

ADVISOR

Volume 7, Number 4

December 15, 1996

Real estate telemarketers indicted for fraud

The U.S. Department of Justice has indicted eight persons in connection with a telemarketing operation operated in Montgomery, Texas. According to the indictments, false promises and misrepresentations related to marketing the victims' undeveloped property resulted in approximately 27,000 property owners across the United States paying several hundred dollars per victim to the telemarketers (see "TREC Requests Info on Property Advertising Companies Requesting Advance Fees," *Advisor* Vol-

ume 5, Number 5, 1994). The defendants are charged in a 30-count indictment with conspiracy, mail fraud, wire fraud and money-laundering. If convicted, the defendants face up to 15 years for each mail fraud and wire fraud count and up to 20 years for each money-laundering count.

Through the Association of Real Estate License Law Officials (ARELLO), TREC made other jurisdictions aware of "land liquidator" operations. A multimedia consumer alert in which TREC participated focused national attention on the issue. As a result of the effort, federal and state law enforcement officials and licensing agencies have developed cooperative approaches to the gathering of evidence and protection of the consumer.

False invoices lead to revocation of residential rental locator's license

TREC has revoked the real estate salesman license of a residential rental locator found to have submitted false invoices. TREC's Enforcement Division investigated a complaint and sought disciplinary action against the locator. Following a hearing before the staff hearings officer, an order was issued revoking the locator's license effective October 31, 1996. The hearings officer found that the locator had been paid four commissions on invoices falsely claiming that the locator had procured a tenant. The hearings officer concluded that the locator was guilty of submitting inaccurate invoices [Section 15(a)(6)(Q) of the Real Estate License Act] and was guilty of conduct which constituted dishonest dealings, bad faith, or untrustworthiness [Section 15(a)(6)(V) of the License Act]. The locator's motion for rehearing has been overruled, and the order is subject to a possible appeal to the courts.

New advertising rule takes effect in 1997

Effective January 1, 1997, real estate licensees placing signs likely to attract the attention of motorists or pedestrians are subject to a new advertising rule, 22 TAC §535.154(g). The new rule does not apply to signs placed on a property the licensee has listed for sale, rental or lease, or to directional signs which do not contain the name or telephone number of the licensee. Under the rule, advertisements must contain language clearly and conspicuously identifying as a broker or agent the person publishing the advertisement. Whether a particular advertisement complies depends on the size of the print used or other features of the advertisement, but the language must not be so small that it cannot be easily read from the street or

continued on page 3

Appropriation request for 75th Texas Legislature focuses on improving TREC's enforcement

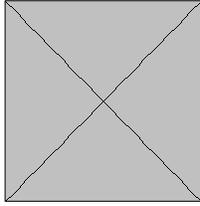
The Texas Real Estate Commission's (TREC) 1998-1999 agency appropriation request, approved by the Commission on August 12, 1996, focuses fiscal allocations toward improvement of TREC's enforcement initiatives. The request has been submitted to the 75th Texas Legislature for approval during the upcoming legislative session. If approved, the funds will provide for increases in TREC's enforcement staff in order to provide swift and sure complaint resolution for real estate licensees.

"It's in everyone's best interest to resolve complaints as fast as possible," explained Bill Kuntz, TREC's agency administrator. "TREC's Strategic Plan for 1997 - 2001 gives the highest priority to improving the effectiveness of the

continued on page 3

Contents

TREC meeting highlights	2
Complaint procedure	4
More rental locator Q & A	4
Compliance check-list	5
Inspection reports	7
Proposed amendment	8



ADVISOR
Vol. 7, No. 4
December 15, 1996

Official publication of the
Texas Real Estate Commission

STATE OF TEXAS
George W. Bush, Governor

Commission Members:
Jay Brummett, Chairman,
Broker Member
Rick M. Albers, Vice Chairman,
Public Member
Mitchell Katine, Secretary-Treasurer,
Public Member
Eden Box, Broker Member
Pete Cantu, Sr., Broker Member
Chris T. Folmer, Broker Member
Hazel W. Lewis, Broker Member
Deanna Mayfield, Public Member
Weldon Traylor, Sr., Broker Member

TREC Administrator:
William H. Kuntz, Jr.
Advisor Editor: Mary Streetman

The *ADVISOR* (ISSN 1047-4579) is published by the Texas Real Estate Commission (TREC) as an educational service to licensees in the state of Texas. The purpose of the newsletter is to promote a better understanding of The Real Estate License Act and to inform all licensees of changes affecting laws and practices in the real estate industry. The *ADVISOR* is funded through legislative appropriations and subscriptions collected from TREC licensees. The official text of TREC rules is filed with the Office of the Secretary of State, *Texas Register*.

