his office by from title companies that have funds in them and those people  
1191 doing the currying from the title companies are not \_\_\_\_\_ -- they don't have  
1192 an \_\_\_\_\_. This point to me was they're, you know, if the title companies are  
1193 going to require notaries to have escrow license to transport documents then the  
1194 title companies are gonna have to make sure that all the people who are  
1195 transporting documentation from their office to commercial entities do the same  
1196 thing. Cuz there is no difference.

1197 Male: Yeah but \_\_\_\_\_...

1198 Male: Carrier has to— if a carrier has to have an escrow license to carrier then that  
1199 means FedEx that means all of your carriers that means everybody has to have an  
1200 escrow license in order to do that.

1201 Male: Okay any other comments from the commission on this? Any other direction we  
1202 want \_\_\_\_\_ to Perri? We'll leave it on our agenda as a discussion item and  
1203 hopefully will be able to make some progress on it in the coming weeks. Okay,  
1204 thank you. Jerry, next up? Status of Salt Lake Title's orderly withdrawal.

1205 END ESCROW/NOTARY DISCUSSION

1206 AGENT WITHDRAWAL

1207 Jerry: Okay Mr. Chairman I received a call from a \_\_\_\_\_ from engine \_\_\_\_\_ and it was  
1208 the president of Salt Lake Title and I believe Perri I don't know if you were able  
1209 to look but cause last month we were wondering if there was any authority for us  
1210 to compel and underwriter to take those files. I don't believe that there is I  
1211 believe that it tends to be a contractual agreement between the underwriter and the  
1212 agent themselves that's what happened to the file. Is there clear cut rule that says  
1213 how long we're a title company going out of business is to keep the files?

1214 Female: Yeah \_\_\_\_\_ did you look at that? I forgot what it was, how long title  
1215 companies were to keep the record.

1216 Female: 15 years.

1217 Male: 15 years, and then what— I guess there's no investigation done unless there is a  
1218 complaint from somebody out there saying I can't get a hold of the title company,  
1219 you know, because we've had— cause we've seen it a lot of them that haven't filed  
1220 their final annual reports and we revoke their licenses and I don't think that there  
1221 has been anything that I remember seeing what happens to the file if we revoke  
1222 their licenses to—you know, and I don't because typically we've been told in the  
1223 past that if you revoke their licenses at that time we have no authority later on to  
1224 go after them if say 5 years down the road we couldn't get the file. Is that true or  
1225 am I off base on that? We usually revoke the license and say okay you're no  
1226 longer \_\_\_\_\_ but it seems kind of strange that somebody comes along and is trying  
1227 to get out of—but they can't afford to keep their files but they were scanned or  
1228 whatever. What happens to those files? I know, I know what it was up to a lot of  
1229 the small agents while I was up there at the convention this last week and there  
1230 was a perception that if you ever went out the underwriter would take your files.  
1231 But I can see why the underwriters at this point don't want to— first they don't,  
1232 they don't deal with the escrow side of that \_\_\_\_\_ they've made that pretty clear  
1233 to their agents and so they don't want to take those phone calls because it could be  
1234 labor intensive to be in a non-\_\_\_\_\_ work— an agent \_\_\_\_\_. And then as far  
1235 as having to go \_\_\_\_\_ search \_\_\_\_\_ real easy to print off in this day in age  
1236 off the where most of your counties are automated that if you want to know

1237 \_\_\_\_\_ and print off the latest and greatest abstract. So what would— I mean is  
1238 somebody decide they couldn't afford to keep the files would we just terminate  
1239 their license anyway? There— as a company? \_\_\_\_\_ their license then  
1240 anyway?

1241 Female: Wouldn't have jurisdiction over them to do anything anyway.

1242 Female: We can make it as in place in times where we done a revocation we have ordered  
1243 that files are to be dealt with in a certain manner. And if it is not done and they  
1244 still have a license that we can go after then we can proceed on but once they  
1245 withdrawal then they're suppose to notify us of where their files are.

1246 Male: In our last meeting we asked two questions on this topic. One and the motion was  
1247 to determine can we expedite the fees? And I— and that was I think felt-

1248 Female: And that was determined— that's a legislative— that would require a legislative  
1249 change, there is no way I can do that.

