



**TEXAS DEPARTMENT OF INSURANCE/PROPERTY & CASUALTY PROGRAM
TITLE DIVISION/TITLE EXAMINATIONS**

**SUMMARY OF OPERATIONS FOR 4TH QUARTER, FY 2009
JUNE, 2009 - AUGUST, 2009
for presentation to the
Texas Title Insurance Guaranty Association Board of Directors
October 26, 2009**

COMPLIANCE AUDITS AND ESCROW AUDIT REPORTS

	Qtr	FY 09	FY 08	FY 07	FY 06	FY 05	FY 04
Field audits completed	103/5	342/27	254	255	263	257	264
Field audit reports processed	107	360	241	246	262	256	261
Section 2651.151 audit reports received	71	652	638	633	619	586	563
Section 2651.151 audit reports reviewed	122	657	627	636	598	556	556

Analysis of Title Insurance Agencies Licensed as of 8/31/09

		Breakdown of Comprehensive Audit Status		
		Agencies Audited within last 3 years	Agent's last audit was over 3 years ago	# of (New) Agents Never Audited
Region	# of agencies			
NTX	212	205	0	7
CTX	121	121	0	0
WTX	106	105	0	1
HOU	130	127	0	3
STX	43	43	0	0
Totals:	612	601	0	11
	% of Total:	98.2%	0	1.8%

Goal: In order to comprehensively audit every agent at least once every three years, we need to conduct 204 comprehensive audits per year, which amounts to 51 audits per quarter.

Last 12 months (9/1/08 – 8/31/09): 342 audits (138 over goal)

Last 3 months (6/1/09 – 8/31/09): 103 audits (52 over goal)

Results of follow-up audits:

No. of follow-ups completed	Compliance achieved	Improvement but further action needed	Another on-site audit or stronger action needed
5	1	2	2

Orders signed by Commissioner Geeslin during quarter (30):

DATE	ORDER #	AGENCY/PERSON	REASON	FINE AMT
6/4/09	09-0402	Matthew Haddock, Ft Worth	Acted in agent's name with no escrow officer license and allowed unlicensed employee to act as escrow officer.	\$12,000 plus C&D
6/4/09	09-0407	Country Title, LLC, Houston	Unlicensed employees performed duties of escrow officers + failed to pay fine from prior order.	Agent's lic. revoked.
6/4/09	09-0408	Meghan Frith, Austin	Closed transactions with no escrow officer license.	Lic. revoked.
6/4/09	09-0409	Julie Terry, Austin	Closed transactions with no escrow officer license.	Lic. revoked.
6/9/09	09-0424	Bee County Title, Beeville	Failed to timely file statistical report.	\$6,100
6/23/09	09-0480	Nacogdoches Abst. & Title Co.	Failed to timely remit annual escrow audit report.	\$6,600
6/23/09	09-0482	Greater Texas Title Company, Inc., Houston	HUDs failed to name all payees and multiple MEAPIC violations.	\$50,000 plus lic. revoked.
6/24/09	09-0489	Richmond Title Svcs., Plano	Viol. of Sec. 2502.051, 2651.002, 2651.056, 2651.101, 2651.151, 2651.301, 2652.201, R-1, L-2, & Proc. Rule P-22.	\$140,000
6/24/09	09-0492	Sherri Cross, Burleson	Violated Sec. 101.102, 2502.003, 2502.052, 2651.202, 2652.001, 2652.201, 2702.053, 2704.001, and Proc. Rules P-21, P-22, and P-27.	\$10,000 plus EO license revoked.
7/17/09	09-0575	Gene Rosas, San Antonio	Viol. of Sec. 2501.006, 2652.201(4), and 2652.201(5). Failed to pay off mortgage liens.	EO license revoked.
7/17/09	09-0581	Stewart Hoge, Dallas	Failed to pay penalty due from prior consent order.	Lic. revoked.
7/17/09	09-0586	Hope Phillips, Quitman	Performed duties of an escrow officer without a license.	\$2,000
7/17/09	09-0587	Lake Country Ti. Co., Emory	Allowed unlicensed employee to act as escrow officer.	\$6,000
7/17/09	09-0591	Sherie Pickle, Van	Misappropriation of escrow funds.	Restitution of \$10,491.65 + lic. revoked.
7/17/09	09-0592	Title Texas, Inc., Dallas	Failed to pay penalty due from prior consent order.	Lic. revoked.
8/5/09	09-0624	Southern American Title Co.	Failed to pay penalty due from prior consent order.	Lic. revoked.
8/5/09	09-0626	Pearl Jean Whitworth	Misappropriation of escrow funds.	Lic. revoked.
8/6/09	09-0631	Russell-Surles Title, Inc., Baird	Failed to timely remit statistical report.	\$5,000
8/6/09	09-0633	Delinda Brewster	Violated Sections 2652.001, 2652.201 and 2702.053.	\$20,000 plus Lic. revoked.
8/6/09	09-0636	Commonwealth Land Title Ins. Co.	Viol. of Sec. 38.001 and 2703.153. Inaccurate stat report.	\$10,000
8/6/09	09-0637	Lawyers Title Insurance Corp.	Viol. of Sec. 38.001 and 2703.153. Inaccurate stat report.	\$10,000
8/12/09	09-0651	ARB, LLC, Dallas	Unlicensed entity conducted the bus. of insurance.	\$2,500+C&D
8/12/09	09-0654	Zon Murchison, Dallas	Misappropriation of escrow funds.	Lic. revoked.
8/13/09	09-0657	Sandra Flores, Houston	Misappropriation of escrow funds.	Lic. revoked.
8/14/09	09-0671	Rauf Abdur Danawala, Richardson	False statements made on EO applications.	\$5,000
8/14/09	09-0672	Albert Levy, Dallas	Violated Sections 2652.003, 2502.201, and Proc. Rule P-22.	\$5,000
8/14/09	09-0673	Texas Title, Port Lavaca	Failed to timely remit statistical report.	\$5,100
8/14/09	09-0675	Viewpoint Title, LLC, Dallas	Viol. of Sec. 2651.152, 2651.157, 2651.002, and 2651.301.	Lic. revoked
8/14/09	09-0679	Barbara Haywood, Corpus	Misappropriation of escrow funds.	Lic. revoked
8/25/09	09-0701	Tina Boyd, Houston	Viol. of Sec. 2652.201 and MEAPIC #16.	Lic. revoked.