TREC encourages reproduction of this newsletter with the appropriate acknowledgements. Subscriptions are available for \$3.00 for two years. Single issues are \$1.00. To order a subscription or a single issue write to: *ADVISOR*, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

For more information regarding TREC, contact:

Texas Real Estate Commission
P.O. Box 12188
Austin, Texas 78711-2188
(512) 459-6544
1 (800) 250-TREC
<http://www.trec.state.tx.us>
TREC Fax: (512) 419-1623

Commission Meeting Highlights

September 30, 1996

Austin - Commission adopted an amendment to 22 TAC §535.154, concerning misleading advertising (see "New advertising rule takes effect in 1997," page 1, this issue).

Commission discussed proposed amendment to 22 TAC §537.11 and new 22 TAC §537.45, concerning lead-based paint contract addendum. Commission voted to postpone action until the Broker-Lawyer Committee could respond to questions about the form.

Commission approved for publication in the Texas Register 22 TAC §534.1, concerning charges for copies of public records.

Commission discussed promulgated form: Addendum For Inspection With Right to Terminate.

Commission discussed current use and related issues regarding homeowner association disclosure forms

Commission discussed inspector compliance with 22 TAC §535.222 (Standards of Practice).

Commission discussed Commission policy regarding the propriety of commissioner or commission staff teaching all or any part of courses for which a licensee may obtain prelicensure, salesman's annual education (SAE), or mandatory continuing education (MCE) credit; and the expenditure of public funds to reimburse travel expenses related to teaching such courses.

November 4, 1996

Austin - Commission adopted a policy stating Commissioners should not participate in programs or courses approved for credit by the Commission, save and except for student participation.

Commission discussed Texas Department of Insurance Title Bulletin No. 158, regarding the violations of the Insurance Code.

Commission discussed jurisdiction of TREC and the Texas Appraisal Licensing and Certification Board (TALCB) in appraisal-related activity.

Commission made changes to the Q&A list of the TREC Information Update (see "TREC Revises Locator Information," page 4, this issue) and discussed 22 TAC §535.300(c), relating to advertising guidelines for residential locators.

Commission authorized staff to proceed on legislative initiatives presented for approval (see "Appropriation request for 75th Texas Legislature focuses on improving TREC's enforcement," page 1, this issue).

Commission approved the inclusion of a mandatory core course teaching contract information in draft legislation for the upcoming session.

continued on page 3



Future Meeting Dates:

Texas Real Estate Commission:
December 16, 1996 - Austin

Broker-Lawyer Committee:
January 9-10, 1997 - Austin

TREC Inspector Committee:
January 17, 1997 - Austin

Texas Real Estate Commission:
February 3, 1997 - Austin

Broker-Lawyer Committee:
February 13-14, 1997 - Austin

Lead-based paint rules now in effect

HUD and EPA rules governing disclosure of lead-based paint and lead-based paint hazards in connection with the sale or lease of residential dwellings built prior to 1978 are now in effect. Owners of more than four dwellings were first subject to the federal rules on September 6; owners of four or less dwellings became subject to the rules on December 6, 1996. The obligations of owners and their agents under the federal rules are summarized in the previous issue (Volume 7, Number 3, *Advisor*), also available on TREC Fax and via TREC's website. For the purposes of the federal rules, real estate licensees are considered agents of the owner unless they are paid solely by the buyer or tenant.

The federal rules require an attachment to the contract or lease of the property; the attachment must contain a lead warning statement and acknowledgments by the parties relating to disclosure of information and receipt of a brochure *Protect Your Family From Lead in Your Home*. To facilitate compliance with the federal law, TREC has approved for voluntary use a lead-based paint addendum (Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards). No form has been approved by TREC

for lease transactions. The addendum was printed in the prior issue and is available on TREC Fax and via the TREC website. The federal brochure and sample lease attachment are available from the National Lead Information Center, 1019 19th Street, N.W., Washington, D.C. 20036 (tel. 202-293-2270, (800)424-LEAD) or through a link provided on TREC's website.

