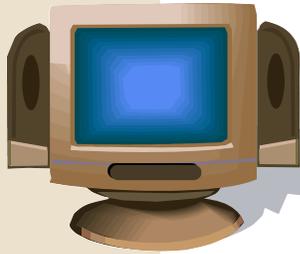




TRECAdvisor

Texas Real Estate Commission * Volume 14, Number 1 * April 2003

TRECAdvisor Goes Online !



Welcome to the new **TRECAdvisor**. With this April 2003 issue you'll witness two important changes - the publication is now delivered directly to you via the Internet for faster delivery and we've moved to a six-times-a-year publication schedule, meaning that you'll see a 50% increase in the number of issues for the same subscription price.

We hope you'll enjoy the convenience of receiving your **TRECAdvisor** online as well as the more frequent publication schedule, designed to keep you informed of statutory and rule changes enacted as well as other developments affecting the real estate profession in Texas. While the changes will provide better customer service, they are being adopted to meet the financial demands placed on the Texas Real Estate Commission by the current state government fiscal situation.

In January, all state agencies were requested to make reductions in spending equal to approximately 14% for the last half of the current fiscal year. This meant that TREC had to cut over \$290,000 from its planned expenditures for the five months from April to August 2003. One major savings resulted

from eliminating printing, mailing and postage for the **TRECAdvisor** and its conversion to a bi-monthly Internet delivered publication. In addition, TREC has had to reduce its staff size, cut back on travel and training, and put off equipment replacement and repair. What the agency has continued at full funding, however, is *its commitment to quality customer service for all licensees and the public!*

Be assured that we will continue to provide the high level of service for which TREC has been known over the past several years. TREC will continue to develop innovative ways to save funds while delivering a quality product. The new, improved **TRECAdvisor** is one example in our efforts to reduce expenditures and meet the needs of our licensees and the public.

Buying Real Estate In Mexico



Our neighbor to the south is a wonderful and very beautiful country. Many Texans visit and consider acquiring real estate in Mexico. The following tips on buying real estate in Mexico were provided by Linda Neil, President of the Settlement Company®, which has representatives in Los Cabos, Monterrey and San Miguel de Allende, Mexico. She can be contacted at info@settlement-co.com

Buying property in any country can be stressful. A property purchase in Mexico can be just as safe and secure as in the United States or Canada - if it is done correctly.

As a purchaser of real estate, be aware that in most Mexican states there is neither licensing or registration of real estate agents. However, most real estate professionals are members of AMPI - the Mexican national real estate association. You should ask for references and check them out. Many Texas real estate licensees have established relationships with their counterparts in various areas of Mexico. Ask a local real estate broker you trust if he or she can make a recommendation for an agent to represent you.

Insist that the person representing you, represent only you - the buyer - and not also the
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TEXAS REAL ESTATE COMMISSION

Meeting Highlights

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.

Official publication of the

Texas Real Estate Commission

Volume 14, Number 1

April 2003

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Governor

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The TRECAdvisor (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 TRECAdvisor 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 acknowledgments. Subscriptions are available for \$4.00 for two years. Single issues are \$1.00. To order a subscription or a single issue write to TRECAdvisor, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. For information regarding TREC, contact:

Texas Real Estate Commission

P.O. Box 12188

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

January 6, 2003

The Texas Real Estate Commission held a regularly-scheduled meeting at the TREC headquarters in Austin on Monday, January 6, 2003.

After executive session, Chairman Brodie moved to agenda item ten, discussion and possible action regarding 22 TAC §535.2(d), concerning broker's responsibility. This rule requires a broker to accept and present client offers and counter-offers; assist the client in developing, communication and presenting offers, counter-offers and notices; and answer client's questions relating to the offers, counter-offers, and notices. November 25, 2002, the day before the rule was to become effective a temporary restraining order had been served on the Commission to stop the enforcement of the rule. This action was initiated by Aaron Farmer, Texas Discount Realty, through his attorney, Don Walden. A hearing was scheduled for January 21, 2003 in district court. Mr. Brodie opened the item to public comment.

