



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

**SUMMARY OF OPERATIONS FOR 3rd QUARTER, FY 2011
MARCH - MAY, 2011
for presentation to the
Texas Title Insurance Guaranty Association Board of Directors
July 25, 2011**

COMPLIANCE AUDITS AND ESCROW AUDIT REPORTS

| | Qtr. | FY 11 | FY 10 | FY 09 | FY 08 | FY 07 | FY 06 |
|---|------|-------|-------|-------|-------|-------|-------|
| Field audits completed | 78 | 213 | 322 | 369 | 254 | 255 | 263 |
| Field audit reports processed | 82 | 207 | 319 | 360 | 241 | 246 | 262 |
| Section 2651.151 audit reports received | 386 | 556 | 618 | 652 | 638 | 633 | 619 |
| Section 2651.151 audit reports reviewed | 387 | 552 | 608 | 657 | 627 | 636 | 598 |

Analysis of Title Insurance Agencies Licensed as of 5/31/11

| | | Breakdown of Comprehensive Audit Status | | | |
|----------------|----------------------|--|---|--|--------------------------------------|
| Region | # of agencies | Agencies audited within last two 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 | 191 | 179 | 5 | 1 | 6 |
| CTX | 118 | 107 | 7 | 0 | 4 |
| WTX | 104 | 98 | 6 | 0 | 0 |
| HOU | 127 | 121 | 3 | 0 | 3 |
| STX | 37 | 36 | 0 | 0 | 1 |
| Totals: | 577 | 541 | 21 | 1 | 14 |
| | % of Total: | 93.8% | 3.6% | 0.2% | 2.4% |

REVISED Goal: In order to comprehensively audit every agent at least once every 2 years, we need to conduct 289 comprehensive audits per year, which amounts to 72 audits per quarter.

Last 12 months (6/1/10 – 5/31/11): 282 audits (within 7 of goal)

Last 3 months (3/1/11 – 5/31/11): 76 audits (4 over goal)

Results of follow-up audits:

| No. of follow-ups completed | Compliance achieved | Improvement but further action needed | Another audit or other action needed |
|------------------------------------|----------------------------|--|---|
| 2 | 0 | 0 | 2 |

Orders signed by Commissioner Geeslin during quarter (20):

| <u>DATE</u> | <u>ORDER #</u> | <u>AGENCY/PERSON</u> | <u>REASON</u> | <u>FINE AMT</u> |
|-------------|----------------|---|---|--------------------------------|
| 3/24/11 | 11-0253 | Schleicher County Abstract Company, El Dorado | Failed to timely remit guaranty fees. | \$1,600 |
| 3/28/11 | 11-0255 | Sharon Green | Failed to complete all req'd CE hrs. | \$1,000 |
| 3/28/11 | 11-0261 | Carola Kay Anderson, Houston | Failed to complete all req'd CE hrs. | \$2,000 +EO Lic. revoked. |
| 3/31/11 | 11-0276 | Jennifer Litzman, Katy | Failed to complete all req'd CE hrs. | \$1,000 |
| 3/31/11 | 11-0277 | North Texas Title of Greenville | Failed to timely remit escr. audit rept. | \$5,400 |
| 4/5/11 | 11-0285 | Kim Ranzau | Failed to complete all req'd CE hrs. | \$1,500 |
| 4/12/11 | 11-0298 | Alamo Title Comp. of Ft Worth | Viol. of Sec. 2502.051 & 2652.051 & Procedural Rule P-22. | \$15,000 |
| 4/12/11 | 11-0299 | Essmarie Morris | Failed to complete all req'd CE hrs. | \$2,500 |
| 4/21/11 | 11-0338 | Forse Abstract & Title Co., Inc., Newton | Violation of Sections 2651.301, 2651.151, and various MEAPICs. | \$5,000 + lic. revoked. |
| 4/21/11 | 11-0340 | LSI Title Agency, Inc. | Used forms that weren't promulgated. | \$3,000 |
| 4/29/11 | 11-0371 | Title Stream, Coppell | Viol. of Sections 38.001, 2651.301, 2703.153, and Procedural Rule P-24. | Agency lic. revoked. |
| 4/29/11 | 11-0377 | Daniel Ayers, McKinney | Viol. of Section. 2652.201. | Escr. officer lic. revoked. |
| 4/29/11 | 11-0378 | Anthony Flores, Highland Village | Viol. of Section. 2652.201. | Escr. officer lic. revoked. |
| 5/12/11 | 11-0416 | Warren King, Houston | Failed to complete all req'd CE hrs. | \$2,000 |
| 5/12/11 | 11-0417 | National Title Insurance of New York, Santa Ana, CA | Used forms that weren't promulgated. | \$3,000 + C&D |
| 5/12/11 | 11-0418 | Westminster Title Agency, Grapevine | Viol. of Sec. 2652.001, Sec. 2702.053, R-2, P-22, P-61, and SA&P #5. | \$6,000 |
| 5/24/11 | 11-0439 | Richard Lemoyne Payne | Viol. of Sec. 4005.101 and 541.002. | Escr. officer lic. revoked. |
| 5/26/11 | 11-0443 | Flowers Title Companies | Violations of P-53. | C&D |
| 5/27/11 | 11-0456 | Permian Basin Abstract Co., Seminole | Failed to timely remit guaranty fees. | \$1,400 |
| 5/27/11 | 11-0457 | Patriot USA Settlement Services, Flower Mound | Failed to timely remit guaranty fees, annual audit report, and stat report. | \$5,900 |