The Texas Real Estate Broker-Lawyer Committee has submitted the addendum to TREC for possible promulgation. As used by the Commission, the term "promulgated" is used to indicate those forms which licensees are generally mandated to use if the parties have agreed that the subject matter of the addendum is to be part of the contract. Once a form has been **promulgated for mandatory use** by the Commission, the licensee is required to use only that form **unless** a different form prepared by a party or by an attorney is required by the party. Once a form has been **approved for voluntary use**, the licensee may use the TREC-approved form **or** a different form in the transaction if the different form was prepared by an attorney and approved for the kind of transaction involved, or the form was prepared by or required by a party.

Appropriation request *continued from page 1*

agency's enforcement program. Additional attorney, case manager and clerk positions in our enforcement division will allow for more timely resolution of complaints while maintaining the firm, fair and consistent enforcement that the Real Estate License Act requires."

TREC's previous legislative appropriation request asked for funds to improve TREC's communication with its licensees and the public by implementing new business technologies into TREC's communication strategies. Funds approved during the 74th Texas Legislature were used to build an information-filled website, establish the TREC Fax document retrieval service, add a toll-free telephone line for consumers to contact TREC, and hire two Ombudsmen posi-

tions in order to answer phone inquiries.

By providing these new services, TREC has improved its ability to respond to more of the large volume of phone calls and inquiries it receives regularly. Phone records report that TREC's telephone capacity (the number of calls that actually get through to the agency) increased from 20,000 calls/month in FY1995 to 29,800 calls/month in the last quarter of FY1996. Additionally, the TREC Fax document retrieval system handles 1,265 calls per month by sending information directly to the caller's fax machine at any time.

TREC's 1997- 2001 Strategic Plan may be viewed at TREC's website: <http://www.trec.state.tx.us>.

Meeting highlights *continued from page 2*

Commission proposed an amendment to 22 TAC §535.61, concerning examinations.

Commission discussed an amendment to 22 TAC §535.66(s).

New Advertising Rule *continued from page 1*

sidewalk. The rule specifically provides that the language will be considered clear and conspicuous by TREC if the language is at least the same size as the print or type of the largest telephone number in the advertisement.

Broker-Lawyer Committee revising standard contract forms

The Texas Broker-Lawyer Committee has increased the frequency of its meetings in order to complete changes to contract forms currently under revision. Meetings of the Broker-Lawyer Committee will be held every second Thursday of every month at the TREC offices in Austin until further notice.

with TREC-L

Want to be first in line to receive TREC info? If you have e-mail, subscribe to TREC-L, the Commission's automatic e-mail notification service. This is the first place that information regarding TREC events and business is available. All you do is subscribe to the service using your e-mail and TREC-L does the rest automatically. For details on how to subscribe, see TREC's website at <http://www.trec.state.tx.us> and look for TREC-L E-mail Notification List.

Complaint procedure: What to expect when a complaint is filed

Real estate agents occasionally express the fear that some minor error might lead a disgruntled client to file a complaint against them which could lead to the loss of a license before there is a chance to respond. While there is no effective way to prevent the filing of a complaint, the law has established a system which specifies the procedures for the Commission to follow in any investigation and possible administrative action. These procedures safeguard constitutional and due process rights and promote the pursuit of the complete truth while minimizing the ability of any lone individual to dictate the result. Each person who becomes the subject of a complaint should, however, always focus on the reality that this is a serious process and that there can be unpleasant results in the ultimate resolution of the complaint.

Any licensee should take a complaint seriously from the first notification that a case file has been opened. It is impor-

tant to review the matter and to make careful preparation for an interview by a Commission investigator or provide a comprehensive written response. This should include the gathering of all available documentation and a conscious reconstruction of all events surrounding the transaction which the complaint concerns. A private attorney may be consulted to assist in developing a response. Despite the expense which may be involved, the matter may already have reached a crucial phase by the time the Enforcement Division opens an investigation, and it is usually in everyone's best interest to resolve a complaint as early in the process as possible.

