

# TREC *Advisor*

Texas Real Estate Commission

Volume 8, No. 3

October 15, 1997

## New contract forms adopted

On September 22, 1997, TREC voted to adopt a series of eight promulgated contract forms, replacing forms last revised in 1993 or 1994. Use of the new forms will become mandatory for licensees beginning January 1, 1998, but licensees may begin using the forms immediately.

In related action, TREC also implemented a recommendation from the Broker-Lawyer Committee to repeal two promulgated addenda forms because their provisions have been made part of the contract forms. After January 1, 1998, licensees may no longer use Property Condition Addendum, TREC No. 2-4 or Addendum For Inspection With Right To Terminate, TREC No. 27-0.

The vote to adopt the forms concluded a process which began in early 1995 (See "TREC Broker-Lawyer Committee to Revise Contract Forms and Addenda," *Advisor*, Volume 6, No.1). The Broker-Lawyer Committee held frequent meetings to review drafts and discuss suggestions for needed changes to the forms. On March 28, 1997, a formal notice about the proposed forms was published in the *Texas Register*, and drafts of the forms thereafter appeared on the TREC home page on the World Wide Web. Licensees were invited to submit comments in the April 15 issue of the *Advisor*. At TREC meetings in April, June and July, interested persons commented on the contract forms which had been proposed for adoption. The members of the Commission made specific requests to the Committee to consider modifications regarding such items as repairs, mediation and the agreement between brokers.

During the rulemaking process, more

than 250 written comments were received and distributed to the members of the Commission and the Broker-Lawyer Committee for review and discussion. For the first time, licensees were able to transmit comments directly to TREC by e-mail. A number of changes to the forms originated in suggestions from members of the Commission or comments from licensees.

As Judy McKee, then the Broker Co-Chairman of the Broker-Lawyer Committee, explained: "Almost as soon as the previous forms were released in 1993, the Committee began to receive suggestions about changes. Most of the comments concerned repairs. Licensees related problems their clients had experienced in getting the property inspected, obtaining estimates and arranging for repairs within the time periods and expense limits which were established before the condition of the property was known."

The new contracts offer a solution for parties who do not already know which repairs are to be made. The contracts continue to provide the buyer the right to inspect the property. For separate consideration, called the "Option Fee," however, the buyer may obtain an option to terminate the contract within an agreed time. This alternative provides an opportunity for the parties to determine the condition of the property and then negotiate the repairs which will be made. Ms. McKee cautioned: "Licensees will need to protect the client's interest by amending the contract. While it is often useful to communicate the parties' wishes by telephone, licensees must follow up and get those repair agreements in writing to make them enforceable."

## Standard inspection reports mandatory January 1, 1998

At its September 22, 1997 meeting, TREC adopted rules requiring licensed inspectors to use standard inspection report forms. Use of the forms is mandatory January 1, 1998, unless federal law requires a different form to be used in a transaction. The initial report forms were developed by the Texas Real Estate Inspector Committee at the request of the Commission. The final versions of the forms reflect changes made in response to industry comments. Senate Bill No. 1100, passed by the 75th Legislature, directed TREC to adopt rules requiring the use of standard inspection report forms.

A new rule, 22 TAC §535.223, adopts by reference a series of standard report forms and requires their use by inspector licensees. The rule requires inspectors to complete the applicable portions of the forms and to provide a copy of the forms to the person for whom the inspection is being performed. With one exception, the forms must be reproduced without changes from the printed versions adopted by TREC. When an item listed on the form is not present in the property or for another permitted reason is not being inspected under the departure provisions of TREC rules, the inspector may delete the item. If the item is deleted, the heading for the item must appear in the report, along with a notation of the reason for the deletion. For example, an inspector who rarely finds an evaporative cooler in the homes the inspector sees may delete the subparts of the report relating to evaporative coolers. Opposite the heading "Evaporative Coolers," the inspector would note that the item is not found in the property.

Inspectors may add additional pages if necessary to report items not listed on the

***New contract changes detailed, pages 4 & 5***

*continued on page 6*

# TEXAS REAL ESTATE COMMISSION MEETING HIGHLIGHTS

## JULY 15, 1997 - AUSTIN

Commission voted to relieve Bill Kuntz of his duties. Commission appointed Brian Francis acting administrator for TREC.