Active cases in Financial, Enforcement & Fraud:

	Active cases at 6/1/09	Cases referred Qtr. 09-4	Cases cleared Qtr. 09-4	Active cases at 8/31/09
Financial Program				
Confidential Supervision	1	0	1	0
Receivership	12	1	0	13
Troubled agents	10	18	5	23
Enforcement				
Miscellaneous violations of the TIC	22	9	11	20
Rebating	1	0	0	1
License revocation (agent and/or escrow officer)	14	16	17	13
Late escrow audit rept. &/or stat rept. &/or guaranty fees	12	5	5	12
Fraud Unit				
Misappropriation of fiduciary funds	14	2	0	16
Total	86	51	39	98

STATISTICAL REPORT LIMITED REVIEWS

Out of 103 comprehensive audits completed during the quarter, 32 (31%) included a limited review of the agent's latest statistical report. The following results were reported.

	QTR	FY 09	FY 08	FY 07	FY 06	FY 05
Number of statistical reports reviewed.	32	116	73	63	56	58
1. No material discrepancies noted.	32	113	72	49	56	53
2. Incorrect agency number shown.	0	0	0	0	0	3
3. Total income and/or expense amounts reported didn't agree with agency's financial statements.	0	3	1	4	0	2
4. Mathematically inaccurate.	0	0	0	0	0	0
5. Forms missing or incomplete.	0	0	0	0	0	0
6. Premium division percentages calculated incorrectly.	0	0	0	0	0	0
7. Miscellaneous other discrepancies.	0	0	0	0	0	0

RESULTS OF COMPLIANCE AUDITS DURING QUARTER

Listed below are audit findings for June through August of 2009, the 4th quarter of the State's fiscal year 2009. Numbers represent the number of agencies where the infraction occurred, not the number of times it occurred.

VIOLATION OR DISCREPANCY	QTR	YTD
INSOLVENCY		
Financial statements or other records indicated agent insolvent.	11	30
ABSTRACT PLANT		
Abstract plant not in compliance with Article 9.02(i) and Procedural Rule P-12.	13	41
Agency personnel unable to retrieve instrument information. Unable to verify legal plant.	1	5
TEXAS INSURANCE CODE		
§ 101.102 – Conducted unauthorized business of insurance.	1	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	0
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.	2	5
Section 2704.001 (Art. 9.34) – Issued policies for property in county where not licensed.	4	12
Section 2704.001 (formerly Art. 9.34) – Signed commitments not maintained as part of complete evidence of insurability or countersigned policies not maintained.	16	51
Section 2651.002 (formerly Art. 9.36) – Agent used an unlicensed name or dba name.	11	30
Section 2651.301 (formerly Art. 9.37B) – Misappropriation or conversion to own use of money belonging to another person.	1	1
Section 2651.301 (formerly Art. 9.37B) – Failed to maintain separate escrow account (commingled escrow & operating funds).	5	27
Section 2651.101 and/or 2652.101 (formerly Art. 9.38 and/or 9.45) – No agency/escrow officer bond or insufficient bond.	7	33
Section 2651.151 (formerly Art. 9.39) – Annual escrow audit report prepared incorrectly or contained material inaccuracies or other problems.	6	12
Section 2652.001 (formerly Art. 9.41) – Unlicensed person acting as an escrow officer.	13	43
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.	6	20
Section 2602.103 (Art. 9.48) – Failure to produce requested files or other records.	4	9
Section 2702.053 (formerly Art. 9.53) – Actual receipts and/or disbursements not in agreement with settlement statement or premium split not disclosed.	36	149