If circumstances do not permit the resolution of a complaint before the commencement of a formal administrative hearing process, then it is even more important to take the situation seriously and to prepare for a formal legal proceeding. Although a hearing conducted by the Commission is more casual than a case heard in court, it can have potentially momentous consequences. It is not like a sales meeting or a business negotiation session. Witnesses testify under oath, documents are received or rejected subject to formal rules of evidence, and attorneys for the Commission's Enforcement Division make legal presentations. There are legal rules which govern what evidence and testimony may be received, and it is imperative for a licensee to be able to present an account of events which is understandable and persuasive. Licensees are entitled to be represented by their own attorney.

Even after an adverse result from an administrative hearing there are provisions for a review of the decision. What is more important to remember, however, is that a little preparation at the beginning of the process may resolve a problem before it gets to the hearing stage. There are many opportunities for a licensee to answer a complaint before a hearing is called, and these should be used and never ignored.

Rental locator Q&A information revised

During their November meeting, the members of the Commission discussed and revised several of the rental locator questions and answers appearing in the last issue ("Residential Rental Locators: It is Time to Comply", Volume 7, number 3). As revised, the questions now read as follows:

Q: What if the locator's signs are placed on public property, or public right of way?

A: Placement of signs on public property or public right of way, in violation of city ordinance, or in violation of state laws governing public property or public right of way in any areas which are not under the jurisdiction of city ordinance is considered an act of negligence or incompetence authorizing disciplinary action against the licensee. Licensees know or ought to know the sign ordinances in their communities, which typically prohibit placing a sign on a utility pole, traffic signal box or in a road median.

Q: Is a locator permitted to rebate a portion of the locator's commission to the tenant?

A: A locator is prohibited from paying a rebate or compensation of any type to a tenant without the property owner's prior knowledge and consent.

Q: Isn't paying a rebate to an unlicensed person a violation?

A: Not unless the person is performing some service for which a real estate license is required. If a tenant is paid by a locator for referring **another** tenant to the locator, the payment would be a violation.

Q: May a locator advertise that tenants will receive rebates?

A: It depends. False or misleading advertising is prohibited. If the locator has prior permission to pay rebates from the owners of the property the locator represents, the advertising would be permitted.

For Your Own Good... Check the Expiration Date of Your License

It is your responsibility to ensure that your license is renewed in a timely manner. Any education you might require must be completed *before* your license expiration date if you want to maintain an active real estate license.

Renewal forms are sent out as a courtesy to all licensees. TREC is not responsible for US Postal Service delivery or knowing where to find you if you have moved and have not filed a formal change-of-address request with our office. Failure to receive a renewal notice does not provide a valid excuse for not renewing your license.

TREC employee recognized for exemplary work

TREC is proud to announce the most recent recipient of its Employee of the Quarter Award: Diane Fletcher. Diane works in the Cashier Section of Staff Services. She began working for TREC on April 25, 1985. Her primary responsibilities are balancing money batches and answering the main telephone line of Staff Services. She is a group leader and performs various other duties in the Cashier Section. If you come to the TREC office to renew your license you may see Diane at the front cashier window. If you do, you are sure to get the kind of service of which TREC is proud.

TREC recognizes one employee each quarter based on nominations of fellow employees. The nominees are evaluated on performance, teamwork, initiative, flexibility, leadership, and other contributions to TREC's mission. Previous Employee of the Quarter recipients are Jimmie Wusterhausen, Lois Haverland, Sandy Jones, Jane Hill, Sherry Halmon, Lyndon Clements, and Nancy Grassel.

**Got a question?
The answer is at
your fingertips:**

TREC website:
*[http://
www.trec.state.tx.us](http://www.trec.state.tx.us)*

TRECFax:
(512) 419-1623

*TREC toll-free phone
number:*
1-800-250-TREC

Compliance Check-list

1. Have I notified the Commission of my current business address (broker only) or has my sponsoring broker notified the Commission that I am now sponsored by that broker?
2. Is my license prominently displayed in my office or in my sponsoring broker's office?
3. Do I have a branch office license for all my offices, including home offices, used by salesmen or broker associates?
4. Have I filed any assumed name with TREC and the appropriate county?
5. Is the Consumer Information Form 1-1 displayed in a prominent location in each place of business I maintain?
6. Have I identified myself as a broker, salesman, or agent in published advertisements?
7. Do I use all the TREC-promulgated contract forms and do I use them correctly?
8. Do I provide a copy of Information About Brokerage Services to prospective buyers, sellers, tenants, and landlords at the appropriate time?
9. Have I made clear to all parties to a transaction which party I am acting for in the transaction?
10. Is my license or the license of an associate expired or on inactive status?
11. Do I deposit earnest money in accordance with the terms of the contract?
12. If I practice through a corporation or limited liability company, is the corporation or limited liability company licensed in its own name?
13. When buying, selling, trading, or renting real property in my own name, do I provide written notice to the other party that I am a licensed real estate broker or salesman?

