

TEXAS DEPARTMENT OF INSURANCE / FINANCIAL REGULATION DIVISION FINANCIAL EXAMINATIONS / TITLE EXAMINATIONS

SUMMARY OF OPERATIONS FOR 3RD QUARTER, FY 2013 MARCH, 2013 – MAY, 2013 for presentation to the Texas Title Insurance Guaranty Association Board of Directors July 29, 2013

COMPLIANCE AUDITS AND ESCROW AUDIT REPORTS

	Qtr	FY 13	FY 12	FY 11	FY 10	FY 09	FY 08
Field audits completed	75	247	343	300	322	369	254
Field audit reports processed	72	240	333	298	319	360	241
Section 2651.151 audit reports received	369	518	580	612	618	652	638
Section 2651.151 audit reports reviewed	364	495	576	604	608	657	627

Analysis of Title Insurance Agencies Licensed as of 5/31/13

		Breakdow	n of Compre	ehensive Aud	dit Status
		Agencies	Agent's	Agent's	# of (new)
		audited	last audit	last audit	Agents
	# of	within last	was 2 - 3	was over 3	Never
Region	agencies	2 years	years ago	years ago	Audited
NTX	196	180	4	0	12
CTX	116	111	3	0	2
WTX	101	101	0	0	0
HOU	125	117	6	0	2
STX	35	35	0	0	0
Totals:	573	544	13	0	16
	% of Total:	94.9%	2.3%	0.0%	2.8%

REVISED Goal: In order to comprehensively audit every agent at least once every **2** years, we need to conduct 287 comprehensive audits per year, which amounts to 72 audits per quarter.

Last 12 months (6/1/12 - 5/31/13): 332 audits (45 over goal) Last 3 months (3/1/13 - 5/31/13): 75 audits (3 over goal)

Orders signed by Commissioner Kitzman during quarter (11):

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DATE	ORDER#	AGENCY/PERSON	<u>REASON</u>	FINE AMT
3/6/13	2356	Fair Land Title Comp., Plano	Failed to timely remit annual audit report.	\$7,200
3/6/13	2357	Aisha Samad, Sugar Land	Violated Sections 2501.003 and 2501.006.	Escr. officer lic. revoked.
3/6/13	2358	Prominent Title, LLC, Austin	Violated Sec. 2602.151, 2703.153, P-21, and SA&P#5.	\$20,000
4/1/13	2407	McMullen Cnty. Ti. Co., Tilden	Failed to timely remit guaranty fees.	\$1,300
4/4/13	2421	Chitra Gupta, Plano	False stmt. made on EO application.	\$1,000
4/10/13		Mitchell County Abstract Co., Colorado City	Failed to timely remit guaranty fees.	\$2,500

4/22/13	2456	Starla Dam, Grapevine	Misappropriated escrow funds.	Escr. officer
				lic. revoked.
4/29/13	2464	Paradise Settlement Services,	Agency certified that escrow officers had completed all	\$3,500
		LLC, Lewisville	required CE hours.	
5/7/13	2483	Unisource Information	Violated Procedural Rule P-22.	\$3,000
		Services of Texas, LLC, Plano		
5/15/13	2525	Heather Cooper, Tulia	Failed to complete all required CE hrs.	\$1,000
5/15/13	2526	Guaranty Abstract Comp.,	Agency certified that escrow officer had completed all	\$1,000
		Silverton	required CE hours.	

Active cases in Financial, Enforcement & Fraud:

	Active cases at 3/1/13	Cases referred Qtr. 13-3	Cases cleared Qtr. 13-3	Active cases at 5/31/13
Financial Program				
Confidential Supervision	0	1	0	1
Receivership	5	0	0	5
Troubled title agents	14	3	5	12
Enforcement				
Miscellaneous violations of the TIC	8	0	3	5
Rebating	1	0	0	1
License revocation (agent and/or escrow officer)	4	0	1	3
Late escrow audit rept. &/or stat rept. &/or guaranty fees	7	3	1	9
Fraud Unit				
Misappropriation of fiduciary funds	26	0	0	26
Total	65	7	10	62

STATISTICAL REPORT LIMITED REVIEWS

Out of 75 comprehensive audits completed during the quarter, 48 (64%) included a limited review of the agent's latest statistical report. The following results were reported.

