



# Networth News

State of Utah, Department of Financial Institutions, Third Quarter 2006

## COMMISSIONER'S COMMENTS

G. Edward Leary, Commissioner

### INTEREST RATE CAPS

I would like to address an issue pertaining to credit which could potentially adversely affect our state. While there are many cycles in life and in business, I am disappointed that the notion of **Interest Rate Caps** has cycled around again as the way to prevent "*financial abuse*" of consumers. This time the idea is being favorably viewed by some, including legislators and consumer activists, as a way to curtail "Payday Lending" in Utah. I solicit your help in educating legislators and the public as to why

continued on page 2 . . .

## Chiefly Speaking

Michael Jones, Chief Examiner

With the hiring of six examiners in the month of November, the Department is fully staffed for the first time in nearly six years. Back in January of 2000, the last time we had no examiner vacancies; there were 27 examiners, five supervisors, and an administrative staff of eight. Since then, there have been a couple of organizational changes in the Department and two increases in our authorized personnel count.

Over this last year, Commissioner Leary has been evaluating the critical supervisory responsibilities that the Department has, and how well we have been doing in meeting these responsibilities. One area identified for improvement was in the oversight of holding companies. The responsibility of supervising, monitoring, and examining holding companies has taken on additional importance with the growth in the industrial bank industry. Congress is reviewing the adequacy of the federal regulatory agencies' authority over industrial bank holding companies and the FDIC is evaluating their policies and procedures regarding their supervision of holding companies.

With the Department fully staffed, having more examiners than ever before, and with the supervisory responsibilities of each Supervisor increasing, the Commissioner felt the time was right to complete the process that was started over a year ago. With that, the Commissioner

continued on page 5 . . .

## Inside This Issue

- 3 Application Activity Report**
- 5 Federal Regulatory Agencies and Requests for Comments**
- 6 The Names Behind the Faces**

... Leary, continued from page 1

this legislative action is not necessary and is not in the best interest of Utah consumers. I cite the following reasons:

1. Substantial competition currently exists in the entire spectrum of the credit market, including commercial, consumer and payday. A full range of credit services is available at competitive rates throughout the State. Interest rates on all types of consumer loans including credit cards and payday loans are competitive. *“Shop Around. There may be a better rate available”* is still sound advice.

2. Any *“cap”* imposed by the Utah Legislature would only disadvantage Utah-chartered or licensed institutions and be a hollow victory at best, since a great many consumer lenders, including credit card issuers and payday lenders, are located in other states without interest rate ceilings or with potentially higher usury ceilings. Such lenders, pursuant to authority derived from federal law, several court decisions and federal regulatory opinions, *“export”* their higher rates to Utah residents through branches, telephones, the mail and the Internet.

3. The end result of any *“cap”* would be a reduction in the availability of consumer credit in Utah. If interest rates are artificially restrained, the resulting hardships will be most felt by those with a poor credit history. Market conditions dictate that those consumers with poor credit pay a higher interest rate but the important point is that credit is still available. The rate is not an artificial constraint, imposed by government.

4. It was Utah’s experience during a period in our history when the State did regulate

interest rates that whatever was the maximum rate became the unofficial State rate and most if not all lenders charged that rate. In other words, limits tend to function more as legalized price fixing than an effective control on excessive rates.

5. Finally, federal and state disclosure laws ensure that consumers have clear disclosures of the terms of all credit agreements including a payday lending contract.

In a free market environment, consumer protections remain, provided there is **full and accurate disclosure of the terms of the credit.**

Educating the consumer as to the variety, relative risk and cost of financial services remains a challenge. Both the Utah Consumer Credit Code, and the Mortgage Lending and Servicing Act which the Department administers charge us with promoting the public’s understanding of personal/consumer financial issues.

As part of that effort, the Department issued, in June of 2006, a *“Consumer Guide to Payday Lending in Utah.”* The brochure is available at the payday lending stores and on the Department’s web site. It was written to aid those considering entering into a payday loan. We have printed 45,000 copies to date with the majority already sent to the payday lenders.

I also refer you to my comments written in the Networth News for the First Quarter of 2006, where I addressed the challenge for all of us involved with the financial services industry to do all we can to educate people to be better consumers of financial services. I outlined department actions, legislative actions and financial institutions’ actions.

continued on page 5 . . .