Many of the problems that come to the Enforcement Division as complaints could have been avoided if the licensees in the transaction had followed the guidelines set out in the Real Estate License Act and Commission Rules. However, many licensees do not have a current copy of the License Act and Rules. Copies of the License Act and Rules can be purchased from the Commission, obtained on TRECFax (512) 419-1623 or viewed on the Commission's website <http://www.trec.state.tx.us>.

Commission proposes amendment concerning confidentiality of examinations

TREC has proposed an amendment to 22 TAC §535.61, concerning examinations. On October 30, 1996, the Commission voted to publish for comments a proposed rule amendment which addresses the examination process and the confidentiality of examination materials. The proposal clarifies that the TREC examinations now conducted by National Assessment Institute (NAI) will be conducted in the manner previously established by the TREC rule, unless the contract between TREC and the testing service provides otherwise.

The most significant provision concerns examination confidentiality. As proposed, the rule would establish grounds for disapproving an application if the applicant reveals specific examination questions or answers to another applicant or to any other person for the purpose of providing the information to other applicants. TREC also would be authorized to discipline its licensees, instructors, MCE providers and schools for obtaining or attempting to obtain specific questions and answers from applicants for the purpose of revealing the materials to other applicants. The proposed amendment would not prohibit discussion of the general content of an examination. For example, it would not be improper for an applicant to reveal that the examination included questions on agency disclosure, because this information is generally disclosed on the examination content outline avail-

able to all applicants. Revealing specific questions and answers, however, would constitute a rule violation if the information was revealed for the purpose of providing it to other applicants.

The text of the proposed rule is as follows (new language is shown in bold):

§535.61. Examinations.

(a)-(ff) (No change.)

(gg) If the commission contracts with a testing service to administer examinations, the examinations will be conducted in accordance with the Act and in the manner contemplated by these sections, except when the contract between the testing service and the commission requires otherwise.

(hh) The contents of examinations administered by the commission or by a testing service under contract with the commission are confidential. Obtaining or attempting to obtain specific questions or answers from an applicant, a commission employee or any person hired by or associated with the testing service, for the purpose of providing the questions or answers to another person who is either an applicant or a potential applicant, is grounds to impose disciplinary action under the Act, §15(a)(2), §15(B)(b) or §23(m)(4), under §535.66 (Relating to Educational Programs: Accreditation), §535.73 (Relating to Compliance and Enforcement), or §535.213 (Relating to Schools and Courses of Study in Real Estate Inspection). Removing or attempting to remove questions or answers from an examination site, or providing or attempting to provide examination questions or answers to another person, knowing the person is an applicant or prospective applicant, or that the person intends to provide the questions or answers to an applicant or potential applicant is grounds for disapproval of a pending application for any license issued by the commission, including school accreditations and approvals for providers or instructors.

Disciplinary action
continued from page 8

Administrative Penalties:

Hammer, James Martin (Houston); B#417070. Representing both buyer and seller without their consent; §15(a)(6)(D). Failure to use correct contract form; §15B(b). 7/8/96, \$500.

Lyles, Kenneth Wayne (Spring); B#321706. Failure to provide Agency Disclosure Form 3; failure to disclose license status when acting as a principal; (2) of §15B(b). 8/6/96, \$500.

Pugh, Tammy Jeanne (Houston); B#321705. Failure to provide Agency Disclosure Form 3; failure to disclose license status when acting as a principal; (2) of §15B(b). 8/6/96, \$500.

Wilson, Thomas Stephan (Houston); S#406670. Failure to use correct photograph in advertisement; §15(a)(6)(W). 10/17/96, \$250.

Francese, John Maurice, Jr. (Austin); B#310856. Failure to provide Agency Disclosure Form 3; §19A(a). 10/23/96, \$250.