1250 Male: Okay. So the payment of in 2011's assessment won't happen until 2012?

1251 Female: Right.

1252 Male: And we just-we're just gonna

1253 Male: But that's if agency want to keep their license but if they \_\_\_\_\_ try to get rid of  
1254 their license I mean would you have the authority to go up to agency for the

1255 Female: It's just the way the statutes are written, I have to collect the money for the year  
1256 that it went under.

1257 Male: Okay.

1258 Female: So what's that— what's that statute?

1259 Female: Which one?

1260 Female: That you're talking about.

1261 Female: It's this one

1262 Female: The collection of fees.

1263 Female: This could be an act to rule? Isn't that statute?

1264 Female: I think there already is a rule that you can add to. It's under 23 \_\_\_\_ 15. But  
1265 there is two assessments that have been grouped together, there's the branch office  
1266 assessment which is...

1267 Female: ... which is billed annually. And then included with that since we got away with  
1268 1% reserve account when we do the recovery fund, the recovery fund is also  
1269 billed at the same time. And it's based on premiums that are reported the previous  
1270 year, by April 30<sup>th</sup>.

1271 Male: \_\_\_\_\_ told me those only applied to a agency that's functioning but if they don't  
1272 function – I mean I don't know, we may at some point have to look at the  
1273 legislation piece but how do you force that after the fact?

1274 Male: So while you're looking into the rule can we just maybe ask– or possible rule.  
1275 Did the department look at whether or not you could compel the underwriter to  
1276 take the file?

1277 Female: I did not \_\_\_\_ personally.

1278 Male: Okay.

1279 Male: I think that was part of what we were trying to understand. Is there authority, I  
1280 don't know if that's Perri or the department that needs to help us understand that,  
1281 but is there – do you care, I mean has the commissioner and the department – if  
1282 all these files disappear and...

1283 [INAUDIBLE whispering and murmuring]

1284 Male: So, Perri, we want to take – give you some time to help us look at that too? Or is  
1285 that...

1286 Female: Yeah.

1287 Male: Okay.

1288 Female: And Perri that's the meeting that's scheduled with you on the 12<sup>th</sup>.

1289 Perri: Yes, and did you get my email about that?

1290 Female: Yeah.

1291 Chairman: Okay. So sounds like we need a little more time to understand and answer to  
1292 those questions from your prior motion, Jerry.

1293 Male: Uh huh.

1294 Chairman: And uh you're probably not prepared to make any....

1295 Male: Uh, one question. I ran into Angie at lunch last week and she asked me to give  
1296 her a report. I heard frankly she doesn't need to worry about the assessment for  
1297 this year.

1298 Male: No I don't think that's what we are saying.

1299 Male: Where she's out of business. She's sitting there waiting for clients to find  
1300 someplace for the files so she can talk to \_\_\_\_\_. Everything else is taken care of.

1301 Chairman: Yeah, I think the way it stands now she would have a 2011 assessment that would  
1302 be due in 2012 and there's no way around that one, it sounds like that's legislative  
1303 change. She was asking if she could pay that now and just be done and there's –  
1304 the fee isn't even determined until 2012. So, or both the education from and the  
1305 title and the number of facilities she has, that will continue on – so I think that's  
1306 what we heard from the department today. Those two continue on. David?

1307 David: Well I pulled up the statute which is 31a-20-110 and it basically is under the  
1308 underwriting rule it says no policy can be issues unless there's been a reasonable  
1309 search and examination. And then it goes on to say that evidence of that  
1310 reasonable search and examination – you know evidence is a re – a search and  
1311 reasonable determination shall be retained in a files of the title insurer or it's  
1312 producer for not less than 15 years.

1313 Female: Mm hum.

1314 [INAUDIBLE]

1315 Chairman: That sound like that might be helpful in our discussion?

1316 Female: Yeah, yeah.

1317 Chairman: Insurer or producer. Okay. Alright any other discussion on that one? Okay let's  
1318 move onto new business. One of the things we get to do every year is vote for a  
1319 new chair and vice chair and uh – so we'll start that discussion.

