

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

SUMMARY OF OPERATIONS FOR THE 3RD QUARTER, FY 2020 MARCH, 2020 – MAY, 2020 for presentation to the Texas Title Insurance Guaranty Association Board of Directors July 27, 2020

COMPLIANCE AUDITS AND ESCROW AUDIT REPORTS

	Qtr	FY 20	FY 19	FY 18	FY 17	FY 16
Field audits completed	54	162	286	265	289	266
Field audit reports processed	53	161	269	269	296	252
Section 2651.151 audit reports received	339	507	596	586	558	555
Section 2651.151 audit reports reviewed	339	500	624	553	572	576

Analysis of Title Insurance Agencies licensed as of 05/31/2020

		L	_ast Comprehens	ive Audit Status	
		Agencies	Agencies	Agent's	# of
		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	243	225	8	0	10
CTX	133	122	9	0	2
WTX	99	96	0	0	3
HOU	132	125	3	0	4
STX	32	31	1	0	0
Totals:	639	599	21	0	19
	% of Total:	93.7%	3.3%	0.0%	3.0%

Goal: Audit each agency once every 2 years.

Audit 50% per year = 320 each year or 80 each quarter.

Last 12 mos. (06/01/19 – 05/31/20): 249 audits (within 66 of goal) Last 3 mos. (03/01/20 – 05/31/20): 224 audits (within 96 of goal)

EXPERIENCE REPORT LIMITED REVIEWS

Out of 54 comprehensive audits completed during the quarter, 45 (83%) included a limited review of the agent's latest experience report. The following results were reported.

			FY	FY	FY	FY	FY
		QTR	20	19	18	17	16
Nu	mber of experience reports reviewed.	45	97	130	135	163	161
1.	No material discrepancies noted.	42	90	115	124	147	160
2.	Income &/or expenses reported in wrong categories.	2	6	3	0	3	1
3.	Total income and/or expense amounts reported didn't	0	0	10	11	13	0
	agree with agency's financial statements.						
4.	Wrong firm id number used on report/miscellaneous.	1	1	2	0	0	0

Commissioner Orders signed during the quarter: 0

Active cases in Financial, Enforcement & Fraud:

	Active cases at 11/30/19	Cases referred Qtr. 20-2	Cases cleared Qtr. 20-2	Active cases at 02/28/20
Financial				
Receivership	3	0	0	3
Troubled title agents	4	0	0	4
Enforcement				
Miscellaneous violations of the TIC	1	0	0	1
Rebating	0	0	0	0
License revocation (agent and/or escrow officer)	2	0	0	2
Late escrow audit rept. &/or stat rept. &/or guaranty fees	1	0	0	1
Fraud Unit				
Misappropriation of fiduciary funds	29	0	0	29
Total	40	0	0	40

RESULTS OF COMPLIANCE AUDITS DURING QUARTER

Listed below are audit findings for March through May, 2020, for the 3rd quarter of the State's fiscal year 2020. Numbers represent the number of <u>agencies</u> where the infraction occurred, not the number of times it occurred.

VIOLATION OR DISCREPANCY		YTD
INSOLVENCY		
Financial statements indicated agent was insolvent or had cash flow problems.	0	3
ABSTRACT PLANT		
Abstract plant not in compliance with Section 2601.004 & Procedural Rule P-12.	0	3
Agency unable to retrieve instrument information. Unable to verify legal plant.	3	3

TEXAS INSURANCE CODE

§ 101.102 – Conducted unauthorized business of insurance.	1	4
3 101.102 - Conducted unauthorized pusitiess of insulance.	ı	4
Administrative Rule L-2: Escrow officer appointments not canceled timely.	11	16
Section 2502.051 – Gave/received thing of value for referral of title insurance business.	2	7
Section 2651.001 – Issued policies for property in county where not licensed.	6	12
Section 2704.001 – 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 – Signed commitments not maintained as part of complete evidence of insurability or countersigned policies not maintained.	4	14
Section 2651.008 – Agent used an unlicensed name or dba name.	0	2
Section 2651.301 – Misappropriation or conversion of escrow funds.	0	1
Section 2651.301 – Failed to maintain separate escrow account (commingled escrow & operating funds).	8	15
Section 2651.101 and/or 2652.101 – No agency/escrow officer bond or insufficient bond.	0	9
Section 2651.151 – Annual escrow audit report prepared incorrectly or contained material inaccuracies or other problems.	6	8
Section 2652.001 – Unlicensed person acting as an escrow officer.	3	10
VIOLATION OR DISCREPANCY	QTR	YTD
Section 2602.151 and Administrative Rule G-1 – Failure to collect Policy Guaranty Fee or failure to maintain the policy fees in an escrow account.	10	23
Section 2602.103 – Failure to produce requested files or other records.	0	0
Section 2702.052 – Used non-promulgated forms.	4	9
Section 2702.053 – Actual receipts and/or disbursements not in agreement with settlement statement or premium split not disclosed.	39	103