Violations:

§1(b): unlawful for a person to act in the capacity of, engage in the business of, or advertise or hold himself out as engaging in or conducting the business of a real estate broker or a real estate salesman within the state without first obtaining a real estate license from the Texas Real Estate Commission

§1(d): no real estate salesman shall accept compensation for real estate sales and transactions from any person other than the broker under whom he at the time was licensed or under whom he was licensed when he earned the right to compensation

§8(i): the Commission has made a payment from the Real Estate Recovery Fund of any amount toward satisfaction of a judgment against a licensed real estate broker or salesman

§15(a)(2): the licensee has procured, or attempted to procure, a real estate license, for himself or a salesman, by fraud, misrepresentation or deceit, or by making a material misstatement of fact in an application for a real estate license

§15(a)(3): the licensee, when selling, buying, trading, or renting real property in his own name, engaged in misrepresentation or dishonest or fraudulent action

§15(a)(4): the licensee has failed within a reasonable time to make good a check issued to the Commission

§15(a)(5): the licensee has disregarded or violated a provision of the Act

§15(a)(6)(A): making a material misrepresentation, or failing to disclose to a potential purchaser any latent structural defect or any other defect known to the broker or salesman

§15(a)(6)(D): failing to make clear, to all parties to a transaction, which party he is acting for, or receiving compensation from more than one party except with the full knowledge and consent of all parties

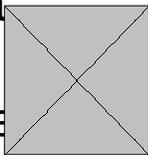
§15(a)(6)(E): failing within a reasonable time properly to account for or remit money coming into his possession which belongs to others, or commingling money belonging to others with his own funds

§15(a)(6)(J): acting in dual capacity of broker and undisclosed principal

§15(a)(6)(P): publishing, or causing to be pub-

continued on page 3

Reminder:
Don't forget
to **renew**
your license
even if you
choose
to be **inactive.**



Inspection reports must conform to Standards of Practice

by Larry J. Foster
Chairman, Texas Real Estate
Inspector Committee (TREIC)

At a recent commission meeting concern was expressed that some inspection reports may not follow the Standards of Practice when describing the condition of property inspected. Concerned speakers said that real estate agents and their clients find it difficult to determine from some reports what actually needs to be repaired.

The Standards of Practice (22 TAC §535.222(b) of the Rules of the Texas Real Estate Commission) require that an inspection report "...specifically indicate if the inspected parts, components or systems are not functioning or in need of repair." While this seems to be a very direct requirement, some inspectors appear to be under the impression that if they merely state what was observed then they have met the requirements of the standards. This is not so.

The following example may illustrate the problem: An inspector observes and includes in the report: "Roof covering has cracks, excessive loss of granular embedment and has reached the end of

its normal economic life expectancy; recommend that a roofer be contacted to inspect the roof." While it may be understood that something is wrong with this roof the inspector did not state whether the roof was not functioning or in need of repair. The inspector merely deferred judgment to another party. This leaves the consumers, both buyer and seller, in the difficult situation of trying to determine what needs to be repaired under the terms of the Earnest Money Contract. The inspector should have stated, per the Standards of Practice, that the roof was "not functioning" and/or "was in need of repair" unless it was the opinion that the roof did not need to be repaired.

When preparing a report an inspector should keep in mind that the reader of the report should be able to clearly determine what items need to be repaired. A buyer must be able to provide a list of repairs as identified through an inspection to the seller. A seller could reasonably refuse to repair an item that was not

clearly stated as in need of repair by the licensed inspector. Inspectors should be aware that it is not enough to say what you saw and defer to another professional, like a roofer, YOU MUST RENDER AN OPINION whether an item inspected is NOT FUNCTIONING or IN NEED OF REPAIR.

A building's foundation, however, is the one category that requires the inspector to state more than whether the item is functioning or is in need of repair. The standards dictate that the inspector shall "render an opinion as to the performance of the foundation." (see Sec. §535.222(e)(2)(A)(IV)). This requires that an inspector include a means of stating in his report that the foundation is performing adequately or is not functioning or in need of repair. The inspector could use the language from the standards or symbols defined in the report to mean the same as the language from the standards.