## JULY 24, 1997 - AUSTIN

Commission discussed possible action to amend or repeal rules relating to standard contract forms: (a) 22 TAC §537.11, relating to promulgation of forms; (b) 22 TAC §537.13, relating to the property condition addendum (repeal); (c) 22 TAC §537.20, relating to the unimproved residential property contract; (d) 22 TAC §537.28, relating to the one-to-four family contract; (e) 22 TAC §537.29, relating to the FHA/VA one-to-four family contract; (f) 22 TAC §537.30, relating to new home incomplete construction contract; (g) 22 TAC §537.31, relating to new home completed construction contract; (h) 22 TAC §537.32, relating to farm and ranch contract; (i) 22 TAC §537.34, relating to addendum for inspection (repeal); (j) 22 TAC §537.37, relating to condominium resale contract; (k) 22 TAC §537.38, relating to FHA/VA condominium resale contract; (l) 22 TAC §537.42, relating to agreement for mediation (repeal). After discussion, Commission voted to recommend contract changes to send back to the Broker-Lawyer Committee. (See "TREC adopts new contract forms," page 1.)

Commission discussed proposed amendment to 22 TAC §535.20, concerning referrals. Commission voted to place the item on the agenda for the next meeting for consideration of adoption.

Commission discussed possible action on enacted legislation. TREC General Counsel reported that staff would be developing rules to implement legislation.

Commission discussed possible action to propose: (a) new 22 TAC §535.223, concerning standard inspection form; (b) amendment to 22 TAC §535.222, concerning standards of practice. Texas Real Estate Inspectors Committee chairman presented proposals. Commission proposed for publication in the Texas Register new 22 TAC §535.223, concerning a standard inspec-

tion form and eight forms for optional systems, and an amendment to 22 TAC §535.222.

Commission approved recovery fund investment policies.

Commission proposed for publication an amendment to 22 TAC §535.66(ff), concerning solicitation at accredited schools.

Commission designated Chairman Brummett, Ms. Mayfield and Ms. Gonzalez-Avila as attendees for ARELLO September conference and voted to empower the chairman to vote as specified by the Commission on reciprocity issues.

Chairman appointed Ms. Sutton, Ms. Mayfield, Ms. Lewis and himself to a screening committee for the vacant administrator position. A meeting of the committee would be held before the next regularly scheduled meeting.

Commission authorized the acting administrator to approve vouchers and revoked voucher approval authority of the prior administrator.

## SEPTEMBER 22, 1997 - AUSTIN

Commission approved for publication the Texas Register new 22 TAC §§535.400-535.402, concerning registration of easement or right-of-way agents; amendment to 22 TAC §535.63, concerning broker education and experience; amendment to 22 TAC §535.64, concerning salesperson

education; amendment to 22 TAC §535.132, concerning nonresidents' eligibility for licensure; amendment to 22 TAC §535.212, concerning education and experience requirements for inspectors.

Commission voted to amend or repeal rules relating to standard contract forms effective January 1, 1998 (see "New contract forms," page one, this issue).

Commission adopted amendment to 22 TAC §535.20, concerning referrals.

Commission adopted new 22 TAC §535.222, concerning standards of practice.

Commission adopted amendment 22 TAC §535.66(ff), concerning solicitation at accredited schools.

Commission appointed Don Harvey and Randy Jeffers to the Texas Broker-Lawyer Committee.



*The mission of the Texas Real Estate Commission is to assist and protect consumers of real estate services, and foster economic growth in Texas.*

*Through its programs of education, licensing and industry regulation, the Commission ensures the availability of capable and honest real estate service providers.*

## TEXAS REAL ESTATE COMMISSION

### CALENDAR OF EVENTS

#### November

Texas Real Estate Commission  
November 3, 1997  
Austin

#### December

Texas Real Estate Commission  
December 15, 1997  
Austin

*(No additional meeting dates scheduled at press time; consult TREC's website for next Commission meeting date, Broker-Lawyer Committee, etc.)*

#### TREC website:

<http://www.trec.state.tx.us>

#### TRECFax:

(512) 419-1623

#### TREC toll-free phone

number:

(800) 250-TREC

## Fair Credit Reporting Act consumer amendments

Extensive amendments to the Fair Credit Reporting Act ("FCRA") took effect on September 30, 1997. Licensees who use credit reports in conducting brokerage activities may be subject to these provisions. Following is a brief description of some of the new consumer provisions of the FCRA.