1320 Male: Not it.

1321 [LAUGHING]

1322 Male: Can you put \_\_\_\_\_ in twice?

1323 [LAUGHING]

1324 Chairman: I said not it too.

1325 Male: No you didn't, no you didn't.

1326 Male: Oh okay.

1327 Male: Jerry is the only one.

1328 [INAUDIBLE]

1329 Female: There is nothing in the statute that prohibits it.

1330 Male: Yeah, I vote that.

1331 Chairman: I would be happy to rotate it. Anybody else is ready for that opportunity.

1332 Male: That excludes me.

1333 Male: I was going to nominate you \_\_\_\_\_.

1334 [INAUDIBLE]

1335 Female: I think you'll be \_\_\_\_\_.

1336 Female: Was that a second I heard?

1337 Male: That would be a partial but I'd also \_\_\_\_ less than the adequate knowledge to do  
1338 Bart's job, that's for sure.

1339 Chairman: Um, so you would incline a nomination, is that what you're saying?

1340 Male: I don't think I would do very good.

1341 Female: It's just reading.

1342 [LAUGHING]

1343 Female: You pass enough tests I think everybody could.

1344 Chairman: So we really have any prior discussion on this so...

1345 Male: Who's the vice chair at this point?

1346 Chairman: It was Gary and he's been replaced, so.

1347 Male: So did Kirk take Gary's place \_\_\_\_\_ ?

1348 [INAUDIBLE]

1349 Chairman: I think either one of 'em...

1350 Male: Well the new guy's in training so it's you three.

1351 [LAUGHING]

1352 Male: I think its Dirk \_\_\_\_\_.

1353 Male: So I make a motion to appoint Dirk as...

1354 [LAUGHING]

1355 Chairman: Dirk you would make a fine chair. You really would make a fine chair.

1356 Male: I'd like to second that motion.

1357 Female: What happened to the first motion?

1358 [LAUGHING]

1359 Female: Jerry made the motion name Dirk ...

1360 Female: No the first motion was Dirk...

1361 Male: I named Cort right? See?

1362 Female: Yeah, named Cort.

1363 Female: There was no second.

1364 Female: Yes there was, Kirk.

1365 [LAUGHING]

1366 Male: Oh, okay. So did we have a motion then? We did have a motion?

1367 Female: There was a motion that I heard, anyway, it was a quiet motion, but...

1368 [LAUGHING]

1369 Male: Well if you guys suck in Dirk's motion \_\_\_\_ Cort being vice chair

1370 [INAUDIBLE]

1371 Male: Then Dirk can be chair.

1372 Male: Dirk chair and I'll be vice chair.

1373 Female: We can – we can do...

1374 [INAUDIBLE]

1375 Male: Sure.

1376 Female: ... we could...

1377 Male: It could be the other way around.

1378 Female: ...We can do...

1379 Female: We have...

1380 Female: We could do a silent \_\_\_\_\_.

1381 Male: We don't need secret ballot.

1382 Male: We're okay. Alright so is that motion?

1383 Male: Sounds good.

1384 Female: That's one \_\_\_\_\_.

1385 Male: Dirk, are you okay with that?

1386 Female: Whats?..

1387 [INAUDIBLE]

1388 Male: Okay.

1389 Male: Alright.

1390 Female: So this has been changed then? What's the motion now?

1391 Chairman: So the motion is the amended motion second enter was for Dirk to chair and I'll  
1392 be vice chair. Any other discussion motion?

1393 Chairman: All in favor say "I".

1394 All: I.

1395 Chairman: Any opposed? Motion passes.

1396 Female: Who seconded that?

1397 Female: Oh, Jerry seconded.

1398 Male: Jerry.

1399 Male: I \_\_\_\_\_

1400 Male: It's Jerry's fault.

1401 Chairman: Okay, under new business I had some discussion on our good funds change.  
1402 There's quite a bit of confusion in the industry as to what...

1403 Female: You guys \_\_\_\_\_ [laugh]

1404 Male: Well I was gonna blame \_\_\_\_\_ research.

1405 Female: No no no.

1406 Male: Was it word for word how we prepared it?

1407 Female: Pretty much, yes.

1408 Male: Well, we need to give a little clarity to what he intent was I think. Right now...

1409 Female: On the ten thousand dollars?

1410 Male: Ten thousand dollars.

1411 Female: Yeah, I got a couple calls on that too.

1412 Male: Yeah, so I'd like to maybe perhaps – I'll volunteer to write the letter that we could  
1413 – talking about the intended history and hopefully maybe a little clarity to what  
1414 that was supposed to do. And I think it may need some tweaking  
1415 \_\_\_\_\_: Like any legislation when you do something...