TITLE BULLETINS

	·
18	49
	18

PROCEDURAL RULES

D. 17. Electronic Cignoture used on non promulated form	1	1
P-17: Electronic Signature used on non-promulgated form.	- 1	4
P-18: Commitment not issued as required in rule or commitment incomplete.	1	2
P-21: Schedule D of commitment not in file or premium split not disclosed on	30	71
commitment.		
P-22: No T-00's in files or T-00's incorrect or incomplete.	20	54
P-27 ("Good Funds") violations: Unauthorized checks over \$1,500. Receipts not	8	21
deposited timely or not received and posted before disbursements made.		
P-35: Verbal or written guaranty, affirmation, indemnification, or certification	6	9
issued.		
P-61: Failure to issue title policy timely.	1	3
P-73: Failure to prepare/maintain Form T-64 (TD) when CD used.	21	60

RATE RULES

Incorrect premium charged (violation of one or more rate rules).	12	30
R-1: Unauthorized fee charged for closing (or tax search) in addition to premium.	1	6
R-2: Premium remittances to underwriters not timely or amounts incorrect.	3	10
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	15

MINIMUM ESCROW ACCOUNTING PROCEDURES & INTERNAL CONTROLS

#1 - Escrow trial balances not prepared correctly. #2 - Three-way reconciliations not prepared or not prepared timely or records #3 - Three-way reconciliations not prepared or not prepared timely or records #4 - Escrow trial balances and/or book balances and/or reconciled bank balances #5 - Escrow trial balances and/or book balances and/or reconciled bank balances #6 - Record bank reconciliations, book balances, or three-way reconciliations prepared #6 - Record bank reconciliations not approved by management or reviewed by another #6 - Records bank and the state of the state o	#1 - Monthly escrow trial balances not prepared or not prepared timely.	0	2
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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 or deposit tickets. #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. #10 - Images of checks did not meet requirements. #12 - Escrow bank account not maintained at a financial institution in Texas. #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. #20 - Images of checks did not meet requirements. #21 - Escrow bank account not maintained at a financial institution in Texas. #22 - Settlement statement changes not initialed or supported adequately or contained white-out corrections. #20 - Images of checks did not meet requirements. #20 - Images of checks did not meet requirements. #21 - Escrow bank account not maintained at a financial institution in Texas. #22 - Settlement statement changes not initialed or supported adequately or contained white-out corrections. #20 - Images of checks did not meet requirements. #21 - Escrow bank account not maintained at a financial institution in Texas. #22 - Settlement statement changes not initialed or supported by engaging in "self-dealing". #23 - Settlement statement statemen	#11 – Voided check did not have signature block removed to render check ineffective.	0	1
#14 - Guaranty file number not displayed on all escrow checks or deposit tickets. 19	#12 - No management approval for transfers of funds between guaranty files and/or transfers not documented in the files.	0	0
#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. #221 – Escrow bank account not maintained at a financial institution in Texas. #23 – AGENCY **AGENCY** **Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". **Failed to disclose affiliated business arrangement as required by RESPA § #25 – 5 **SECROW ACCOUNTING** **Material escrow funds irregularity or irregularities [i.e., escrow account overdrawn, receipt 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 0 1	1 1 7	-	-
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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. AGENCY Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing". Failed to disclose affiliated business arrangement as required by RESPA § Secound ACCOUNTING Material escrow funds irregularity or irregularities [i.e., escrow account overdrawn, receipt 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 1	#18 – Settlement statement changes not initialed or supported adequately or		
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	Deposits and/or disbursements not booked in appropriate month.	2	7
modific decoding	Receivable(s) created by depositing into one bank account and disbursing from another account.	0	1

Reconciling items not posted timely and/or not cleared timely and/or not supported by adequate documentation.	2	3
Pattern of posting errors.	0	0
Signature on checks not on bank signature card or previous employees still on bank signature card.	4	7
Outstanding checks not cleared timely.	35	82
Deposit-in-transit list and/or outstanding check list prepared incorrectly.	13	25

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.	17	41
Cash or disbursement check found in file.	0	0
Funds not disbursed or escheated to state.	21	46
Notary fee used. No prior written authorization obtained. (SAAP#5)	8	8

MINIMUM CAPITALIZATION RULES

S.1: Form T-S1 not submitted or agent failed to meet Min. Cap. requirement.	7	26
S.2: Solvency account deposits not calculated correctly.	1	2
S.5: Quarterly tax report not submitted timely.	5	25