		FY	FY	FY	FY	FY
	QTR	13	12	11	10	09
Number of statistical reports reviewed.	48	198	178	152	149	116
No material discrepancies noted.	48	188	170	147	143	113
2. Income and/or expense amounts reported in wrong categories.	0	4	4	2	0	0
3. Total income and/or expense amounts reported didn't agree with agency's financial statements.	0	6	4	3	6	3
4. Forms missing or incomplete.	0	0	0	0	0	0
5. Miscellaneous other discrepancies.	0	0	0	0	0	0

RESULTS OF COMPLIANCE AUDITS DURING QUARTER

Listed below are audit findings for March through May of 2013, the 3rd quarter of the State's fiscal year 2013. Numbers represent the number of <u>agencies</u> where the infraction occurred, not the number of times it occurred.

VIOLATION OR DISCREPANCY	QTR	YTD
INSOLVENCY		
Financial statements indicated agent was insolvent or had cash flow problems.	4	15
ABSTRACT PLANT		
Abstract plant not in compliance with Article 9.02(i) and Procedural Rule P-12.	3	7
Agency personnel unable to retrieve instrument information. Unable to verify legal plant.	0	0

VIOLATION OR DISCREPANCY	QTR	YTD
TEXAS INSURANCE CODE		
§ 101.102 – Conducted unauthorized business of insurance.	0	3
Section 2502.051 (formerly Art. 9.30) – Gave/received thing of value for referral of title insurance business.	2	5
Section 2704.001 (formerly Art. 9.34) – Provided policies to non-licensed entity and sold title evidence for counties for which agent was not licensed	0	2
Section 2704.001 (formerly Art. 9.34) – Policy not based on evidence from a legal abstract plant and/or no attempt made to contact out-of-county agents for title evidence.	3	4
Section 2704.001 (Art. 9.34) – Issued policies for property in county where not licensed.	4	11
Section 2704.001 (formerly Art. 9.34) – Signed commitments not maintained as part of complete evidence of insurability or countersigned policies not maintained.	12	26
Section 2651.002 (formerly Art. 9.36) – Agent used an unlicensed name or dba name.	5	8
Section 2651.301 (formerly Art. 9.37B) – Misappropriation or conversion to own use of money belonging to another person.	0	1
Section 2651.301 (formerly Art. 9.37B) – Failed to maintain separate escrow account (commingled escrow & operating funds).	10	25
Section 2651.101 and/or 2652.101 (formerly Art. 9.38 and/or 9.45) – No agency/escrow officer bond or insufficient bond.	0	7
Section 2651.151 (formerly Art. 9.39) – Annual escrow audit report prepared incorrectly or contained material inaccuracies or other problems.	6	13
Section 2652.001 (formerly Art. 9.41) – Unlicensed person acting as an escrow officer.	8	32
Section 2602.151 (formerly Art. 9.48) and Administrative Rule G-1 – Failure to collect Policy Guaranty Fee or failure to maintain the policy fees in an escrow account.	3	11
Section 2602.103 (Art. 9.48) – Failure to produce requested files or other records.	0	3
Section 2702.053 (formerly Art. 9.53) – Actual receipts and/or disbursements not in agreement with settlement statement or premium split not disclosed.	42	133

BULLETINS

Title Bulletin No. 152 – Policy dates incorrect.	0	3
Title Bulletin No. 160 – All parties receiving portions of the real estate commission not disclosed on settlement statement.	36	88

PROCEDURAL RULES

P-18: Commitment not issued as required in rule or commitment incomplete.	3	8
P-21: Schedule D of commitment not in file or premium split not disclosed on commitment.	30	83
P-22: No T-00's in files or T-00's incorrect or incomplete.	15	44
P-27 ("Good Funds") violations: Unauthorized checks over \$1,500. Receipts not deposited timely or not received and posted before disbursements made.	10	37
P-35: Verbal or written guaranty, affirmation, indemnification, or certification issued.	0	4
P-61: Failure to issue title policy timely.	3	7
P-62: Operated in county for which not licensed.	0	1

RATE RULES

Incorrect premium charged (violation of one or more rate rules).	16	41
R-1: Unauthorized fee charged for closing (or tax search) in addition to premium.	8	14
R-2: Premium remittances to underwriters not timely or amounts incorrect.	1	1
R-2: Premium collected in installments or premium not collected at all.	0	0
R-8: Refinance credit not given or not calculated correctly.	5	12