All persons and entities are now prohibited from obtaining or using a consumer credit report without a permissible purpose as defined in the FCRA.

New duties have been established for creditors and others who provide information to consumer reporting agencies ("CRAs"). Creditors who furnish information to CRAs now have the duty to provide accurate information. Creditors must inform CRAs when a consumer voluntarily elects to close a credit account. After receiving this notice, the CRA is required to include this information in any report on that consumer. Creditors have also been given the duty to investigate information when notified by a CRA that a consumer has disputed information provided by the creditor.

The opportunity for consumers to receive information has been expanded. When a consumer requests the contents of his file and provides proper identification, CRAs are now must provide the consumer with copies of all information contained in the file, including the sources of that information. In each instance in which file contents are disclosed to a consumer, CRAs are now further required to provide the consumer with a written notice of the consumer's rights under the FCRA.

Several amendments addressed the accuracy of information contained in consumer reports. When a consumer disputes information contained in a report, the CRA is now required to note on all subsequent reports that a dispute exists. Further, when a consumer disputes information, CRAs now have only 30 days to complete an investigation regarding the accuracy of the information. When a CRA deletes information because it was inaccurate or could not be verified, it must now ensure that this information does not reappear again later. (See details of new provisions of the FCRA on TREC Fax or the TREC website.)

## TREC initiates rulemaking to implement 1997 legislation

At its September 22 meeting, TREC approved the publication of proposed rule changes which would implement legislation adopted by the 75<sup>th</sup> Legislature. Final action on the proposals could come as early as the TREC meeting scheduled for November 3, 1997.

Proposed new rules, 22 TAC §§535.400-401, concern the registration of easement or right-of-way agents under Senate Bill 577. The rules would adopt application forms, establish application and complaint processes, and adopt notices which registrants would have to display in their offices or provide to the other party in an easement or right-of-way transaction.

TREC also approved for publication amendments to 22 TAC §§ 535.63, 535.64, and 535.132. These changes would extend waivers of education and experience for former licensees from five to six years, as authorized by Senate Bill 1100.

With regard to inspector licensing, TREC proposed an amendment to 22 TAC §535.212. Senate Bill 1100 requires TREC to adopt rules permitting real estate inspector and professional inspector applicants to substitute additional core real estate courses or inspec-

tion-related experience for the requirements that the applicant first be licensed as an apprentice or real estate inspector and have performed specific numbers of inspections under supervision. The rule would permit a person to apply directly for a real estate inspector license if the applicant is sponsored by a professional inspector and has either completed an additional 30 hours of courses or has three years of experience in an occupation listed in the rule. A person could apply directly for a professional inspector license with either an additional 60 hours of courses or at least five years of related experience. Professional inspectors licensed in this way must complete at least 200 inspections after licensure, however, in order to sponsor other inspectors.

Under the current rule, an applicant for a professional inspector license may receive credit for 25 inspections for each year of experience in a related field, for up to 50 % of the required inspections. Real estate inspectors who wish to obtain partial credit for required inspections under the current rule should file an application for a professional inspector license prior to November 24, 1997.

### Rental locators disciplined for negligent placement of signs; broker faces license revocation

In recent disciplinary proceedings conducted by the Enforcement Division, four rental locators were reprimanded and paid administrative penalties of \$500 each for violations of Section 15(a)(6)(W) of the Real Estate License Act. Two other rental locators were reprimanded. The licensees acted negligently in performing an act requiring a real estate license by placing signs advertising their services in violation of the City of Houston Sign

Ordinance. An order also has been entered to revoke the real estate broker license issued to the sponsoring broker of these rental locators for negligent supervision of their activities.

Licensee who wish to read about rules and regulations regarding rental locators may access TREC Fax and request TREC information update (Vol.1, No. 1, August 12, 1996 - Rental Locator Information) or view TREC's website.

## Detailed summary of contract form changes

*This article details many, but not all, of the changes which have been made to the promulgated contract forms. Licensees should secure copies of the forms and familiarize themselves with all changes prior to using the new forms in transactions. Forms are available from the TREC website or by contacting TREC at (512) 465-3920.*

### In General

Larger fonts have been chosen to increase ease of reading the forms. In some cases the forms are longer as a result, but the elimination of two addenda may reduce the number of contract pages in a transaction. Since earnest money may not be required in any given contract, the term “earnest money” has been removed from the titles of the forms. Use of the term “shall” is limited to contexts when a party is required to act. The number of capitalized terms has been reduced. Paragraphs have been renumbered and, in some cases, deleted.