Twenty individuals spoke concerning the rule. The majority of the speakers were opposed to the rule. A motion was adopted to direct staff to not enforce subsection (d) of §535.2 after the temporary restraining order expired in order to give the Commission the opportunity to address the concerns raised after it had been adopted. The Chairman added that this instruction to staff was unlimited until further action was taken.

Staff reports were presented concerning internally generated complaints, the number of renewals being received online, and the annual financial report.

The Commission voted to adopt amendments to 22 TAC §§537.11, 537.20, 537.28, 537.30, 537.32, 537.43, and 537.46, concerning standard contract forms. These amendments would adopt by refer-

ence six revised contracts and two addenda, with an effective date of April 1, 2003. Along with these amendments a separate proposal to repeal two forms was adopted with the same effective date.

The Commission voted to propose amendments to §535.51, concerning real estate broker and salesperson's applications for licenses. The applications were reformatted, the request for a photograph was eliminated, and the words "or community supervision" were added to the question concerning whether or not an applicant had ever been on probation.

The Commission voted to propose amendments to §535.208, concerning three applications for inspector licenses. These amendments proposed the same changes for applications for an inspector's license that §535.51 proposed for brokers and salespersons applications.

The Commission requested letters of recommendation and resumes to be submitted for the terms of three inspector committee members which expire in February. These items should be addressed to Chairman Mike Brodie.

A motion for probation was granted concerning the license of Robert S. Morgan.

February 24, 2003

At its meeting in Austin on February 24, 2003, the Texas Real Estate Commission elected a new vice-chair, James Austin of Fort Worth, and a new secretary, Louise Hull of Victoria.

After an executive session, the Commission approved payment of two recovery fund claims totaling \$51,200. The Chairman moved to agenda item ten(a), an amendment to §535.2. After discussion, the Commission voted to propose the repeal of the rule outlining broker responsibility. Final action will occur at the

April 7, 2003 meeting.

Staff reports were presented concerning current statistics on the number of licensees, enforcement caseloads, and on-line activity.

Commissioner Jokl reported on the recent meeting of the board of the Texas A&M Real Estate Center. Commissioner Hull reported on changes to the MCE rules that were being suggested by the Education Task Force.

Tadas Dabsys, Vice President of Psychological Services, Inc. reported on examination services provided to TREC by his company.

The Commission voted to adopt amendments to §535.51, concerning real estate broker and salespersons applications for license. Also, the Commission voted to adopt amendments to §535.208, concerning real estate inspectors applications for license.

The Commission voted to propose amendments to §535.71, concerning Mandatory Continuing Education and also amendments to §535.403, concerning renewal of registration of easement of right-of-way agents.

The Commission voted in favor of the actions proposed by Mr. Thorburn to satisfy the 7% reduction in TREC's FY 03 appropriations requested by the Governor, Lieutenant Governor and Speaker of the House.

The Commission approved a resolution which would allow TREC to adjust the agency fee structure for FY 2004 and FY 2005 at a level sufficient to provide the difference between level funding and a 12.5% reduction and provide that amount to General Revenue should the agency's FY 2004-2005 appropriations be equal to the base level for FY 2002-2003.

Action on the appointment of members to the Texas Real Estate Inspectors Committee was postponed.

