



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

**SUMMARY OF OPERATIONS FOR 1ST QUARTER, FY 2010
SEPTEMBER, 2009 - NOVEMBER, 2009
for presentation to the
Texas Title Insurance Guaranty Association Board of Directors
January 26, 2010**

COMPLIANCE AUDITS AND ESCROW AUDIT REPORTS

	Qtr	FY 10	FY 09	FY 08	FY 07	FY 06	FY 05
Field audits completed	92/4	96	369	254	255	263	257
Field audit reports processed	95	95	360	241	246	262	256
Section 2651.151 audit reports received	89	89	652	638	633	619	586
Section 2651.151 audit reports reviewed	83	83	657	627	636	598	556

Analysis of Title Insurance Agencies Licensed as of 11/30/09

		Breakdown of Comprehensive Audit Status			
Region	# of agencies	Agencies audited within last 2 years	Agent's last audit was 2 - 3 years ago	Agent's last audit was over 3 years ago	# of (new) agents never audited
NTX	210	179	27	0	4
CTX	122	120	0	0	2
WTX	106	100	5	0	1
HOU	129	122	7	0	0
STX	43	42	1	0	0
Totals:	610	563	40	0	7
	% of Total:	92.3%	6.6%	0%	1.1%

Goal: In order to comprehensively audit every agent at least once every three years, we need to conduct 203 comprehensive audits per year, which amounts to 51 audits per quarter.

Last 12 months (12/1/08 – 11/30/09): 360 audits (157 over goal)

Last 3 months (9/1/09 – 11/30/09): 92 audits (41 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
4	0	3	1

Orders signed by Commissioner Geeslin during quarter:

DATE	ORDER #	AGENCY/PERSON	REASON	FINE AMT
9/1/09	09-0720	Progressive Title & Abstract, LLC, Dallas	Violated Sec. 2502.003, 2651.301, 2704.001 and MEAPIC #16.	\$50,000 + agcy. license revoked.
9/1/09	09-0721	Stewart Title Amarillo Division	Failed to timely remit guaranty fees.	\$3,400
9/8/09	09-0745	Texas Title, Port Lavaca	Failed to timely remit escrow audit report.	\$5,400
9/8/09	09-0746	Chambers County Abstract Company, Anahuac	Failed to timely remit statistical report.	\$25,000
9/8/09	09-0747	Jannice Bonner, Spring	Fraudulent or dishonest practices.	Restitution + EO lic. rvkd.
10/1/09	09-0811	Stephen Buttram, Houston	Allowed unlicensed employee to act as escrow officer.	\$3,000
10/1/09	09-0812	Robin Maddran, Dallas	Performed duties of an escrow officer for agent without being licensed.	\$750
10/7/09	09-0825	Homeland Title, Whitehouse	Viol. of Sec. 2651.301, 2652.001, 2702.053, 2704.001, P-12, P-21, P-62, MEAPIC #1, #9, #14, #15, and #20.	\$15,000
11/13/09	09-0922	Madison County Title Company, Madisonville	Failed to timely remit guaranty fees.	\$5,000
11/13/09	09-0923	Classic Title Co., Carrollton	Failed to timely remit annual escrow audit report.	\$4,300
11/16/09	09-0925	American National Title Co., Houston	Failed to timely pay penalty due from prior consent order. Failed to timely remit annual escrow audit reports and guaranty fees. Also escrow theft & MEAPIC violations	Title agent's license revoked.

Active cases in Financial, Enforcement & Fraud:

	Active cases at 9/1/09	Cases referred Qtr. 10-1	Cases cleared Qtr. 10-1	Active cases at 11/30/09
Financial Program				
Confidential Supervision	0	0	0	0
Receivership	13	0	0	13
Troubled title agents	23	9	10	22
Enforcement				
Miscellaneous violations of the TIC	20	11	3	28
Rebating	1	0	0	1
License revocation (agent and/or escrow officer)	13	5	3	15
Late escrow audit rept. &/or stat rept. &/or guaranty fees	12	2	5	9
Fraud Unit				
Misappropriation of fiduciary funds	16	2	0	18
Total	98	29	21	106

STATISTICAL REPORT LIMITED REVIEWS

Out of 92 comprehensive audits completed during the quarter, 26 (28%) included a limited review of the agent's latest statistical report. The following results were reported.