Active cases in Financial, Enforcement & Fraud:

| | Active cases at 3/1/11 | Cases referred Qtr. 11-3 | Cases cleared Qtr. 11-3 | Active cases at 5/31/11 |
|--|-------------------------------|---------------------------------|--------------------------------|--------------------------------|
| Financial Program | | | | |
| Confidential Supervision | 1 | 0 | 0 | 1 |
| Receivership | 13 | 0 | 0 | 13 |
| Troubled title agents | 23 | 7 | 7 | 23 |
| Enforcement | | | | |
| Miscellaneous violations of the TIC | 38 | 8 | 11 | 35 |
| Rebating | 4 | 0 | 0 | 4 |
| License revocation (agent and/or escrow officer) | 18 | 3 | 3 | 18 |
| Late escrow audit rept. &/or stat rept. &/or guaranty fees | 14 | 3 | 6 | 11 |
| Fraud Unit | | | | |
| Misappropriation of fiduciary funds | 24 | 1 | 2 | 23 |
| Total | 135 | 22 | 29 | 128 |

STATISTICAL REPORT LIMITED REVIEWS

Out of 76 comprehensive audits completed during the quarter, 41 (54%) included a limited review of the agent's latest statistical report. The following results were reported.

| | Qtr. | FY 11 | FY 10 | FY 09 | FY 08 | FY 07 |
|--|------|-------|-------|-------|-------|-------|
| Number of statistical reports reviewed. | 41 | 114 | 149 | 116 | 73 | 63 |
| No material discrepancies noted. | 39 | 112 | 143 | 113 | 72 | 59 |
| Incorrect agency number shown. | 1 | 1 | 0 | 0 | 0 | 0 |
| Total income and/or expense amounts reported did not agree with agency's financial statements. | 1 | 1 | 5 | 3 | 1 | 4 |
| Miscellaneous other discrepancies. | 0 | 0 | 1 | 0 | 0 | 0 |

RESULTS OF COMPLIANCE AUDITS DURING QUARTER

Listed below are audit findings for March through May, 2011, the 3rd quarter of fiscal year 2011. 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. | 12 | 25 |
|---|----|----|

ABSTRACT PLANT

| | | |
|---|---|----|
| Abstract plant not in compliance with Section 2501.004 and Procedural Rule P-12. | 8 | 23 |
| Agency personnel unable to retrieve instrument information. Unable to verify legal plant. | 0 | 0 |

TEXAS INSURANCE CODE

| | | |
|--|----|-----|
| § 101.102 – Conducted unauthorized business of insurance. | 3 | 6 |
| Section 2502.051 (formerly Art. 9.30) – Gave/received thing of value for referral of title insurance business. | 2 | 6 |
| 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. | 0 | 0 |
| Section 2704.001 (Art. 9.34) – Issued policies for property in county where not licensed. | 3 | 8 |
| Section 2704.001 (formerly Art. 9.34) – Signed commitments not maintained as part of complete evidence of insurability or countersigned policies not maintained. | 8 | 23 |
| 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. | 2 | 5 |
| Section 2651.301 (formerly Art. 9.37B) – Failed to maintain separate escrow account (commingled escrow & operating funds). | 10 | 17 |
| Section 2651.101 and/or 2652.101 (formerly Art. 9.38 and/or 9.45) – No agency/escrow officer bond or insufficient bond. | 2 | 7 |
| Section 2651.151 (formerly Art. 9.39) – Annual escrow audit report prepared incorrectly or contained material inaccuracies or other problems. | 8 | 10 |
| Section 2652.001 (formerly Art. 9.41) – Unlicensed person acting as an escrow officer. | 13 | 28 |
| 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 | 21 |
| Section 2602.103 (Art. 9.48) – Failure to produce requested files or other records. | 4 | 8 |
| Section 2702.053 (formerly Art. 9.53) – Actual receipts and/or disbursements not in agreement with settlement statement or premium split not disclosed. | 43 | 120 |