Recent Enforcement Questions and Answers

- Q.** Now that the new TREC contracts have been approved by the Commission and use becomes mandatory on 4-1-03, do I still have to use the Mediation Addendum?
- A.** NO. The Mediation Addendum was repealed by the Commission, effective 4-1-03, but can cease to be used immediately, if you are using the new contracts. Each of the newly adopted contracts contains a provision in paragraph 16 for the parties to either agree or not agree on whether to submit disputes regarding the contract to alternative dispute resolution. Therefore, the Mediation Addendum is no longer necessary. After April 1, licensees should not use the Mediation Addendum.
- Q.** The new Farm and Ranch Contract 25-4 and the new Unimproved Property Contract 9-5 both contain in paragraph 2 a reference to strips and gores. What are strips and gores?
- A.** Black's Law Dictionary defines a gore as "a small, triangular piece of land such as may be left between surveys which do not close." A strip is a long, narrow piece of land. Strips and gores generally adjoin a tract of land being conveyed. Failure to accurately convey strips and gores can sometimes cloud the title to the property. See an article entitled, "Strips and Gores," Real Estate Center Journal, Tierra Grande, Volume 8, No. 2 - April 2001, or visit the Real Estate Center at Texas A & M University's website at: www.info@recenter.tamu.edu for further information on land conveyance involving strips and gores.
- Q.** The new Farm and Ranch Contract 25-4 references a "Texas Agricultural Development District" in Section 6.G.(6). What is a Texas Agricultural Development District and why is there a reference to it in the new contract?
- A.** Legislation authorizing the creation of Texas Agricultural Development Districts was enacted by the 77th Legislature in 1999. See Texas Agriculture Code, Title 4, Chapter 60, entitled, "Texas Agricultural Development Districts." The legislation was created to promote economic opportunities in agriculture and retain agriculture-based activity in Texas. The law allows for the development of agricultural facilities and operations by providing incentives for the development of projects that result in employment and economic activity.
- A District is referenced in the new Farm and Ranch Contract 25-4 because Section 60.063 (a) of Title 4 provides that, "Any person who proposes to sell or convey real property located in a district must first give to the purchaser written notice that the property is located in the district. The notice must be given to the prospective purchaser prior to execution of a binding contract of sale and purchase either separately or as an addendum or paragraph of the purchase contract. The purchaser shall sign the notice as evidence of receipt."
- Q.** I am a farm and ranch property broker, does the new Farm and Ranch Contract 25-4, paragraph 6.E., "Exception Documents" require me to research title matters for the seller?
- A.** NO. This section was added to enable the SELLER to list documents evidencing permitted exceptions in the Title Policy and to prevent subsequent disputes and objections to title by the Buyer.
- Q.** A developer is developing luxury estate lots. As a thank you to customers that purchase lots, the developer and real estate agent wish to give frequent flyer certificates to purchasers of lots as a thank you. Please tell me if this is a violation of the Act and, if so, what section makes it a violation. Does it make a difference if the frequent flyer certificates are provided by the agent, the developer or both? in what way can such a promotion be provided without violation of the Act?
- A.** Under the provisions of Commission Rule 535.147 (c), a licensee is permitted to rebate a part of the licensee's commission to a principal in a real estate transaction. If the person receiving the rebate is not the licensee's client, then the licensee's client has to give permission for the licensee to pay the rebate. There is no limit on the amount of the rebate or the form of rebate, i.e., cash, gift certificates, appliances or frequent flyer certificates are all okay.
- Q.** Is it possible to deposit commissions in an LLC account rather than directly into the real estate agency account?
- A.** If you are depositing earned real estate commissions directly into an LLC (yours or someone else's) the LLC must be licensed by the Commission. You cannot deposit real estate commissions directly into a corporation that is not licensed by the Commission. You may obtain a copy of the application from the [Real Estate License Forms](#) page.
- Q.** I have been told that it is mandatory for all contractual offers to buy or sell real estate through a realtor must be drawn up by a real estate agent. Conversely, all offers to buy or sell real estate and all amendments drawn up by an attorney are not acceptable. Is this true?
- A.** Commission promulgated contract forms are generally intended for use by, and are generally used by trained real estate licensees. That does not mean the forms cannot be used by non-licensees including parties to a transaction and attorneys. This is equally true for amendments to contracts. Licensees are required to use the promulgated contract forms unless an exception exists.
- It may be helpful to review the Commission's specific rules regarding what real estate licensees can and cannot do when drafting contracts, using promulgated forms, etc. You can get a copy of the [TREC Rules](#) on the TREC web site.
- As to how attorneys fit into real estate transactions, Section 14 (a) of the License Act prohibits a real estate broker from splitting a fee or commission with a licensed attorney. However, an active, licensed attorney is exempt from the licensure requirements under Section 3(1) of the License Act, and a seller can pay a commission to an attorney representing a third party in a real estate transaction.