#7A - Invested escrow accounts not styled correctly. #7B - No written authorization to invest escrow funds. #7C - Invested escrow account used agent's tax ID number instead of that of beneficiary. #7D - No control ledger for invested escrow accounts. Interest not posted timely. #7D - No control ledger for invested escrow accounts. Interest not posted timely. #8 - Guaranty files used name identification instead of unique numbers. Same file number used for more than one transaction. #9 - Escrow bank accounts not styled as "escrow" or "trust". #10 - No management approval for disbursements made on accounts open for more than six months or no review for disposition of funds. #12 - No management approval for transfers of funds between guaranty files and/or transfers not documented in the files. #13 - Seller not properly notified of NSF checks. #14 - Guaranty file number not displayed on all escrow checks, deposit tickets or other documents. #15 - Disbursement sheets missing, incomplete or incorrect. #16 - Every disbursement not supported by invoice or sufficient other evidence. #17 - Escrow receivables not cleared timely. #18 - Settlement statement changes not initialed or supported adequately or contained white-out corrections. #19 - Signed, pre-numbered receipts not issued for cash. #20 - Images of checks did not meet requirements. 10 26 #21 - Escrow bank account not maintained at a financial institution in Texas. 0 1 **AGENCY** Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". 5 3 11 **ESCROW ACCOUNTING** Material escrow kinds irregularity or irregularities [i.e., escrow bank account overdrawn, receipt posted but never actually received or check-clearing date problems]. Deposits and/or disbursements not booked in appropriate month.	VIOLATION OR DISCREPANCY	QTR	YTD
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six months or no review for disposition of funds. #12 - No management approval for transfers of funds between guaranty files and/or transfers not documented in the files. #13 - Seller not properly notified of NSF checks. #14 - Guaranty file number not displayed on all escrow checks, deposit tickets or other documents. #15 - Disbursement sheets missing, incomplete or incorrect. #15 - Disbursement not supported by invoice or sufficient other evidence. #16 - Every disbursement not supported by invoice or sufficient other evidence. #17 - Escrow receivables not cleared timely. #18 - Settlement statement changes not initialed or supported adequately or contained white-out corrections. #19 - Signed, pre-numbered receipts not issued for cash. #20 - Images of checks did not meet requirements. #21 - Escrow bank account not maintained at a financial institution in Texas. AGENCY Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". AGENCY Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". Bescrow ACCOUNTING Material escrow funds irregularity or irregularities [i.e., escrow bank account overdrawn, receipt posted but never actually received or check-clearing date problems]. Deposits and/or disbursements not booked in appropriate month. 6 25 Receivable(s) created by depositing into one bank account and disbursing from another	#9 - Escrow bank accounts not styled as "escrow" or "trust".	23	54
#12 - No management approval for transfers of funds between guaranty files and/or transfers not documented in the files. #13 - Seller not properly notified of NSF checks. #14 - Guaranty file number not displayed on all escrow checks, deposit tickets or other documents. #15 - Disbursement sheets missing, incomplete or incorrect. #16 - Every disbursement not supported by invoice or sufficient other evidence. #17 - Escrow receivables not cleared timely. #18 - Settlement statement changes not initialed or supported adequately or contained white-out corrections. #19 - Signed, pre-numbered receipts not issued for cash. #20 - Images of checks did not meet requirements. #21 - Escrow bank account not maintained at a financial institution in Texas. #22 - Escrow bank account not maintained at a financial institution in Texas. #23 - AGENCY Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #24 - Escrow ACCOUNTING Material escrow funds irregularity or irregularities [i.e., escrow bank account overdrawn, receipt posted but never actually received or check-clearing date problems]. #25 - Receivable(s) created by depositing into one bank account and disbursing from another #25 - Agenetyable(s) created by depositing into one bank account and disbursing from another #26 - Agenetyable(s) created by depositing into one bank account and disbursing from another	#10 - No management approval for disbursements made on accounts open for more than six months or no review for disposition of funds.	15	21
#14 - Guaranty file number not displayed on all escrow checks, deposit tickets or other documents. #15 - Disbursement sheets missing, incomplete or incorrect. #16 - Every disbursement not supported by invoice or sufficient other evidence. #17 - Escrow receivables not cleared timely. #18 - Settlement statement changes not initialed or supported adequately or contained white-out corrections. #19 - Signed, pre-numbered receipts not issued for cash. #20 - Images of checks did not meet requirements. #21 - Escrow bank account not maintained at a financial institution in Texas. #22 - Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #23 - Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #24 - Escrow Accounting #25 - 62 #26 - 109 #27 - Escrow bank account not maintained at a financial institution in Texas. #26 - 100 #27 - Escrow bank account not maintained at a financial institution in Texas. #27 - Escrow bank account not maintained at a financial institution in Texas. #28 - Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #27 - Escrow bank account not maintained at a financial institution in Texas. #28 - Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #28 - Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #28 - Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #28 - Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #29 - Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #29 - Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #29 - Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #20 - Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #20 - Age	#12 - No management approval for transfers of funds between guaranty files and/or transfers not documented in the files.	0	0