### Paragraph 2, Property

In all forms except **TREC No. 9-3** personal property items included in the sale have been expanded to include stove, satellite dish equipment, chandeliers, swimming pool maintenance accessories, landscaping, and artificial fireplace logs. **TREC Addendum for Property Subject to Mandatory Membership in an Owners’ Association** is referenced in all forms except **TREC No. 25-2**.

### Paragraph 3, Sales Price

Language is added to 3A to clarify that the cash portion is paid at closing.

### Paragraph 4, Financing

The paragraph is rearranged with loan application times first, followed by types of financing. Language has been added to clarify that the contract is subject to the buyer obtaining loan approval. In **TREC Nos. 20-3, 24-2** and **30-1** amounts are made more specific with a maximum loan-to-value ratio (LTV) determined by the lender. This provision may provide a level of protection for the buyer making a larger down payment in connection with third party financing. Assume the following: the

sales price is \$200,000 and the buyer is making a \$50,000 down payment. The property is appraised at \$190,000 for loan purposes. Under the previous forms, the lender might make the \$150,000 loan because of the 79% LTV. The buyer could be compelled to close on property worth less than the sales price. Using the new forms, the buyer could specify a maximum LTV of 75% and would not be obligated to close.

### Paragraph 5, Earnest Money

A provision for additional earnest money is now in all forms (new in **TREC No. 25-2**).

### Paragraph 6, Title Policy and Survey

Boxes are provided to specify who pays for the owner’s policy of title insurance and the survey, now referred to as “survey plat.” Detailed survey requirements are removed from the contracts. In **TREC No. 25-2**, Paragraph 2F has been removed, and a provision for a feasibility study has been provided in Section 7. The paragraph relating to use of an abstract of title has been removed from **TREC Nos. 9-3 and 25-2**; in **No. 25-2**, the parties are directed to use the existing **TREC Addendum for Abstract of Title** or an addendum required by the parties if an abstract of title is desired. In forms having FHA/VA financing, the survey choice is limited to one obtained for the lender. The survey provisions are deleted as unnecessary in condominium forms **TREC Nos. 30-1** and **31-1**. On **TREC No. 9-3**, the intended use provision in Paragraph 6 replaces Paragraph 19 in the current form.

In the Notices provided in Paragraph 6, the buyer is advised that, unless the parties expressly prohibit it in writing, the seller may continue to show the Property and accept back-up offers. Since merely striking out the notice would not be an express prohibition, the parties would have to add language in Paragraph 11 to prohibit the seller from accepting back-up offers. In all of the forms except **TREC No. 9-3**, a notice about residential service contracts (“home warranties”) has been added to the end of Paragraph 6.

### Paragraph 7, Property Condition

Licensees will probably consider the most significant change to the contracts to be the elimination of the process by which the buyer had the property inspected, the seller obtained repair estimates and the parties provided notices to each other about the repairs to be done. In the new forms, the buyer has the right to inspect the property, and two alternatives are provided: (1) to accept the Property with no, or specifically inserted, repairs or (2) to obtain an option, for a fee, to terminate the contract (eliminating the need for the **Addendum for Inspection with Right to Terminate**). The second alternative provides an opportunity for the parties to determine the condition of the property and then negotiate for repairs.

Lender-required repairs are separately addressed in a new provision in all of the contracts except **TREC Nos. 9-3 and 23-2**. Neither party is obligated to pay for lender-required repairs absent a written agreement. The parties could agree, however, that one of them would pay for repairs required by a lender as a condition of making the loan. If the amount of lender-required repairs exceeds 5%, the buyer has the right to terminate the contract.

A provision is added (except in **TREC Nos. 9-3, 23-2** and **24-2**) for the seller to indicate that the seller is not required to give the Section 5.008 Property Code notice relating to the condition of the Property. While most residential sellers will be subject to the notice requirement, there are eleven statutory exceptions with which licensees should be familiar. The Property Code notice provision has been added to **TREC No. 25-2**, because some farms and ranches include dwellings. If the value of any dwelling does not exceed five percent of the value of the property, however, the Property Code provides that the seller is not subject to the notice requirement.