An inspector who has questions regarding the adequacy of report formats or reporting can refer to the TREC Standards of Practice which may be viewed on TREC's website (<http://www.trec.state.tx.us>) or retrieved via TREC Fax (512) 419-1623.

Disciplinary action

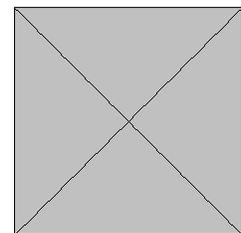
continued from page 6

lished, an advertisement including, but not limited to, advertising by newspaper, radio, television, or display which is misleading, or which is likely to deceive the public, or which in any manner tends to identify the person causing the advertisement to be published as a licensed real estate broker or agent
§15(a)(6)(Q): knowingly withholding or inserting in a statement of account or invoice, a statement that makes it inaccurate in a material particular
§15(a)(6)(S): establishing an association, by employment or otherwise, with an unlicensed person who is expected or required to act as a real estate license, or aiding or abetting or conspiring with a person to circumvent the requirements of this Act
§15(a)(6)(T): failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document
§15(a)(6)(V): conduct which constitutes dishonest dealings, bad faith, or untrustworthiness
§15(a)(6)(W): acting negligently or incompetently

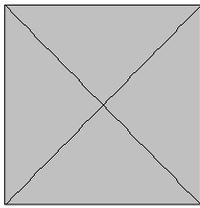
in performing an act for which a person is required to hold a real estate license
§15(a)(6)(Y): failing within a reasonable time to deposit money received as escrow agent in a real estate transaction
§15(a)(8): failing to provide information requested by the Commission as a result of a formal or informal complaint
§15(a)(9): the licensee has failed without just cause to surrender to the rightful owner, on demand, a document or instrument coming into his possession
§15B(b): licensee violated the Act or a Rule of the Commission
§19A(a): administrative penalty for violation of Commission Rule 535.164
Article 6252-13c: criminal conviction of a felony or misdemeanor directly relating to the duties and responsibilities of a licensee

S = salesman
B = broker
PI = professional inspector

**Got a question?
Give us a call.**



**TREC's toll-free number
is 1-800-250-TREC.**



BULK RATE
U.S. Postage
PAID
 Austin, TX
 Permit No. 277

Texas Real Estate Commission
 P.O. Box 12188
 Austin, Texas 78711-2188

TREC disciplinary actions

Revocations:

Ticknor, Sue Ellen (Houston); B#137648. Failure to file assumed name with Commission; advertising under an assumed name that did not identify her as an agent; failure to be responsible for the actions of a sponsored salesman; (3) of §15(a)(5). Failure to identify herself as a broker in an advertisement; §15(a)(6)(P). 7/10/96.

Pully, Luther Stuart (Austin); S#274344. §8(i), 7/31/96.

Shaw, Annette M. (San Antonio); S#237535. §8(i), 8/2/96, probated for 3 years and 3 months.

Gaubert, Thomas Milton (Dallas); B#363866. Conviction of felony offenses of conspiracy to defraud FDIC, attempting to engage in interstate monetary transaction involving criminally derived property, concealment of property and improperly structuring monetary transactions; Article 6252-13c. 8/31/96, probated until 2/13/00.

Riser, Henry L. (Houston); B#278511. Established an association with an unlicensed person; §15(a)(6)(S). Failed to repay monies as represented; §15(a)(6)(V). 9/2/96.

Elizondo, Imelda Eloisa (McAllen); B#404607. §15(a)(8). 9/23/96.

Ghouse, Mike M. (Dallas); B#387756. Failing within a reasonable time to account for or remit money coming into his possession; (4) of §15(a)(6)(E). 9/30/96.

Lewis, Marilyn Marie (Houston); S#310643. Salesman failed to conduct brokerage activities through sponsoring broker; §1(b). Salesman accepted a commission without the knowledge and consent of sponsoring broker; §1(d). Submitted false leasing commission invoices for fictitious tenants and properties; §15(a)(6)(Q) and §15(a)(6)(V). 10/31/96.

Suspensions:

Henderson, Olga Marie (Dallas); B#39800. Misrepresentation of listing price of property for sale; §15(a)(6)(V) and §15(a)(6)(W). Failure to provide Agency Disclosure Form 3; §15B(b).

Failure to provide copy of signed contract; §15(a)(6)(T). Failure to return personal documents to buyer; §15(a)(9). 7/1/96, 3 months.