## Networth News

### Application Activity Report Utah Department of Financial Institutions For quarter ending September 30, 2006

<b>Branch Approval</b>	<b>Address</b>	<b>Received</b>	<b>Status</b>
State Bank of Southern Utah	145 S River Rd, St George	2/18/05	Approved 3/10/05
Bank of American Fork	2691 W 12600 S., Riverton	8/5/05	Approved 8/29/05
The Village Bank	650 W Telegraph St, St George	9/19/05	Approved 10/17/05
Centennial Bank	Center Street and Orem Blvd, Orem	9/29/05	Approved 10/17/05
SunFirst Bank	1150 W State Hwy 9, Hurricane	10/28/05	Opened 8/28/06
Weber Credit Union	5300 S Adams, Ogden UT	11/10/05	Opened 7/10/06
SunFirst Bank	800 W 200 N, Cedar City UT	2/10/06	Approved 3/17/06
Western Community Bank	375 S Main, Alpine UT	3/7/06	Approved 4/6/06
Washington Trust Bank	191 S 500 E, American Fork UT	4/7/06	Approved 4/11/06
State Bank of Southern Utah	700 W State St, Hurricane UT	5/12/06	Opened 8/3/06
Intermountain Credit Union	7134 S Redwood Rd, SLC	3/16/06	Approved 3/22/06
Bank of Utah	980 W 800 N, Orem UT	7/6/06	Approved 7/20/06
First Utah Bank	3177 S Redwood Rd, SLC UT	8/14/06	Approved 9/14/06

<b>Relocations</b>	<b>Address</b>	<b>Received</b>	<b>Status</b>
Barnes Banking Co.	<i>from</i> 229 E St George Blvd, St George <i>to</i> 2750 E Red Cliffs Dr, St George	4/7/06	Approved 4/25/06
The Village Bank	<i>from</i> 94 E Tabernacle, St George <i>to</i> 294 E Tabernacle, St George	5/25/06	Approved 6/23/06
EnerBank USA	<i>from</i> 1245 E Brickyard Rd Ste 100 <i>to</i> 1245 E Brickyard Rd, Ste 640	6/30/06	Opened 9/5/06

#### **Credit Union Mergers**

<b>Credit Union</b>	<b>merging into</b>	<b>Received</b>	<b>Status</b>
Utah Law Enforcement CU	Salt Lake City Credit Union	4/12/06	Approved 5/15/06
Columbia Iron Credit Union	Southern Utah Federal CU	6/9/06	

## Networth News

<b>Escrow Company</b>	<b>Address</b>	<b>Received</b>	<b>Status</b>
Escrow Employees LLC		8/28/06	Accepted 9/18/06
<b>Branch Closures</b>			
Bank of Utah	3442 W 4800 S Roy UT	8/10/06	Accepted 8/15/06
<b>De Novo Charter</b>	<b>Address</b>	<b>Accepted</b>	<b>Status</b>
ComData	500 N Market Place Dr. #250 Centerville UT	9/25/03	Approved 12/19/03
<b>Extension</b>		11/19/04	Approved 12/23/04
<b>Extension</b>		5/27/05	Approved 6/15/05
<b>Extension</b>		12/6/05	Approved 12/14/05
<b>Extension</b>		5/9/06	Approved 6/7/06
Daimler Chrysler	268 S State St, Ste 200 Salt Lake City UT	7/6/05	Approved 4/6/06
CapitalSource Bank	2180 S 1300 E Ste 300 Salt Lake City UT	8/16/05	Approved 12/18/05
Marlin Business Bank	2795 E Cottonwood Pkwy Ste 120 Salt Lake City UT	1/10/06	Accepted 1/10/06
American Pioneer Bank	39 Jamestowne Ct Baton Rouge LA	2/13/06	Accepted 2/13/06
Blue Healthcare Bank	200 W Civic Center Dr Sandy UT	5/30/06	Accepted 5/30/06
<b>Loan Production Office</b>	<b>Location</b>	<b>Received</b>	<b>Status</b>
AmericanWest Bank	6053 S Fashion Square Dr Murray UT	4/13/06	Approved 4/28/06
San Diego National Bank	229 S Main Ste 1323 Salt Lake City UT	5/19/06	Opened 6/5/06
Magnet Bank	435 E Shore Drive Eagle ID	7/21/06	Approved 8/15/06
American Bank of Commerce	500 W 12300 S Draper UT	9/5/06	Approved 9/27/06

... **Leary**, continued from page 2

While I view part of my charge as Commissioner to ensure that Utah offers a healthy business climate - a climate with a reasonable regulatory structure of financial services that is devoid of free market disrupting governmental price-fixing - none of us meet our mandate if there is less than **full disclosure with full understanding of the contract terms** by the consumer before the contract is signed.~

### Federal Regulatory Agencies and Requests for Comments

Financial institutions, under the jurisdiction of the Department of Financial Institutions, routinely receive invitations from federal regulatory agencies to provide comments regarding proposed rules, guidance and other policy issues. Even though these requests come from federal regulators, the department is interested in the comments that you provide in response to these solicitations. In other words, your views and opinions on these issues are important to the department.