Lead-based paint provisions have been added (except in **New Home** and **Unimproved Residential** forms), and boxes have been provided for the seller to indicate whether or not an addendum provid-

ing the disclosures required by federal law has been attached. TREC has approved a form, **Addendum For Seller's Disclosure Of Information On Lead-Based Paint And Lead-Based Paint Hazards As Required By Federal Law**, which may be used by licensees for this purpose. Licensees who are paid by the seller, including those licensees representing the buyer, are responsible for the seller's compliance with federal law ( see "Lead-based Paint Rules Now in Effect, *Advisor*, Vol. 7, No. 4, December 15, 1996).

### *Paragraph 8, Broker's Fees*

Specific language relating to payment of commissions has been deleted. A general provision indicates that the payment of brokers' fees is addressed in separate written agreements. Disclosure of representation is moved to the last page of the forms.

### *Paragraph 9, Closing*

The list of examples of lender's closing requirements is expanded to include the appraisal and lender-required repairs.

### *Paragraph 10, Possession*

Possession on closing and funding has been specified in **TREC No. 9-3**.

### *Paragraph 11, Special Provisions*

Rule-related language has been rewritten.

### *Paragraph 12, Settlement and Other Expenses*

Buydown fees are separated from loan discount fees and a separate limit is provided for buydown fees. A provision calling for specific PMI amounts has been removed from applicable forms.

### *Paragraph 13, Prorations*

Proration is provided for in all contracts. Language has been added to clarify that if taxes are not paid at or prior to closing, Buyer, as the owner of the property, will be responsible for payment of current taxes.

### *Paragraph 14, Casualty Loss*

Language has been added to clarify that Seller's obligation to restore the Property after casualty loss is independent of any repair obligations imposed by Paragraph 7. A reference to Texas Property

Code (Uniform Vendor and Purchaser Risk Act) has been deleted.

### *Paragraph 17, Attorney's Fees*

This paragraph has been rewritten to clarify the rights of nonparties (brokers, escrow agent and other service providers) to attorney's fees in legal proceedings under or with respect to the transaction which is the subject of the contract .

### *Paragraph 18, Escrow*

The escrow paragraph now contains a provision to facilitate return of the earnest money when one party demands it and the other party will not respond to the escrow agent's request for a release. The escrow agent is authorized to pay earnest money to the party demanding it if the other party does not object. By signing the contract, the parties release the escrow agent of liability if the escrow agent complies with the procedure set out in the paragraph.

### *Paragraph 19, Representations*

References to assumptions have been removed when inapplicable.

### *Paragraph 23, Notices*

Space has been provided for addresses, telephone and FAX numbers for the parties. Notices would be effective when mailed to or hand-delivered at the address provided, or transmitted to the FAX number provided.

### *Other Changes*

"Agreement Between Brokers" has become "Broker Information and Ratification of Fee." Language has been added to confirm the agreement between Listing Broker and Other Broker regarding a fee, and a provision has been added for the Listing Broker to instruct the Escrow Agent to pay a portion of Listing Broker's fee to Other Broker. Boxes have been provided for the licensees to indicate which party they are representing and to identify the listing and selling agents for the Listing Broker. Space has been added for the licensees' FAX numbers. "Receipt" has been modified to provide a space for the escrow agent's FAX number and the text has been rearranged on the page.

## **New Forms Mandatory January 1, 1998** *(Forms available for voluntary use immediately)*

<b>New Form</b>	<b>Replaces</b>
Unimproved Property Contract, TREC No. 9-3	TREC No. 9-2
One To Four Family Residential Contract (Resale) All Cash, Assumption, Third Party Conventional or Seller Financing, TREC No. 20-3	TREC No. 20-2
One To Four Family Residential Contract (Resale) FHA Insured Or VA Guaranteed Financing, TREC No. 21-3	TREC No. 21-2
New Home Contract (Incomplete Construction), TREC No. 23-2	TREC No. 23-1
New Home Contract (Completed Construction). TREC No. 24-2	TREC No. 24-1
Farm and Ranch Contract, TREC No. 25-2	TREC No. 25-1
Residential Condominium Contract (Resale) All Cash, Assumption, Third Party Conventional Or Seller Financing, TREC No. 30-1	TREC No. 30-0
Residential Condominium Contract (Resale) FHA Insured Or VA Guaranteed Financing, TREC No. 31-1	TREC No. 31-0