1416 Female: Yeah \_\_\_\_\_.

1417 Male: \_\_\_\_\_

1418 Female: Yeah, to – for us to get it and our bill and our cleaning bill.

1419 Male: Okay.

1420 Female: Next month by the end of August.

1421 Male: Okay, so I will take the assignment to help write a letter unless anybody else  
1422 wants and I'll forward it on for all of us to consider. Just to explain the intent and  
1423 hopefully see how that fits in with the current statute. It in so doing I there are a  
1424 couple of things I might suggest for those correct issues. And I'd welcome and  
1425 comments from anybody here in help in putting that together. It – I think there  
1426 are some circumstances we didn't think through in the wording the way that it  
1427 ended up. Maybe it didn't accomplish what we had hoped it would accomplish.  
1428 So if we can put that on as a new business item for next month and just talk about  
1429 that. Hope fully I'll have a chance to circulate something prior to the meeting so –  
1430 if we can maybe get that into your August bill cleanup. Yes, Jeff?

1431 Jeff: If I could just – one of those comments that you asked for. On the part that says  
1432 reasonable grounds to believe that sufficient money will be available for  
1433 withdrawal. If there 's any clarity on that that my understanding is if for some  
1434 reason there were not those fund sufficient and the title company reasonably  
1435 relied, whatever that definition may be, that the title company would still be – to  
1436 my understanding – they'd still be on the hub. If they can't go to the department  
1437 and say, hey those are cleared funds, it's not your problem. So if that could be  
1438 clarified so the agents understood that technically I don't know if they actually  
1439 qualifies cleared and collected funds.

1440 Male: Okay, thank you. Alright any other items for next month under new business or  
1441 any other discussion items for us for today? Yes Jeff?

1442 SUB ESCROW/SPLIT CLOSINGS INSTRUCTIONS/CPLs

1443 Jeff: I just wanted – I know, we talked about earlier but as to those sub escrow  
1444 agreement or to the split closing instruction form that's on the agenda for next  
1445 month. If I could, in 2007 592-6 the \_\_\_\_\_ commission proposed a split  
1446 closing instruction form. If we could just pull that back out of the drawer, my  
1447 recollection on that was it came down to kind of a two two vote Kurt had  
1448 withdrawn. So it was close to passing and an issue that, you know, specifically  
1449 we're looking to address is under a closing protection letter that's issued by the  
1450 title insurer, that goes to our agent and in a split closing often time those fund will  
1451 then be transferred to another escrow company or title company without any  
1452 agreement in place as to how those funds are handled. And so while we've issued  
1453 a CPL on behalf of an agent another title company that is not an agent of ours, we  
1454 have no control over how those funds are disbursed. And again, in today's  
1455 environment I know one of the arguments made some time ago was have you had  
1456 any losses there. And I would – had to point out we've made a lot of changes to  
1457 the mechanics \_\_\_\_\_ law after we experienced great losses in the industry. You  
1458 know, we know these are financially difficult time. There's a number of title  
1459 companies that could technically go out of business and how they are handling  
1460 there funds. We have no control over , we need the control as a insurer over our  
1461 agents. And so I think there is an absolute need to kind of address that issue.

1462 Male: Okay.

1463 Jeff: I guess out of all that the request is will you pull out escrow closing instruction  
1464 form. I think Glen Roberts was instrumental when he draft that.

1465 Male: I think that's a good place to start as any, so we – is that possible Elaine? To help  
1466 pull that out of...

1467 Female: See what we can find.

1468 Male: See if we can find that?

1469 Female: Yeah.

1470 Male: Okay.

1471 Female: Hi Glen.

1472 Male: Was that a raise a hand? Do you want to say something Glen?

1473 Male: Okay.

1474 [INAUDIBLE]

1475 Chairman: Alright, any other items? Okay we'll entertain motion to adjourn.

1476 Male: Remove – I make a motion to adjourn \_\_\_\_\_.

1477 Chairman: Alright any other – all in favor say “I”.

1478 All: I.

1479 Chairman: We’re adjourned, thank you.

1480