



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

**SUMMARY OF OPERATIONS FOR 2ND QUARTER, FY 2016
DECEMBER, 2015 – FEBRUARY, 2016**

for presentation to the
Texas Title Insurance Guaranty Association Board of Directors
APRIL 25, 2016

COMPLIANCE AUDITS AND ESCROW AUDIT REPORTS

	Qtr	FY 16	FY 15	FY 14	FY 13	FY 12	FY 11
Field audits completed	61	118	308	286	340	343	300
Field audit reports processed	63	118	317	276	344	333	298
Section 2651.151 audit reports received	73	154	553	566	569	580	612
Section 2651.151 audit reports reviewed	64	111	542	565	558	576	604

Analysis of Title Insurance Agencies Licensed as of 2/29/16

		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	194	156	25	2	11
CTX	116	109	2	0	5
WTX	99	86	13	0	0
HOU	131	123	4	0	4
STX	35	29	6	0	0
Totals:	575	503	50	2	20
	% of Total:	87.5%	8.7%	0.3%	3.5%

REVISED Goal: In order to comprehensively audit every agent at least once every 2 years, we need to conduct 288 comprehensive audits per year, which amounts to 72 audits per quarter.

Last 12 months (3/1/15 – 2/29/16): 278 audits (within 10 of goal)

Last 3 months (12/1/15 – 2/29/16): 61 audits (within 11 of goal)

EXPERIENCE REPORT LIMITED REVIEWS

Out of 61 comprehensive audits completed during the quarter, 51 (83.6%) included a limited review of the agent's latest experience report. The following results were reported.

	QTR	FY 16	FY 15	FY 14	FY 13	FY 12
Number of experience reports reviewed.	51	98	159	180	238	178
1. No material discrepancies noted.	51	97	155	172	228	170
2. Income and/or expense amounts reported in wrong categories.	0	1	1	2	4	4
3. Total income and/or expense amounts reported didn't agree with agency's financial statements.	0	0	3	6	6	4

Orders signed by Commissioner Mattax during quarter (3):

DATE	Order #	AGENCY/PERSON	REASON	FINE AMT
1/22/16	4273	Telly Smith dba Exodus Title Co., Beeville	Unauthorized business of insurance.	C&D
1/22/16	4274	Jason Gatzka, Pasadena	Fraudulent or dishonest acts.	G.L. lic. revoked.
1/22/16	4275	Kimberly McCoy, Missouri City	Fraudulent or dishonest acts.	C.M. lic. revoked.

Active cases in Financial, Enforcement & Fraud:

	Active cases at 12/1/15	Cases referred Qtr. 16-2	Cases cleared Qtr. 16-2	Active cases at 2/29/16
Financial				
Confidential Supervision	1	0	1	0
Receivership	2	1	0	3
Troubled title agents	5	1	0	6
Enforcement				
Miscellaneous violations of the TIC	8	4	1	11
Rebating	0	0	0	0
License revocation (agent and/or escrow officer)	5	4	2	7
Late escrow audit rept. &/or stat rept. &/or guaranty fees	2	0	0	2
Fraud Unit				
Misappropriation of fiduciary funds	25	2	0	27
Total	48	12	4	56

RESULTS OF COMPLIANCE AUDITS DURING QUARTER

Listed below are audit findings for December, 2015, through February, 2016, the 2nd quarter of the State's fiscal year 2016. 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.	2	2
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ABSTRACT PLANT

Abstract plant not in compliance with Section 2601.004 and Procedural Rule P-12.	2	3
Agency personnel unable to retrieve instrument information. Unable to verify legal plant.	0	1

TEXAS INSURANCE CODE

§ 101.102 – Conducted unauthorized business of insurance.	0	0
Section 2502.051 (formerly Art. 9.30) – Gave/received thing of value for referral of title insurance business.	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	6
Section 2704.001 (formerly Art. 9.34) – Signed commitments not maintained as part of complete evidence of insurability or countersigned policies not maintained.	6	11
Section 2651.002 (formerly Art. 9.36) – Agent used an unlicensed name or dba name.	2	3
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).	6	10
Section 2651.101 and/or 2652.101 (formerly Art. 9.38 and/or 9.45) – No agency/escrow officer bond or insufficient bond.	2	2
Section 2651.151 (formerly Art. 9.39) – Annual escrow audit report prepared incorrectly or contained material inaccuracies or other problems.	1	4
Section 2652.001 (formerly Art. 9.41) – Unlicensed person acting as an escrow officer.	0	2