## When you use homesitters ...



Sellers and licensees sometimes contract with companies to provide homesitters. Under this arrangement, the home is leased on a temporary basis to a tenant who will occupy the property, furnish the property in an attractive fashion and make the home available for showing as necessary. This appears to be a solution to showing a vacant, unfurnished home that may be prone to vandalism since the property is unoccupied. This scenario is lawful if the company or person who arranges for a home to be occupied is licensed by the Commission as a real estate broker or salesperson or is exempt from the Real Estate License Act pursuant to Section 3 of the Act. Commission rule 22 TAC §535.13(h) requires that a person who arranges for another to occupy vacant residential property must be licensed as a real estate broker or salesperson.

## Inspector standards continued from page 1

forms or to provide a higher level of inspection performance than required by the Standards of Practice, 22 TAC §535.222 (the Standards).

The report form used for a dwelling, Property Inspection Report REI 7-0, lists the items typically found in a residence and required for inspection by the Standards, with check boxes for the inspector to indicate that the item has been inspected and whether repairs are necessary. Space is also provided for comments. The other eight inspection report forms, REI 8-0 through REI 15-0, address the optional systems (gas lines, outdoor cooking equipment, private water wells, septic systems, swimming pools or spas, and built-in security and fire protection equipment) which an inspector may include but which are not required to be inspected by TREC rules. The forms also assist the inspector in re-

## Exam Information:

An item development workshop for inspector examinations was held on September 23 and 24 in Austin. Other [examination item development workshops for real estate license examinations are scheduled for 1998 in February \(Houston\) and April \(Dallas\)](#). TREC's examination development workshops allow participants to contribute to the development of practical, effective real estate examinations. Please consider becoming involved. Anyone with an interest in real estate may attend the upcoming item writing workshop. Persons interested in attending the question review workshop may not be associated with a school that has an examination preparation class. For more information please contact Jeanette Clawson with NAI at (801) 355-5009.

There is a [new examination site in Houston](#) at 10333 Richmond Ave., Park National Bank Bldg. #680, Houston, TX, 77042. This site has 15 seats and is now one of three sites that serve the greater Houston area.

porting information required by the Standards, such the performance of the foundation or the materials used in gas branch lines.

In related action, TREC adopted an amendment to the Standards which ended the authority of inspectors to use forms of their own design which followed the sequence of items in the Standards or forms required by their clients. The amendment also is effective January 1, 1998.

Copies of the report forms and the rules governing their use may be downloaded from the TREC website or obtained from TREC by mail for \$4.02. Inspectors may also develop computer versions of the reports.

Failure to use the report forms or comply with the provisions of the rule is grounds for disciplinary action against an inspector.

## Employee of the Quarter:

TREC is proud to announce that Barbara Johnston and Shirley Tyler-Krawl are the latest persons at TREC to receive the Employee of the Quarter award.

Staff Services employee Barbara Johnston received the third Employee of the Quarter award for fiscal year 1997. Barbara began working at TREC on September 11, 1980 in the Enforcement Division. She transferred to the Staff Services Division on August 6, 1984. Barbara's primary duties include providing public information (lists, labels and tapes) and maintaining the State Property Accounting system for TREC.

Information Services staffer Shirley Tyler-Krawl recently received the fourth Employee of the Quarter award for fiscal year 1997. Shirley began working at TREC on February 1, 1979 in the Licensing Division. She has since worked in TREC's Sales Department, Change Department and was Supervisor of the Renewal Department before transferring to Information Services on October 1, 1988. Shirley worked in Information Service's Computer Operations until March 1, 1996 when she became Operations Manager. Shirley's primary duties are ensuring that computer production schedules are met, and analyzing and finding solutions to unusual or complicated computer problems.

TREC applauds the efforts of these employees and is pleased to acknowledge their performance.