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#16 - Every disbursement not supported by invoice or sufficient other evidence. #17 - Escrow receivables not cleared timely. #18 - Settlement statement changes not initialed or supported adequately or contained white-out corrections. #19 - Signed, pre-numbered receipts not issued for cash. #20 - Images of checks did not meet requirements. #21 - Escrow bank account not maintained at a financial institution in Texas. #26 - AGENCY	#14 - Guaranty file number not displayed on all escrow checks, deposit tickets or other documents.	0	7
#17 - Escrow receivables not cleared timely. #18 - Settlement statement changes not initialed or supported adequately or contained white-out corrections. #19 - Signed, pre-numbered receipts not issued for cash. #20 - Images of checks did not meet requirements. #21 - Escrow bank account not maintained at a financial institution in Texas. #22 - AGENCY AGENCY AGENCY Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #23 - AGENCY AGENCY	#15 – Disbursement sheets missing, incomplete or incorrect.	25	62
#18 – Settlement statement changes not initialed or supported adequately or contained white-out corrections. #19 – Signed, pre-numbered receipts not issued for cash. #20 – Images of checks did not meet requirements. #21 – Escrow bank account not maintained at a financial institution in Texas. #28 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #28 Agent breached fiduciary responsibility to buyer and seller by RESPA § 3500.15. #29 Agent breached fiduciary responsibility to buyer and seller by RESPA § 3500.15. #20 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #29 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #20 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #20 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #20 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #20 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #21 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #22 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #22 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #22 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #23 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #24 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #25 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #26 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #26 Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #27 Agent breached fiduciary responsibilit	#16 - Every disbursement not supported by invoice or sufficient other evidence.	42	109
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#19 – Signed, pre-numbered receipts not issued for cash. #20 – Images of checks did not meet requirements. #21 – Escrow bank account not maintained at a financial institution in Texas. #21 – Escrow bank account not maintained at a financial institution in Texas. #22 – Images of checks did not meet requirements. #23 – Escrow bank account not maintained at a financial institution in Texas. #24 – Escrow bank account not maintained at a financial institution in Texas. #25 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #26 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #27 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #27 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #28 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #29 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #29 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #29 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #20 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #20 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #20 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #21 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #22 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #22 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #22 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #23 – Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". #2	#18 – Settlement statement changes not initialed or supported adequately or contained white-out corrections.	1	3
#20 – Images of checks did not meet requirements. #21 – Escrow bank account not maintained at a financial institution in Texas. O AGENCY Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". Failed to disclose affiliated business arrangement as required by RESPA § 3500.15. BESCROW ACCOUNTING Material escrow funds irregularity or irregularities [i.e., escrow bank account overdrawn, on the cept posted but never actually received or check-clearing date problems]. Deposits and/or disbursements not booked in appropriate month. Receivable(s) created by depositing into one bank account and disbursing from another on the cept posted but never actually received or check-clearing date problems].		0	2
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receipt posted but never actually received or check-clearing date problems]. Deposits and/or disbursements not booked in appropriate month. 6 25 Receivable(s) created by depositing into one bank account and disbursing from another 0 4	ESCROW ACCOUNTING		
Deposits and/or disbursements not booked in appropriate month. 6 25 Receivable(s) created by depositing into one bank account and disbursing from another 0 4	Material escrow funds irregularity or irregularities [i.e., escrow bank account overdrawn, receipt posted but never actually received or check-clearing date problems].	0	3
	Deposits and/or disbursements not booked in appropriate month.	6	25
	Receivable(s) created by depositing into one bank account and disbursing from another account.	0	4

VIOLATION OR DISCREPANCY	QTR	YTD
ESCROW ACCOUNTING, CONT.		
Reconciling items not posted timely and/or not cleared timely and/or not supported by adequate documentation.	2	10
Pattern of posting errors.	2	10
Signature on checks not on bank signature card or previous employees still on bank signature card.	0	3
Outstanding checks not cleared timely.	56	134
Deposit-in-transit list and/or outstanding checklist prepared incorrectly.	7	49
Duplicate check numbers in same escrow account; checks written out of numerical sequence or more than one check number used for same disbursement.	0	1

GUARANTY FILES

Original legal documents found in guaranty files after title policies issued.	0	1	l
Legal documents not recorded timely with county clerk or evidence of timely recording not in file.	24	59	
Cash or disbursement check found in file.	0	1	l
Funds not disbursed or escheated to state.	24	56	l