	QTR	FY 10	FY 09	FY 08	FY 07	FY 06
Number of statistical reports reviewed.	26	26	116	73	63	56
1. No material discrepancies noted.	25	25	113	72	49	56
2. Incorrect agency number shown.	0	0	0	0	0	0
3. Total income and/or expense amounts reported didn't agree with agency's financial statements.	0	0	3	1	4	0
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.	1	1	0	0	0	0

RESULTS OF COMPLIANCE AUDITS DURING QUARTER

Listed below are audit findings for September through November of 2009, the 1st quarter of the State's fiscal year 2010. 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 indicated agent was insolvent or had cash flow problems.	6	6
---	---	---

ABSTRACT PLANT

Abstract plant not in compliance with Article 9.02(i) and Procedural Rule P-12.	4	4
Agency personnel unable to retrieve instrument information. Unable to verify legal plant.	0	0

TEXAS INSURANCE CODE

§ 101.102 – Conducted unauthorized business of insurance.	1	1
Section 2502.051 (formerly Art. 9.30) – Gave/received thing of value for referral of title insurance business.	1	1
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	2
Section 2704.001 (Art. 9.34) – Issued policies for property in county where not licensed.	1	1
Section 2704.001 (formerly Art. 9.34) – Signed commitments not maintained as part of complete evidence of insurability or countersigned policies not maintained.	21	21
Section 2651.002 (formerly Art. 9.36) – Agent used an unlicensed name or dba name.	14	14
Section 2651.301 (formerly Art. 9.37B) – Misappropriation or conversion to own use of money belonging to another person.	0	0
Section 2651.301 (formerly Art. 9.37B) – Failed to maintain separate escrow account (commingled escrow & operating funds).	7	7
Section 2651.101 and/or 2652.101 (formerly Art. 9.38 and/or 9.45) – No agency/escrow officer bond or insufficient bond.	9	9
Section 2651.151 (formerly Art. 9.39) – Annual escrow audit report prepared incorrectly or contained material inaccuracies or other problems.	3	3
Section 2652.001 (formerly Art. 9.41) – Unlicensed person acting as an escrow officer.	14	14
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.	8	8
Section 2602.103 (Art. 9.48) – Failure to produce requested files or other records.	1	1
Section 2702.053 (formerly Art. 9.53) – Actual receipts and/or disbursements not in agreement with settlement statement or premium split not disclosed.	42	42

BULLETIN

Title Bulletin No. 152 – Policy dates incorrect.	1	1
Title Bulletin No. 160 – All parties receiving portions of the real estate commission not disclosed on settlement statement.	19	19

PROCEDURAL RULES

P-18: Commitment not issued as required in rule or commitment incomplete.	4	4
P-21: Schedule D of commitment not in file or premium split not disclosed on commitment.	29	29
P-22: No T-00's in files or T-00's incorrect or incomplete.	25	25
P-27 ("Good Funds") violations: Unauthorized checks over \$1,500. Receipts not deposited timely or not received and posted before disbursements made.	8	8
P-35: Verbal or written guaranty, affirmation, indemnification, or certification issued.	0	0
P-61: Failure to issue title policy timely.	4	4
P-62: Operated in county for which not licensed.	0	0

VIOLATION OR DISCREPANCY		
---------------------------------	--	--

RATE RULES

Incorrect premium charged (violation of one or more rate rules).	14	14
R-1: Unauthorized fee charged for closing (or tax search) in addition to premium.	10	10
R-2: Premium remittances to underwriters not timely or amounts incorrect.	5	5
R-2: Premium collected but issuance of policy withheld.	2	2
R-2: Premium collected in installments or premium not collected at all.	0	0
R-8: Refinance credit not given or not calculated correctly.	9	9