*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.*

# TEXAS REAL ESTATE COMMISSION DISCIPLINARY ACTIONS

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

## REVOCATIONS

**Cortez, Roberto Z. (San Antonio); license #141756** Four violations of §15(a)(6)(E) for failing to properly account for property management expenses and deposits and for failing to maintain rents collected and held in trust for others in a trust or escrow account; failing to represent the interest of his principal by negligently allowing unauthorized occupancy of rental properties in violation of §15(a)(6)(W). Revocation of broker license, effective June 9, 1997

**Martin, Gail Renae (Houston); license #410517** Converting earnest money to her own use and benefit in violation of §15(a)(6)(E). Revocation of salesman license, effective August 29, 1997

## SUSPENSIONS

**Walther, Carol Ann (Gun Barrel City); license #340962** Failing to insure that an effective date was included in the earnest money contract or that language inserted in paragraph 11 of the contract was accurate in violation of §15(a)(6)(W); failing to use the correct promulgated contract form in violation of §16. Agreed 60-day suspension of salesman license, fully probated for 1 year, effective June 1, 1997

**Allen, Billy Jan (Abilene); license #117364** Failing to inform the sellers, his principals, that they had entered into a contract with his wife as the purchaser and that this failure was a breach of his fiduciary obligations to his principal in violation of §15(a)(6)(V); failing to inform the sellers that the transaction had been structured so that he would ultimately purchase the property without their knowledge and that this failure was a breach of his fiduciary obligations to his principal in violation of §15(a)(6)(V). Agreed 120 day suspension of broker license, fully probated for 2 years, effective June 30, 1997

**Prado, Joe (Austin); license #153921** Negligently failing to use information within his knowledge to effect the protection of his principal's interest in violation of §15(a)(6)(W); Two violations of failing to enter into a written agreement in which all parties to a transaction consent to and authorize him to represent more than one party to a transaction as required by §15C(2), in effect at the time. 30-day suspension of broker license, effective June 30, 1997

**Boaz, Ruth (Conroe); license #169411** Converting earnest money to her own use and

benefit in violation of §15(a)(6)(E); accepting an undisclosed fee for referring the buyer to a mortgage company in violation of 22 TAC §531.1; placing a sign on property offering it for sale without the consent of the owner in violation of §15(a)(6)(L). Agreed 30-day suspension of salesman license, effective August 1, 1997

**Talbott, John M., Jr. (Jasper); license #382108** Failing to provide timely accounting to owner of rental property; used escrow account in operation of business; failing to remove leasing commissions from rental escrow account within 30 days of earning them in violation of §15(a)(6)(E). 120-day suspension of broker license, effective August 4, 1997

**Buffington, Jean Anne (San Antonio); license #211739** Procuring a real estate license by making a material misstatement in a license application in violation of §15(a)(2). Agreed fully probated 6 month suspension of salesman license, effective August 20, 1997; agreed administrative penalty of \$500.00 (salesman), entered August 5, 1997

**Krause, Richard (San Antonio); license #151311** Compensating an unlicensed person for real estate brokerage activities in violation of §15(a)(6)(F); establishing an association with an unlicensed person who engaged in real estate brokerage activities in violation of §15(a)(6)(S). Agreed fully probated 6 month suspension of broker license, effective August 20, 1997; agreed administrative penalty of \$500.00 (broker), entered August 5, 1997

**Tate, Ronald Clifton (San Antonio); license #400963** Failing to keep the owner apprised of material information regarding rental property and failing to obtain express authorization for change in tenancy in violation of §15(a)(6)(W); procuring a real estate license by making a material misstatement in a license application in violation of §15(a)(2). Agreed 30-day suspension of broker license, probated for 6 months, effective August 8, 1997; agreed administrative penalty of \$1,000.00 (broker), entered August 8, 1997

**Walsh, Ed (El Paso); license #234125** Failing to secure signatures of all parties to a contract; failing to confirm closing date extensions directly with sellers; failing to keep sellers informed of payment record of buyers temporarily leasing property; failing to provide detailed information directly to sellers concerning progress of transaction in violation of §15(a)(6)(W); failing to file an assumed name certificate with the Commission while trans-

acting business under a name other than his legal name in violation of 22 TAC §535.154(b). 30-day suspension of broker license, effective August 28, 1997

## REPRIMANDS

**Collins, Charles Peyton (Houston); license #142376** Failing within a reasonable time to make good a check issued to the Commission in violation of §15(a)(4); failing to pay the processing fee within 15 days after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of broker license, entered June 2, 1997