Summary of Changes to Contracts

The Texas Real Estate Commission (TREC) adopted revisions to all six TREC - promulgated real estate contracts and two addenda in January 2003. These revisions were proposed by the TREC Broker Lawyer Committee as part of its ongoing review of contract forms. TREC also repealed two addenda, Addendum for Abstract of Title and Mediation Addendum, in conjunction with the form revisions. The effective date for mandatory use of the forms by licensees is April 1, 2003; however licensees may use the forms on a voluntary basis until then.

The One to Four Family Residential Contract (Resale) and Condominium Contract were modified based on input from licensees after major revisions to those forms were adopted in February 2002. The Commission incorporated last year's revisions into the remaining four contract forms, and made other revisions specific to each form (Unimproved, New Home Complete Construction, New Home Incomplete Construction, and Farm and Ranch). The following is a summary of the most significant changes to the forms. A detailed summary can be downloaded at the following link: [New Contracts-Summary of Changes](#)

One to Four Family Residential Contract (Resale) 20-6, and Condominium Contract 30-4

Property

- Adds door keys to accessories

Earnest Money

- Measures the deposit date for additional earnest money from the effective date of the contract

Title Policy and Survey

- Clarifies the time period to cure objections by replacing "extended closing date" to "within such 15 day period"

Property Condition

- Paragraph 7A - deletes reference to purpose of access; permits access to property at reasonable times
- Paragraph 7B2 and 7E- spell out that earnest money will be refunded to Buyer if the contract terminates

for failure to provide Seller's disclosure or if lender required repairs and treatments exceed 5% of Sales Price

Closing

- Adds a sentence clarifying that all covenants, representations and warranties survive closing

Settlement and Other Provisions

- Moves Seller contribution to Buyer's Expenses (old paragraph 12A(3)) under Seller's Expenses in paragraph 12A(1)(b)
- Removes the blank lines to fill in amount and method of payment for PMI, VA loan funding fee and MIP
- Combines Buyer's Expenses into one paragraph rather than two separate subparagraphs for conventional/FHA financing and VA financing

Revisions to the Unimproved, New Home (Complete Construction), New Home (Incomplete Construction), and Farm and Ranch Contracts include the above changes, substantive revisions to incorporate last year's revisions, for a summary see—[Contract changes from December 2001](#) and the following:

TREC No. 9-5, Unimproved Contract

Property

- Adds "all rights, privileges and appurtenances pertaining thereto, including but not limited to: water rights, claims, permits, strips and gores, easements, and cooperative or association memberships" to the property description

Title Policy and Survey

- Rewrites for clarity the list of title defects to which Buyer can object and includes an objection for any part of the property lying in a flood plain
- Adds title notices for property located in Certificated Service Area of a Utility Service Provider and Texas Agricultural Development District

Property Condition

- Adds a paragraph for Seller's disclosures regarding flooding, litigation, environmental hazards, dumpsites, wetlands, and endangered species

Settlement and Other Provisions

- Adds “transfer fees for cooperative or association membership for utility services” to list of Buyer’s Expenses

TREC No. 23-5, New Home Contract (Incomplete Construction)

Property

- Adds “all rights, privileges and appurtenances thereto, including but not limited to: permits, easements, and cooperative or association memberships” to property description

Title Policy and Survey

- Deletes Residential Service Company notice in paragraph 6(7)

Property Condition

- Paragraph 7B – Makes grammatical changes in definition of Construction Documents
- Paragraph 7C - change orders must be in writing; decrease in costs resulting from change orders and unused allowances will reduce the sales price and proportionately adjust the amounts in 3A and 3B as required by lender
- Paragraph 7E – measures construction commencement date from effective date of contract rather than from date of loan approval
- Adds a paragraph for Seller’s disclosures regarding flooding, litigation, environmental hazards, dumpsites, wetlands, and endangered species

Casualty Loss

- Changes Buyer’s option for extension of time for performance from 15 to 45 days if Seller fails to substantially complete improvements by the closing date

TREC No. 24-5, New Home Contract (Complete Construction)

Property Condition

- Defines agreed repairs, treatments, and improvements as “work”
- Adds a paragraph for Seller’s disclosures regarding flooding, litigation, environmental hazards, dumpsites, wetlands, and endangered species

