

Concern over purported audit finding of E-mail document charges garnered extensive discussion. See further details below.

The Escrow Commission met on February 10, 2004 at HiLine Community College for a morning open session. Commissioners in attendance were Bob Golden chair, Sharon Holman, Phil Dryden, and Dennis Daugs, LaRae Young. 23 industry guests were present. Members of DFI/Securities Division in attendance were Deborah Bortner, Division Director, Greg Toms, Program Manager Licensing, Michael Stevenson, Program Manager Enforcement, Bill Beatty Counsel, Lana Monfort and Kathryn McCranie, Examiners.

EMAIL: Findings during an regular audit of a licensed 18.44 company were brought to the table. The principal to the audit was in attendance, and clarified exactly what the findings were. The licensed agent is charging an email document fee on those transactions that the lender emails documents on rather than delivering via courier. This fee was not a fee the auditor had seen before, and therefore noted in her findings. There was no order issued to the licensee to cease, however the auditor did suggest including it in their escrow fee and recommended refunding all of the fees already charged. The licensee, responded to the findings with evidence of this being a standard practice in the industry, and also volunteered to provide evidence to substantiate the cost of printing etc. No further action has been taken to date. DFI, Director Bortner, gleaned additional information from the attendees regarding the fact it is a standard practice, with fees ranging from \$10 to \$75 per transaction that emailed documents are a part of. The consensus was \$50 should be the maximum, charged only on transaction with emailed documents.

On November 19, 2003 CR-101(s) were filed with the code revisers office. CR-102(s) will be filled shortly. These are proposed rule changes or additions. All licenses will be notified via mail of the CR-102 filing's and hearing date for public comment on each one.

Proposed New Rule's and or changes to existing rules to 18.44 Revisited.

1. WAC 208-680E-025 Make the quarterly volunteer trust account reporting mandatory. Request proposed new report from DFI.
2. Change WAC 208-680F-020 Errors and omissions policy to add language regarding the use of securities.
3. Change 208-680G-050 Examination and investigation fees and expense regarding ability to charge licensee for exam expenses.

An Economic impact on small business statement will be filed.
Add WAC 208-680G-060 Unfair and Deceptive practices.

Non announced "sweep" audits will continue where an auditor will drop in at will and ask to see your bank reconciliation and other information. The purpose of this is to gather information on the industry to educate the securities division. Announced Exams will be changed to include a review of the overall soundness of the company as well as the trust account records. Regular announced audits will still be based on a 2 - 7 year risk basis. If you are considered a sound company with low risk to the consumer, you could go from a 2yr to a 7yr exam frequency. The impetus here is to instill in all DEO's the desire to maintain an 18.44 company that complies with all 18.44 regs and safe and sound practices within their company.

EAW president Terry McGrath presented a draft proposed Professional Designations. EAW was asking for the support of the commission and DFI. Discussion was held on the tie to Tiered Licensing which was a part of a bill last year that did not make it through. DFI is in favor of anything that promotes a higher standard among the industry and would not stand in the way of EAW going forward with this.

Excise Tax Interpretive Letter Revisited

Concern was voiced regarding the potential for Dept of Revenue to attach Excise Tax advance's from a GL account has having potential for B & O. Gerry Wheeler stated he feels they will not win this issue due to a pre existing case law on liability. DFI will touch base with DOR to clarify this issue.

Real Estate Commissions Interpretive Statement Revisited

Lengthy discussion on who the principals are to respect to the real estate commission. Commissioner Dryden requested the requirement for Buyers to sign any amendments/addendums et al., that relates to commissions disbursements be stricken. Director Bortner stated DFI will review and issue appropriate changes if appropriate.

Enforcement: Since September 2003

60 complaints, 50 resolved. No new cases at this time. All 10 open cases are proceeding through various levels of process of which 6 are enforcement actions of varying levels. All 6 of the enforcement actions are available for review on the DFI web site [DFI Securities Division](#)

Commission Vacancy:

Still time to apply for vacancy. If you are interested in completing Linda Duffin-Ford's term through the end of 2003 please apply on line at [DFI Securities Division](#) or email kskeels@dfi.wa.gov for an application form.

RENEW your escrow license on the WEB:

To renew your license within minutes, access DFI website [DFI Securities Division](#) and use your Credit card to renew, then immediately print out your new license at your desk.

**The Next Commission Meeting is on April 6, 2004
Sharon Holman Commissioner**