As your institution responds to these invitations, the department would appreciate receiving a copy of your comments. Please send copies to Sonja Long, Administrative Assistant, 324 South State, Suite 201, P.O. Box 146800, Salt Lake City, Utah 84114-6800 or by email at [slong@utah.gov](mailto:slong@utah.gov).~

... **Jones**, continued from page 1

announced the establishment of a Supervisor of Holding Companies position and the appointment of Senior Examiner Shaun Berrett as the Department's newest Supervisor.

In this new position, the Supervisor of Holding Companies is responsible to establish a formalized, documented off-site monitoring program as well as enhancing the on-site examination procedures for all holding companies under the Department's jurisdiction. He has been given the responsibility of determining the criteria used to assess the condition of each holding company and the format of the examination report. In addition to these specific responsibilities, the Supervisor of Holding Companies will also assume supervisory and scheduling responsibilities along with the other Department supervisors.

Other recent promotions, hiring, and changes in the Department include: the promotion of Tom Gibson and Matt Henderson to Senior Examiner level; the rehiring of Ron Romero and Alan Lacey, two examiners who had previously worked for the Department, as Level III Examiners; and hiring of Terry Kanies, William Mitchell, Jahn Curran, and Mark Peterson as Level I Examiners. Today, the Department has 41 examiners, six supervisors, and an administrative staff of eight.

As an interesting side topic, the Utah Department of Human Resource Management recently released its fiscal year 2006 State of Utah Workforce Profile Report. This report identifies information used to assess the makeup of the workforce and to detect potential challenges in recruiting and retaining qualified employees. From the executive summary of this

... continued on page 6

... **Jones**, continued from page 5

report, here are two comparisons between State of Utah employees, overall, and Department employees. The average age of all state employees is 43.7 years, and for the Department its 47.4 years. The average years of service for state employees overall is 10.1 years, and for the Department its 10.4 years. So, on average, Department employees are slightly older and have a little more tenure than the average state employee.~

### **The Names (and more) Behind the Faces . . .**

Continuing from the last issue of the Networth News, featured below are three more recent employee additions to the Department. If you haven't already, you're sure to meet them in the future. We'll bio more employees in the upcoming issues of the Networth News.

#### **Paul Cline, Examiner**

Paul started with the Department January 3, 2006. His prior experience includes several years with a national data processing firm beginning as a client accountant, and moving into a database management position. Paul earned a degree, with an emphasis in finance, from Brigham Young University, and an MBA from the University of Utah. Paul was born and raised in Salt Lake City. He is "married with children" (4), the oldest a recent high school graduate and the youngest a 5<sup>th</sup> grader; all who do, or did, keep a soccer mom (and part-time teacher) busy. In his spare time, Paul enjoys sports, reading, river running, hiking, and (of course) soccer.

#### **Suzi Patrick, Office Tech**

Suzi started with the Department in mid-May 2006. As office tech, her responsibilities primarily encompass "manning" the front desk as receptionist. Suzi's voice is

generally the one you hear answering the Department's phone. Before joining the Department, Suzi spent 19 years as a quotation analyst with a local manufacturing company. Her family consists of 5 boys (ages 4 to 23), 2 dogs, 2 turtles, 1 lizard, 3 hamsters, and NO guinea pigs. When asked what her hobbies are, her exact words were, "Hobbies? You kidding? With 5 boys? They are my hobbies!"

#### **Derek Roundy, Examiner**

Derek was hired in December of 2005. Coming from Brigham City, Derek attended Brigham Young University where he received a business degree, followed by an MBA from the University of Utah. From there Derek spent 10 years with a national bank headquartered in Utah, half that time in the trenches (branches), and then as a call center manager. Also, Derek was employed as a customer service department manager at a national credit card company. He and his wife enjoy their 7 year old son, Landon. Derek's hobbies include painting, reading and scuba diving.

*Happy  
Holidays!*

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