TREC No. 25-4, Farm and Ranch Contract

Property

- Divides property description into four major parts: land, improvements, accessories and crops
- Further subdivides improvements and accessories into farm and ranch or residential improvements and accessories

- Seller may reserve mineral, water, royalty, timber or other interests in reservations subparagraph
- Seller may exclude specific improvements, accessories, and crops

Sales Price

- Paragraph 3 now appears similar to other contracts
- Removes line item for deduction of face amount of any lender required stock
- The parties may opt to adjust the sales price based on the survey; if the sales price is to be adjusted, a blank is provided to set the cost per acre; if the sales price is adjusted by more than 10%, either party may terminate the contract within a number of days selected by the parties and earnest money will be refunded to Buyer; the parties can choose whether the adjustment will be made to the cash portion or the financed portion of the sales price.

Title Policy and Survey

- Rewrites for clarity list of title defects to which Buyer can object and includes an objection for any part of the property lying in a flood plain
- Deletes reference to TREC addendum for Abstract of Title
- Provides space for Seller to list exception documents and surface leases; the exception documents and leases will be permitted exceptions in the title policy and will not be a basis for objection to title
- Adds title notices for property located in Certificated Service Area of a Utility Service Provider and Texas Agricultural Development District

Property Condition

- Provides blanks for Seller to identify governmental programs that the property is subject to; provides for allocation or proration of governmental programs by separate agreement

Prorations

- Provides for proration of unknown rentals once rentals become known

Agreement for payment of Brokers’ Fees

- Ratification of fee in separate box from Broker information and Agreement for Payment of Brokers’ Fees
- The parties indicate whether the Buyer or Seller will pay the listing/ principal broker and whether the Buyer or Seller will pay the Other Broker; The parties select the amount and type of payment to listing/principal Broker and other Broker
- Provides a notice that Brokers’ Fees are negotiable and not controlled by TREC
- Provides for separate signature of Buyer and Seller on Agreement for Payment of Broker’s Fees



Disciplinary Actions

November 2002 - February 2003

Calendar of Events

Commission Meetings:

April 28, 2003

Broker-Lawyer Committee Meetings:

July 17-18, 2003

Inspector Committee Meetings:

Watch web site for meeting calendar

Web site:

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

Phone

(800) 250-TREC (8732)
or
(512) 459-6544

Flores, Denise Kaye (Dallas); license# 253029

Agreed 30-day suspension of broker license fully probated for 3 months, effective November 1, 2002; Agreed administrative penalty of \$2,000, due on or before December 1, 2002; drafted a buyer representation agreement failing to fill in the source of the commission payment and improperly used it as the basis for a claim for payment against her client, in violation of Section 15(a)(6)(W) of The Real Estate License Act; failing to notify the Commission within 30 days after starting to use a name in business other than the name under which she is licensed, in violation of 22 TAC Section 535.156(c) of the Rules of the Texas Real Estate Commission

Valenta, D. Neal (Dallas); license# 2105

30-day suspension of professional inspector license, effective November 8, 2002; performed a real estate inspection in a negligent or incompetent manner by failing to observe and note a natural gas leak, in violation of Section 23(l)(3)

Couch, Michelle Ruth (Dallas); license# 480025

Revocation of salesperson license, effective November 14, 2002; failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Painter, Michael Lee (Garland); license# 455671

Revocation of salesperson license, effective November 18, 2002; signed his clients' signatures to a sales contract amendment which obligated the clients to make repairs without their authorization to sign the document, in violation of Section 15(a)(6)(V); failed or refused to produce a document, book or record concerning a real estate transaction to the Commission, in violation of Section 15(a)(7); failed within a reasonable time to provide information requested by the Commission in an investigation, in violation of Section 15(a)(8) of The Real Estate License Act

Parker, Rodger A. (The Colony); license# 392418

Agreed administrative penalty of \$250, entered November 21, 2002; violation of term and condition of his probationary license for failure to submit within 10 working days of a change in sponsorship, a verification from the new sponsoring broker that they received a copy of the order directing the issuance of a probationary license and is aware of the terms and conditions of probation