| VIOLATION OR DISCREPANCY | QTR | YTD |
|---|------------|------------|
| BULLETINS | | |
| 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. | 21 | 54 |
| PROCEDURAL RULES | | |
| P-18: Commitment not issued as required in rule or commitment incomplete. | 0 | 2 |
| P-21: Schedule D of commitment not in file or premium split not disclosed on commitment. | 33 | 78 |
| P-22: No T-00's in files or T-00's incorrect or incomplete. | 19 | 57 |
| P-27 (“Good Funds”) violations: Unauthorized checks over \$1,500. Receipts not deposited timely or not received and posted before disbursements made. | 10 | 20 |
| P-35: Verbal or written guaranty, affirmation, indemnification, or certification issued. | 3 | 3 |
| P-61: Failure to issue title policy timely. | 3 | 8 |
| P-62: Operated in county for which not licensed. | 0 | 0 |

RATE RULES

| | | |
|---|----|----|
| Incorrect premium charged (violation of one or more rate rules). | 12 | 41 |
| R-1: Unauthorized fee charged for closing (or tax search) in addition to premium. | 7 | 18 |
| R-2: Premium remittances to underwriters not timely or amounts incorrect. | 6 | 13 |
| 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. | 2 | 6 |

MINIMUM ESCROW ACCOUNTING PROCEDURES & INTERNAL CONTROLS

| | | |
|--|----|----|
| #1 - Monthly escrow trial balances not prepared or not prepared timely. | 4 | 12 |
| #1 - Testing proved escrow trial balances unreliable. | 0 | 0 |
| #1 - Escrow trial balances not prepared correctly. | 7 | 23 |
| #2 - Three-way reconciliations not prepared or not prepared timely or portions of records not available. | 3 | 9 |
| #2 - Escrow trial balances and/or book balances and/or reconciled bank balances not in agreement. Differences unreconciled. | 1 | 3 |
| #2 - Bank reconciliations, book balances, or three-way reconciliations prepared incorrectly. | 8 | 27 |
| #3 – Reconciliations not approved by management or reviewed by another employee. | 9 | 14 |
| #4 - Accounting duties not segregated sufficiently and reconciliations not reviewed by manager or owner. | 0 | 3 |
| #5 - Only one signature on escrow checks when agency’s size required two signatures. | 3 | 6 |
| #6 - Records did not include copies of all checks, invoices, deposit slips and receipt items. | 4 | 17 |
| #7A - Invested escrow accounts not styled correctly. | 3 | 6 |
| #7B - No written authorization to invest escrow funds. | 2 | 3 |
| #7C - Invested escrow account used agent’s tax ID number instead of that of beneficiary. | 0 | 1 |
| #7D – No control ledger for invested escrow accounts. Interest not posted timely. | 0 | 0 |
| #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”. | 16 | 37 |
| #10 - No management approval for disbursements made on accounts open for more than six months or no review for disposition of funds. | 11 | 26 |
| #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 |

| VIOLATION OR DISCREPANCY | QTR | YTD |
|--|------------|------------|
| #14 - Guaranty file number not displayed on all escrow checks, deposit tickets or other documents. | 1 | 3 |
| #15 - Disbursement sheets missing, incomplete or incorrect. | 24 | 58 |
| #16 - Every disbursement not supported by invoice or sufficient other evidence. | 35 | 78 |
| #17 - Escrow receivables not cleared timely. | 11 | 36 |
| #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. | 3 | 8 |
| #20 - Images of checks did not meet requirements. | 5 | 15 |
| #21 - Escrow bank account not maintained at a financial institution in Texas. | 0 | 0 |

AGENCY

| | | |
|--|---|----|
| Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". | 0 | 3 |
| Failed to disclose affiliated business arrangement as required by RESPA § 3500.15. | 7 | 16 |

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. | 5 | 22 |
| Receivable(s) created by depositing into one bank account and disbursing from another account. | 0 | 4 |
| Reconciling items not posted timely and/or not cleared timely and/or not supported by adequate documentation. | 4 | 12 |
| Pattern of posting errors. | 0 | 0 |
| Signature on checks not on bank signature card or previous employees still on bank signature card. | 2 | 5 |
| Outstanding checks not cleared timely. | 40 | 108 |
| Deposit-in-transit list and/or outstanding checklist prepared incorrectly. | 15 | 41 |
| 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 | 1 |
| Legal documents not recorded timely with county clerk or evidence of timely recording not in file. | 22 | 63 |
| Cash or disbursement check found in file. | 1 | 2 |
| Funds not disbursed or escheated to state. | 25 | 70 |

SETTLEMENT STATEMENTS

| | | |
|--|---|----|
| Required Form T-63 not prepared for POC items. | 5 | 14 |
| 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. | 2 | 2 |
| Settlement statements prepared incorrectly or contained mathematical errors. | 0 | 1 |
| Incorrect issuing agency shown on settlement statement. | 0 | 0 |