Ross, Rosemary Dossier (Corsicana); S#312234. Failure to disclose known defects in a property; §15(a)(6)(A). 7/1/96, 60 days, fully probated for 11 months.

Lala, Thomas Joe (Moulton); B#278087. Negligent negotiation of a contract; §15(a)(6)(W) and §15B(b). 7/1/96, 60 days, fully probated for 180 days.

Dixon, Dorothea LaRue (Corpus Christi); S#403779. Failure to conduct property management through her sponsoring broker; §15(a)(5). Commingled money belonging to others with her own funds; §15(a)(6)(E). 7/8/96, 30 days.

Carlson, Martin P. (Houston); B#286452. Conviction of felony offense of conspiracy to commit fraud; Article 6252-13c. 7/22/96, 2 years fully probated.

Helm, Kenneth William (San Angelo); B#339060. Signed another's name to a legal document without the person's knowledge or consent; §15(a)(6)(V). 7/28/96, 1 year, remaining 6 months probated for 4 years, effective 1/28/97.

Williams, Arthur (Houston); B#713401. Misrepresented ownership when selling his own property; §15(a)(3). 7/29/96, 30 days.

McDonald, Thomas Joseph (Houston); B#222756. Failure to confirm terms of escrowed contract; §15(a)(6)(W). 7/29/96, 30 days.

Madison, Robert Charles (San Antonio); S#369631. Failure to use contract addendum; §15(a)(6)(W). 8/30/96; 30-days, probated for 6 months.

Nkalari, Ndubuisi Andy (Dallas); B#407065. Failure to deposit earnest money with title company as required by contract; §15(a)(6)(Y). 9/1/96, 6 months, fully probated.

Pickering, Wayne Brian (Dallas); B#204391. Conviction of felony offenses of conspiracy to commit bank fraud, money laundering and bank fraud, and aiding and abetting; Article 6252-13c. 9/4/96, 2 years, remaining 18 months pro-

bated for 3 years, effective 3/31/97.

Holcomb, Barbra Hayden (Houston); S#438215. Negligent negotiation of a contract; §15(a)(6)(W). Failure to use contract addendum; §15B(b). 10/1/96, 60 days, fully probated for 6 months. Administrative penalty of \$500.

Reprimands:

Stuart, Leta Fay (McAllen); S#312310. Accepting a commission without the knowledge or consent of her sponsoring broker; §1(d). 7/8/96.

Pham, Quang Van (Houston); S#390858. Negligently activating security alarm while showing property; §15(a)(6)(W). 8/20/96.

Hobbs, Randolph (Fort Worth); B#299148. Failure to timely deliver HUD offer; §15(a)(6)(W). Failure to provide Agency Disclosure Form 3; §15B(b). 9/4/96.

Shiflett, Roy Kenneth (Houston); B#145418. §15(a)(6)(J). 9/18/96. Administrative penalty of \$250.

Leland, Troy Harold (Houston); B#370347. §15(a)(6)(J). 9/18/96. Administrative penalty of \$250.

Erwin, Rickey Glenn (Corpus Christi); S#430485. §15(a)(6)(D), §15(a)(6)(J). 9/29/96.

Wyche, George Nathaniel (Houston); B#116435. §15(a)(6)(L). 10/1/96.

Casey, James Bernard (Houston); B#272300. §15(a)(6)(D). Failure to properly supervise a salesman; §15(a)(6)(W). 10/7/96.

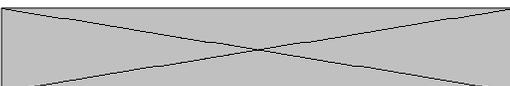
Moody, Syble Jean (Houston); S#384618. Failure to make agency relationships clear; §15(a)(6)(W). 10/7/96.

Sanchez, Angel Luis (El Paso); B#242320. §15(a)(4). 10/7/96.

Sanchez, Norberto (El Paso); S#419508. §15(a)(4). 10/7/96.

French, Kirk Talmage (Midland); S#419544. Failure to ensure earnest money deposited with title company as required by contract, failure as listing agent to obtain information about buyers' default; §15(a)(6)(W). 10/22/96.

continued on page 6



For this and more TREC enforcement information visit: <http://www.trec.state.tx.us>