Seligman, Edwin Kenneth (Katy); license# 331485

Agreed 60-day suspension of broker license fully probated for 1 year, effective November 21, 2002; Agreed administrative penalty of \$1,000,

entered November 13, 2002; two counts of 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, in violation of Section 15(a)(6)(E); while acting as a property manager, acting negligently or incompetently in performing an act for which a person is required to hold a real estate license, in violation of Section 15(a)(6)(W); failing or refusing on demand to produce a document, book, or record in his possession concerning a real estate transaction conducted by him for inspection by the Commission, in violation of Section 15(a)(7); failing within a reasonable time to provide information requested by the Commission as a result of a formal or informal complaint to the Commission, in violation of Section 15(a)(8) of The Real Estate License Act

Adams, Michael Von (Houston); license# 465217

Agreed 1 year suspension of salesperson license, effective November 22, 2002, effective December 18, 2002; probated for remaining term of suspension; two counts of failing to return down payment funds to clients timely, thereby acting negligently or incompetently in performing an act for which a person is required to hold a real estate license, in violation of Section 15(a)(6)(W); identifying himself on documents in real estate transactions in a manner that made it appear as though he was licensed as a broker, thereby acting negligently or incompetently in performing an act for which a person is required to hold a real estate license, in violation of Section 15(a)(6)(W) of The Real Estate License Act

Sanderson, David Stuart (Houston); license# 452153

Revocation of broker license, effective December 2, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Davis, Lenae Bryant (Houston); license# 444083

Revocation of salesperson license, effective December 2, 2002; failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Jetrink, Inc. (The Colony); license# 482577

Agreed reprimand of broker license, entered December 5, 2002; Agreed administrative penalty of \$500, entered December 5, 2002; associated with and paid fees to a person after the time the person's license as a real estate salesperson had expired, in violation of Section 15(a)(6)(F) and Section 15(a)(6)(S) of The Real Estate License Act

Petrie, Thomas Joseph (Austin); license# 310365

Agreed reprimand of broker license, entered December 5, 2002; Agreed administrative penalty of \$200, entered December 5, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Knight, Anthony (Houston); license# 412191

Revocation of salesperson license, effective December 13, 2002; falsely representing to a customer that money collected from the customer would be used for a down payment on a particular property, thereby making a material misrepresentation, in violation of Section 15(a)(6)(A); converting this money to his own use and failing to refund the money upon demand by the rightful owner, thereby 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, in violation of Section 15(a)(6)(E); mishandling funds given to him and failing to be truthful as to the status of the customer's attempted purchase of property, thereby engaging in dishonest dealings, bad faith, or untrustworthiness, in violation of Section 15(a)(6)(V); failing to ensure that necessary instruments were executed to effect the purchase of property by the customer and failing to rectify this error in the face of concerns expressed by the customer, thereby acting negligently or incompetently in performing an act for which a person is required to hold a real estate license, in violation of Section 15(a)(6)(W); failing within a reasonable time to deposit money received as escrow agent in a real estate transaction, either in trust with the title company authorized to do business in this state, or in a custodial, trust, or escrow account maintained for that purpose in a banking institution authorized to do business in this state, in violation of Section 15(a)(6)(Y) of The Real Estate License Act

Pavlic, Virginia Kay (Addison); license# 289439

Agreed reprimand of broker license, entered December 16, 2002; failed to remit a real estate consulting fee upon request by the client when there was no written agreement for the fee to be nonrefundable, in violation of Section 15(a)(6)(E) of The Real Estate License Act

Bergmann, George Alvin (Kemah); license# 336889

Agreed reprimand of salesperson license, entered December 18, 2002; Agreed administrative penalty of \$250, entered December 18, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Rivers, Linda Raye
(Houston); license# 399460

Revocation of salesperson license, effective December 18, 2002; payment of \$50,000.00 made by the Texas Real Estate Commission from the Real Estate Recovery Fund toward satisfaction of a judgment against Linda Raye Rivers, in violation of Section 8(i) of The Real Estate License Act