VIOLATION OR DISCREPANCY	QTR	YTD
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.	0	0
Section 2602.103 (Art. 9.48) – Failure to produce requested files or other records.	0	0
Section 2702.053 (formerly Art. 9.53) – Actual receipts and/or disbursements not in agreement with settlement statement or premium split not disclosed.	34	51

TITLE BULLETINS

Title Bulletin No. 152 – Policy dates incorrect.	1	2
Title Bulletin No. 160 – All parties receiving portions of the real estate commission not disclosed on settlement statement.	21	34

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.	19	30
P-22: No T-00's in files or T-00's incorrect or incomplete.	12	19
P-27 ("Good Funds") violations: Unauthorized checks over \$1,500. Receipts not deposited timely or not received and posted before disbursements made.	3	6
P-35: Verbal or written guaranty, affirmation, indemnification, or certification issued.	0	0
P-61: Failure to issue title policy timely.	1	1
P-73: Failure to prepare/maintain Form T-64 (TD) when CD used.	3	3

RATE RULES

Incorrect premium charged (violation of one or more rate rules).	7	11
R-1: Unauthorized fee charged for closing (or tax search) in addition to premium.	1	1
R-2: Premium remittances to underwriters not timely or amounts incorrect.	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.	2	3

MINIMUM ESCROW ACCOUNTING PROCEDURES & INTERNAL CONTROLS

#1 - Monthly escrow trial balances not prepared or not prepared timely.	1	1
#1 - Testing proved escrow trial balances unreliable.	0	0
#1 - Escrow trial balances not prepared correctly.	2	5
#2 - Three-way reconciliations not prepared or not prepared timely or portions of records not available.	1	1
#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.	2	5
#3 – Reconciliations not approved by management or reviewed by another employee.	0	0
#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	2
#6 - Records did not include copies of all checks, invoices, deposit slips and receipt items.	7	13
#7A - Invested escrow accounts not styled correctly.	2	2
#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.	0	0
#8 - Guaranty files used name identification instead of unique numbers. Same file number used for more than one transaction.	2	3

VIOLATION OR DISCREPANCY	QTR	YTD
#9 - Escrow bank accounts not styled as "escrow" or "trust".	2	11
#10 - No management approval for disbursements made on accounts open for more than six months or no review for disposition of funds.	6	11
#12 - No management approval for transfers of funds between guaranty files and/or transfers not documented in the files.	0	1
#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.	2	3
#15 - Disbursement sheets missing, incomplete or incorrect.	11	23
#16 - Every disbursement not supported by invoice or sufficient other evidence.	19	34
#17 - Escrow receivables not cleared timely.	5	5
#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.	1	1
#20 - Images of checks did not meet requirements.	0	3
#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	0
Failed to disclose affiliated business arrangement as required by RESPA § 3500.15.	0	2

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.	4	9
Receivable(s) created by depositing into one bank account and disbursing from another account.	1	2
Reconciling items not posted timely and/or not cleared timely and/or not supported by adequate documentation.	1	1
Pattern of posting errors.	4	4
Signature on checks not on bank signature card or previous employees still on bank signature card.	0	0
Outstanding checks not cleared timely.	28	49
Deposit-in-transit list and/or outstanding check list prepared incorrectly.	5	10
	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.	13	20
Cash or disbursement check found in file.	0	0
Funds not disbursed or escheated to state.	7	18

MINIMUM CAPITALIZATION RULES

S.1: Form T-S1 not submitted as required or agent failed to meet Min. Cap. requirement.	3	3
S.2: Solvency account deposits not calculated correctly.	1	2
S.5: Quarterly tax report not submitted timely.	2	4