**Carr, Heather Christine (Houston); license #450605** Negligently placing a sign in violation of the Sign Code of the City of Houston constituting a violation of §15(a)(6)(W). Agreed reprimand of salesman license, entered June 2, 1997; agreed administrative penalty of \$500.00, entered June 2, 1997

**Delaney, Kevin J. (Houston); license #450698** Negligently placing a sign in violation of the Sign Code of the City of Houston constituting a violation of §15(a)(6)(W). Agreed reprimand of salesman license, entered June 3, 1997; agreed administrative penalty of \$500.00, entered June 3, 1997

**Collins, Troy W. (Houston); license #444536** Negligently placing a sign in violation of the Sign Code of the City of Houston constituting a violation of §15(a)(6)(W). Agreed reprimand of salesman license, entered June 5, 1997; agreed administrative penalty of \$500.00, entered June 5, 1997

**Delaney, Edward P. (Houston); license #444246** Negligently placing a sign in violation of the Sign Code of the City of Houston constituting a violation of §15(a)(6)(W); receiving benefits from an improperly placed sign in violation of §15(a)(6)(V). Agreed reprimand of salesman license, entered June 6, 1997; agreed administrative penalty of \$500.00, entered June 6, 1997

**Hallows, Harry O., Jr. (San Antonio); license #172307** Failing within a reasonable time to make good a check issued to the Commission in violation of §15(a)(4); failing to pay the processing fee within 15 days after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of broker license, entered June 18, 1997

**McKissack Group, Inc. (Denton); license #449245** Failing within a reasonable

*continued on page 8*

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## TEXAS REAL ESTATE COMMISSION

# DISCIPLINARY ACTIONS

CONTINUED FROM PAGE 7

time to make good a check issued to the Commission in violation of Section §15(a)(4); failing to pay the processing fee within 15 days after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of broker license, entered June 26, 1997

**Willems, Dan John (Dallas); license #406057** Negligently failing to disclose to a potential purchaser known foundation problems in violation of §15(a)(6)(A). Agreed reprimand of salesman license, entered June 30, 1997

**R.J. Tate Realty, Inc. (San Antonio); license #451636** Two violations of §15(a)(2) for failing to disclose certain information in an application for a real estate broker license. Reprimand of broker license, entered July 8, 1997

**Gonzalez, James (Killeen); license #412290** Failing within a reasonable time to make good a check issued to the Commission in violation of §15(a)(4); failing to pay the processing fee within a reasonable time after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of broker license, entered July 17, 1997

**Prieto, Marina Elizabeth (Killeen); license #418318** Failing to license a corporation providing real estate brokerage services in violation of §15(a)(5). Agreed reprimand of salesman license, entered July 17, 1997

**Hawkins, Renee L. (Houston); license #446943** Failing within a reasonable time to make good a check issued to the Commission in violation of §15(a)(4); failing to pay the processing fee within a reasonable time after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of salesman license, entered July 21, 1997

**Smith, Barbara Jean (Corpus Christi); license #187408** Failing to turn over security

deposit to the owner as requested after termination of the management agreement in violation of §15(a)(6)(E). Agreed reprimand of broker license, entered August 4, 1997. Agreed administrative penalty of \$500.00 (broker), entered August 4, 1997

**Smith, Clark Ross (Corpus Christi); license #408458** Failing to turn over security deposit to the owner as requested after termination of the management agreement in violation of §15(a)(6)(E). Agreed reprimand of broker license, entered August 4, 1997; agreed administrative penalty of \$500.00 (broker), entered August 4, 1997

**Nasis, Ronnie Ireneo (Stafford); license #388872** Failing within a reasonable time to make good a check issued to the Commission in violation of §15(a)(4); failing to pay the processing fee within a reasonable time after the Commission has mailed the request in violation of 22 TAC §534.2(b). Agreed reprimand of broker license, entered August 20, 1997

## ADMINISTRATIVE PENALTIES

**Barr, David Alan (Killeen); license #229218** Negligently filing a landlord lien for unpaid rents even though the lease did not contain the statutorily required language authorizing the execution of a landlord lien in violation of §15(a)(6)(W); associating with an unlicensed corporation that is expected to perform real estate brokerage services in violation of §15(a)(6)(S). Agreed administrative penalty of \$2000.00, (broker) entered July 8, 1997

All suspensions and revocations of licenses take effect at 5 p.m. on the date specified.