MINIMUM ESCROW ACCOUNTING PROCEDURES & INTERNAL CONTROLS

#1 - Monthly escrow trial balances not prepared or not prepared timely.	5	5
#1 - Testing proved escrow trial balances unreliable.	1	1
#1 - Escrow trial balances not prepared correctly.	8	8
#2 - Three-way reconciliations not prepared or not prepared timely or portions of records not available.	4	4
#2 - Escrow trial balances and/or book balances and/or reconciled bank balances not in agreement. Differences unreconciled.	0	0
#2 - Bank reconciliations, book balances, or three-way reconciliations prepared incorrectly.	10	10
#3 – Reconciliations not approved by management or reviewed by another employee.	7	7
#4 - Accounting duties not segregated sufficiently and reconciliations not reviewed by manager or owner.	0	0
#5 - Only one signature on escrow checks when agency's size required two signatures.	1	1
#6 - Records did not include copies of all checks, invoices, deposit slips and receipt items.	7	7
#7A - Invested escrow accounts not styled correctly.	1	1
#7B - No written authorization to invest escrow funds.	0	0
#7C - Invested escrow account used agent's tax ID number instead of that of beneficiary.	0	0
#7D – No control ledger for invested escrow accounts. Interest not posted timely.	1	1
#8 - Guaranty files used name identification instead of unique numbers. Same file number used for more than one transaction.	3	3
#9 - Escrow bank accounts not styled as "escrow" or "trust".	12	12
#10 - No management approval for disbursements made on accounts open for more than six months or no review for disposition of funds.	7	7
#12 - No management approval for transfers of funds between guaranty files and/or transfers not documented in the files.	1	1
#13 - Seller not properly notified of NSF checks.	1	1
#14 - Guaranty file number not displayed on all escrow checks, deposit tickets or other documents.	1	1
#15 – Disbursement sheets missing, incomplete or incorrect.	23	23
#16 - Every disbursement not supported by invoice or sufficient other evidence.	40	40
#17 - Escrow receivables not cleared timely.	14	14
#18 – Settlement statement changes not initialed or supported adequately or contained white-out corrections.	0	0
#19 – Signed, pre-numbered receipts not issued for cash.	2	2
#20 – Images of checks did not meet requirements.	12	12
#21 – Escrow bank account not maintained at a financial institution in Texas.	0	0

VIOLATION OR DISCREPANCY	QTR	YTD
--------------------------	-----	-----

AGENCY

Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing".	4	4
Failed to disclose affiliated business arrangement as required by RESPA § 3500.15.	4	4

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].	0	0
Deposits and/or disbursements not booked in appropriate month.	9	9
Receivable(s) created by depositing into one bank account and disbursing from another account.	1	1
Reconciling items not posted timely and/or not cleared timely and/or not supported by adequate documentation.	5	5
Pattern of posting errors.	3	3
Signature on checks not on bank signature card or previous employees still on bank signature card.	5	5
Outstanding checks not cleared timely.	45	45
Deposit-in-transit list and/or outstanding checklist prepared incorrectly.	19	19
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	0
Legal documents not recorded timely with county clerk or evidence of timely recording not in file.	23	23
Cash or disbursement check found in file.	1	1
Funds not disbursed or escheated to state.	20	20

SETTLEMENT STATEMENTS

Required Form T-63 not prepared for POC items.	19	19
Premium split for closing, title examination or title evidence not disclosed on settlement statement. Other information not disclosed on settlement statement.	0	0
Original or amended final settlement statements not signed by any/all parties.	4	4
Settlement statements prepared incorrectly or contained mathematical errors.	0	0
Incorrect issuing agency shown on settlement statement.	0	0