



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

**SUMMARY OF OPERATIONS FOR 1ST QUARTER, FY 2013  
SEPTEMBER, 2012 – NOVEMBER, 2012  
for presentation to the  
Texas Title Insurance Guaranty Association Board of Directors  
January 22, 2013**

**COMPLIANCE AUDITS AND ESCROW AUDIT REPORTS**

	Qtr	FY 13	FY 12	FY 11	FY 10	FY 09	FY 08
Field audits completed	92	92	343	300	322	369	254
Field audit reports processed	96	96	333	298	319	360	241
Section 2651.151 audit reports received	71	71	580	612	618	652	638
Section 2651.151 audit reports reviewed	57	57	576	604	608	657	627

**Analysis of Title Insurance Agencies Licensed as of 11/30/12**

		<b>Breakdown of Comprehensive Audit Status</b>			
<b>Region</b>	<b># of agencies</b>	<b>Agencies audited within last 2 years</b>	<b>Agent's last audit was 2 - 3 years ago</b>	<b>Agent's last audit was over 3 years ago</b>	<b># of (new) agents never audited</b>
<b>NTX</b>	192	178	5	0	9
<b>CTX</b>	116	109	3	0	4
<b>WTX</b>	102	100	1	0	1
<b>HOU</b>	127	119	3	0	5
<b>STX</b>	36	36	0	0	0
<b>Totals:</b>	<b>573</b>	<b>542</b>	<b>12</b>	<b>0</b>	<b>19</b>
	% of Total:	94.4%	2.1%	0.0%	3.3%

**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 (12/1/11 – 11/30/12): 350 audits (63 over goal)

Last 3 months (9/1/12 – 11/30/12): 92 audits (20 over goal)

**Results of follow-up audits:**

<b>No. of follow-ups completed</b>	<b>Compliance achieved</b>	<b>Improvement but further action needed</b>	<b>Another on-site audit or stronger action needed</b>
0	0	0	0

**Orders signed by Commissioner Kitzman during quarter (13):**

DATE	ORDER #	AGENCY/PERSON	REASON	FINE AMT
9/11/12	12-0741	Stewart Title Guaranty Company	Violated Section 2703.003, 2703.151, and Procedural Rule P-9(b)(9) plus incorrect info on the stat report.	\$12,500
9/18/12	12-0763	Heritage Title Services, Nacogdoches	Failed to timely remit guaranty fees.	\$2,300
10/2/12	12-0793	Patriot USA Settlement Services, Flower Mound	Failed to timely remit annual escrow audit report.	\$6,000
10/17/12	12-0831	Frontier Title Comp.- WH, Katy	Failed to timely remit guaranty fees.	\$2,700
10/22/12	12-0838	Christopher John McLucas, Lewisville	Failed to complete all req'd CE hrs.	\$5,000
10/22/12	12-0840	Mayur Manubhai Patel, Houston	Allowed unlicensed employee to close transactions.	Escr. officer lic. revoked.
10/22/12	12-0841	Esther Gaytan, Houston	Misappropriated escrow funds.	C&D + \$50,000
10/26/12	12-0850	Waypoint Title of Austin	Failed to timely remit guaranty fees.	\$1,500
10/26/12	12-0851	Christi Gilmore, Granbury	Violated Sections 101.102, 2501.005, and 2652.001.	Escr. officer lic. revoked.
11/5/12	12-0864	Alamo Title Company, Colleyville	Violated Sec. 2652.001, P-21, P-22, and SA&P #5.	\$10,000
11/5/12	12-0867	Network National Title, Inc., Plano	Violated Sec. 2602.151, 2651.202, 2651.203, 2651.301, 2702.053, 2703.151, 2704.001, P-2, P-17, P-21, P-22, P-27, P-32, G-1, M.R. #9 and #17.	\$37,500
11/19/12	2049	Diane Perry, Frisco	Violated P-22.	\$5,000
11/19/12	2050	Michael Shannon Kackley, Frisco	Violated P-22.	\$5,000

**Active cases in Financial, Enforcement & Fraud:**

	Active cases at 9/1/12	Cases referred Qtr. 13-1	Cases cleared Qtr. 13-1	Active cases at 11/30/12
<b>Financial Program</b>				
Confidential Supervision	0	0	0	0
Receivership	12	0	7	5
Troubled title agents	19	5	6	18
<b>Enforcement</b>				
Miscellaneous violations of the TIC	12	7	5	14
Rebating	1	0	0	1
License revocation (agent and/or escrow officer)	7	0	3	4
Late escrow audit rept. &/or stat rept. &/or guaranty fees	7	1	4	4
<b>Fraud Unit</b>				
Misappropriation of fiduciary funds	23	0	0	23
Total	81	13	25	69

**STATISTICAL REPORT LIMITED REVIEWS**

Out of 92 comprehensive audits completed during the quarter, 83 (90%) included a limited review of the agent's latest statistical report. The following results were reported.

	QTR	FY 13	FY 12	FY 11	FY 10	FY 09
Number of statistical reports reviewed.	83	83	178	152	149	116
1. No material discrepancies noted.	79	79	170	147	143	113
2. Income and/or expense amounts reported in wrong categories.	3	3	4	2	0	0
3. Total income and/or expense amounts reported didn't agree with agency's financial statements.	1	1	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 September through November, 2012, the 1st quarter of the State's fiscal year 2013. Numbers represent the number of agencies where the infraction occurred, not the number of times it occurred.