VIOLATION OR DISCREPANCY	QTR	YTD
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BULLETINS

Title Bulletin No. 133 – Charged an unauthorized fee (cancellation or commitment fee).	1	3
Title Bulletin No. 160 – All parties receiving portions of the real estate commission not disclosed on settlement statement.	16	60

PROCEDURAL RULES

P-18: Commitment not issued as required in rule or commitment incomplete.	4	6
P-21: Schedule D of commitment not in file or premium split not disclosed on commitment.	33	91
P-22: No T-00's in files or T-00's incorrect or incomplete.	42	99
P-27 ("Good Funds") violations: Unauthorized checks over \$1,500. Receipts not deposited timely or not received and posted before disbursements made.	5	26
P-35: Verbal or written guaranty, affirmation, indemnification, or certification issued or delivered.	2	8
P-61: Failure to issue title policy timely.	4	14

RATE RULES

Incorrect premium charged (violation of one or more rate rules).	20	68
R-1: Unauthorized fee charged for closing (or tax search) in addition to premium.	8	33
R-2: Premium remittances to underwriters not timely or amounts incorrect.	6	19
R-2: Premium collected but issuance of policy withheld.	0	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.	7	17

MINIMUM ESCROW ACCOUNTING PROCEDURES & INTERNAL CONTROLS

#1 - Monthly escrow trial balances not prepared or not prepared timely.	6	24
#1 - Testing proved escrow trial balances unreliable.	1	2
#1 - Escrow trial balances not prepared correctly.	8	35
#2 - Three-way reconciliations not prepared or not prepared timely or portions of records not available.	7	22
#2 - Escrow trial balances and/or book balances and/or reconciled bank balances not in agreement. Differences unreconciled.	0	1
#2 - Bank reconciliations, book balances, or three-way reconciliations prepared incorrectly.	10	37
#3 – Reconciliations not approved by management or reviewed by another employee.	6	18
#4 - Accounting duties not segregated sufficiently and reconciliations not reviewed by manager or owner.	1	1
#5 - Only one signature on escrow checks when agency's size required two signatures.	6	10
#6 - Records did not include copies of all checks, invoices, deposit slips and receipt items.	8	20
#7A - Invested escrow accounts not styled correctly.	1	13
#7B - No written authorization to invest escrow funds.	2	5
#7C - Invested escrow account used agent's tax ID number instead of that of beneficiary.	0	2
#7D – No control ledger for invested escrow accounts. Interest not posted timely.	1	4
#8 - Guaranty files used name identification instead of unique numbers. Same file number used for more than one transaction.	1	2
#9 - Escrow bank accounts not styled as "escrow" or "trust".	14	49
#10 - No management approval for disbursements made on accounts open for more than six months or no review for disposition of funds.	10	27
#12 - No management approval for transfers of funds between guaranty files and/or transfers not documented in the files.	1	3

VIOLATION OR DISCREPANCY	QTR	YTD
#13 - Seller not properly notified of NSF checks.	0	0
#14 - Guaranty file number not displayed on all escrow checks, deposit tickets or other documents.	1	7
#15 – Disbursement sheets missing, incomplete or incorrect.	21	98
#16 - Every disbursement not supported by invoice or sufficient other evidence.	46	162
#17 - Escrow receivables not cleared timely.	19	54
#18 – Settlement statement changes not initialed or supported adequately or contained white-out corrections.	0	3
#19 – Signed, pre-numbered receipts not issued for cash.	1	8
#20 – Images of checks did not meet requirements.	13	50
#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”.	2	10
Failed to disclose affiliated business arrangement as required by RESPA § 3500.15.	10	29

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].	1	2
Deposits and/or disbursements not booked in appropriate month.	6	20
Receivable(s) created by depositing into one bank account and disbursing from another account.	0	7
Reconciling items not posted timely and/or not cleared timely and/or not supported by adequate documentation.	9	19
Pattern of posting errors.	3	5
Signature on checks not on bank signature card or previous employees still on bank signature card.	4	6
Outstanding checks not cleared timely.	57	179
Deposit-in-transit list and/or outstanding checklist prepared incorrectly.	16	51
Duplicate check numbers in same escrow account; checks written out of numerical sequence or more than one check number used for same disbursement.	0	0

GUARANTY FILES

Original legal documents found in guaranty files after title policies issued.	0	4
Legal documents not recorded timely with county clerk or evidence of timely recording not in file.	33	98
Cash or disbursement check found in file.	0	6
Funds not disbursed or escheated to state.	29	92

SETTLEMENT STATEMENTS

Required Form T-63 not prepared for POC items.	31	101
Premium split for closing, title examination or title evidence not disclosed on settlement statement. Other information not disclosed on settlement statement.	0	2
Original or amended final settlement statements not signed by any/all parties.	1	8
Settlement statements prepared incorrectly or contained mathematical errors.	0	2
Incorrect issuing agency shown on settlement statement.	0	0