VIOLATION OR DISCREPANCY	QTR	YTD
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**INSOLVENCY**

Financial statements indicated agent was insolvent or had cash flow problems.	8	8
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**ABSTRACT PLANT**

Abstract plant not in compliance with Article 9.02(i) and Procedural Rule P-12.	3	3
Agency personnel unable to retrieve instrument information. Unable to verify legal plant.	0	0

**TEXAS INSURANCE CODE**

<b>§ 101.102</b> – Conducted unauthorized business of insurance.	1	1
<b>Section 2502.051 (formerly Art. 9.30)</b> – Gave/received thing of value for referral of title insurance business.	0	0
<b>Section 2704.001 (formerly Art. 9.34)</b> – Provided policies to non-licensed entity and sold title evidence for counties for which agent was not licensed	2	2
<b>Section 2704.001 (formerly Art. 9.34)</b> – Policy not based on evidence from a legal abstract plant and/or no attempt made to contact out-of-county agents for title evidence.	0	0
<b>Section 2704.001 (Art. 9.34)</b> – Issued policies for property in county where not licensed.	2	2
<b>Section 2704.001 (formerly Art. 9.34)</b> – Signed commitments not maintained as part of complete evidence of insurability or countersigned policies not maintained.	7	7
<b>Section 2651.002 (formerly Art. 9.36)</b> – Agent used an unlicensed name or dba name.	2	2
<b>Section 2651.301 (formerly Art. 9.37B)</b> – Misappropriation or conversion to own use of money belonging to another person.	1	1
<b>Section 2651.301 (formerly Art. 9.37B)</b> – Failed to maintain separate escrow account (commingled escrow & operating funds).	8	8
<b>Section 2651.101 and/or 2652.101 (formerly Art. 9.38 and/or 9.45)</b> – No agency/escrow officer bond or insufficient bond.	2	2
<b>Section 2651.151 (formerly Art. 9.39)</b> – Annual escrow audit report prepared incorrectly or contained material inaccuracies or other problems.	3	3
<b>Section 2652.001 (formerly Art. 9.41)</b> – Unlicensed person acting as an escrow officer.	13	13
<b>Section 2602.151 (formerly Art. 9.48) and Administrative Rule G-1</b> – Failure to collect Policy Guaranty Fee or failure to maintain the policy fees in an escrow account.	5	5
<b>Section 2602.103 (Art. 9.48)</b> – Failure to produce requested files or other records.	3	3
<b>Section 2702.053 (formerly Art. 9.53)</b> – Actual receipts and/or disbursements not in agreement with settlement statement or premium split not disclosed.	58	58

**BULLETINS**

<b>Title Bulletin No. 152</b> – Policy dates incorrect.	2	2
<b>Title Bulletin No. 160</b> – All parties receiving portions of the real estate commission not disclosed on settlement statement.	29	29

**PROCEDURAL RULES**

P-18: Commitment not issued as required in rule or commitment incomplete.	1	1
P-21: Schedule D of commitment not in file or premium split not disclosed on commitment.	34	34
P-22: No T-00's in files or T-00's incorrect or incomplete.	16	16
P-27 ("Good Funds") violations: Unauthorized checks over \$1,500. Receipts not deposited timely or not received and posted before disbursements made.	16	16
P-35: Verbal or written guaranty, affirmation, indemnification, or certification issued.	1	1
P-61: Failure to issue title policy timely.	3	3
P-62: Operated in county for which not licensed.	0	0

VIOLATION OR DISCREPANCY	QTR	YTD
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**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.	3	3
R-2: Premium remittances to underwriters not timely or amounts incorrect.	4	4
R-2: Premium collected but issuance of policy withheld.	0	0
R-2: Premium collected in installments or premium not collected at all.	0	0
R-8: Refinance credit not given or not calculated correctly.	4	4

**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.	0	0
#1 - Escrow trial balances not prepared correctly.	6	6
#2 - Three-way reconciliations not prepared or not prepared timely or portions of records not available.	6	6
#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.	4	4
#3 – Reconciliations not approved by management or reviewed by another employee.	4	4
#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.	7	7
#6 - Records did not include copies of all checks, invoices, deposit slips and receipt items.	12	12
#7A - Invested escrow accounts not styled correctly.	4	4
#7B - No written authorization to invest escrow funds.	4	4
#7C - Invested escrow account used agent's tax ID number instead of that of beneficiary.	1	1
#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.	2	2
#9 - Escrow bank accounts not styled as "escrow" or "trust".	22	22
#10 - No management approval for disbursements made on accounts open for more than six months or no review for disposition of funds.	3	3
#12 - No management approval for transfers of funds between guaranty files and/or transfers not documented in the files.	0	0
#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.	5	5
#15 – Disbursement sheets missing, incomplete or incorrect.	28	28
#16 - Every disbursement not supported by invoice or sufficient other evidence.	39	39
#17 - Escrow receivables not cleared timely.	13	13
#18 – Settlement statement changes not initialed or supported adequately or contained white-out corrections.	1	1
#19 – Signed, pre-numbered receipts not issued for cash.	2	2
#20 – Images of checks did not meet requirements.	11	11
#21 – Escrow bank account not maintained at a financial institution in Texas.	0	0

VIOLATION OR DISCREPANCY	QTR	YTD
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**AGENCY**

Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing".	3	3
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].	1	1
Deposits and/or disbursements not booked in appropriate month.	12	12
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.	3	3
Pattern of posting errors.	8	8
Signature on checks not on bank signature card or previous employees still on bank signature card.	1	1
Outstanding checks not cleared timely.	46	46
Deposit-in-transit list and/or outstanding checklist prepared incorrectly.	26	26
Duplicate check numbers in same escrow account; checks written out of numerical sequence or more than one check number used for same disbursement.	1	1

**GUARANTY FILES**

Original legal documents found in guaranty files after title policies issued.	1	1
Legal documents not recorded timely with county clerk or evidence of timely recording not in file.	19	19
Cash or disbursement check found in file.	1	1
Funds not disbursed or escheated to state.	19	19