Taylor, Opal Jean
(Dallas); license# 312646

Agreed reprimand of salesperson license, entered December 20, 2002; Agreed administrative penalty of \$200, entered December 20, 2002; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Murphy, Kimberly Terk
(San Antonio); license# 331891

Agreed reprimand of salesperson license, entered January 2, 2003; Agreed administrative penalty of \$200.00, entered January 2, 2003; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Brown, Douglas Pierre
(Houston); license# 463463

Revocation of salesperson license, effective January 2, 2003; failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Moore, Tonya Jean Esquibel
(Malakoff); license# 443796

Revocation of salesperson license, effective January 3, 2003; failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Cernosek, James George
(Houston); license# 430685

Revocation of salesperson license, effective January 3, 2003; failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Jacobson, Cecil H.
(Spring); license# 159910

Revocation of salesperson license, effective January 3, 2003; failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Austin, Rayon Lane
(Houston); license# 499497

Agreed reprimand of salesperson license, entered January 24, 2003; Agreed administrative penalty of \$350.00, entered January 24, 2003; Agreed 2 years probation, entered January 24, 2003; violation of term and condition of his probationary license for failure to submit within 10 working days of a change in sponsorship, a verification from the new sponsoring broker that they received a copy of the order directing the issuance of a probationary license and is aware of the terms and conditions of probation

Renaissance Professionals, Inc.
(Dallas); license# 446269

Revocation of broker license, effective January 29, 2003; filing a corporate broker license renewal application that included a material misstatement of fact by continuing to show a designated broker who had previously severed his association with the corporation and who's license was subsequently fraudulently renewed by the corporation's owner/salesperson, in violation of Section 15(a)(2); failing to properly manage and maintain real properties for another person by permitting property to remain vacant and in violation of city code, failing to properly account for all rents, remitting funds that belonged to another that were returned by the bank as insufficient, and failing to properly remit and/or account for funds held for another person, in violation of Sections 15(a)(6)(E), 15(a)(6)(W), 15(a)(6)(V); and failing or refusing to produce records, books or documents concerning real estate transactions for inspection by Commission representatives, in violation of Section 15(a)(7); and failing within a reasonable time to provide information to Commission representatives as a result of a complaint filed against it, in violation of Section 15(a)(8) of The Real Estate License Act

Crivello, Manuele Frank
(Dallas); license# 401878

Revocation of salesperson license, effective January 29, 2003; as the owner/salesperson of the corporation, he filed a corporate broker license renewal application that included a material misstatement of fact by continuing to show a designated broker who had previously severed his association with the corporation and as owner/salesperson of the corporation, he fraudulently renewed and retained the severed designated broker's license, in violation of Section 15(a)(2); failing to properly manage and maintain real properties for another person by permitting property to remain vacant and in violation of city code, failing to properly account for all rents, remitting funds that belonged to another that were returned by the bank as insufficient, and failing to properly remit and/or account for funds held for another person, in violation of Sections 15(a)(6)(E), 15(a)(6)(W) and 15(a)(6)(V); and failing or refusing to produce records, books or documents concerning real estate transactions for inspection by Commission representatives, in violation of Section 15(a)(7); and failing within a reasonable time to provide information to the Commission representatives as a result of a complaint filed against him, in violation of Section 15(a)(8) of The Real Estate License Act

Pugh, Tommy Joe
(Odessa); license# 475857

Revocation of salesperson license, effective February 5, 2003; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Flores, Denise Kay
(Dallas); license# 253029

30 days suspension of broker license, effective February 10, 2003; violation of term and condition of her probation for failure to pay an administrative penalty of \$2,000.00

Wimbish, Vincent Lain
(Fort Worth); license# 216453

Agreed reprimand of broker license, entered February 10, 2003; Agreed administrative penalty of \$250.00, entered February 10, 2003; failing to pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Jenness, Charles W.
(Houston); license# 188234

Agreed reprimand of salesperson license, entered February 19, 2003; Agreed administrative penalty of \$250.00, entered February 19, 2003; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Elbert, Deborah Kay
(Tyler); license# 483189

Agreed 3 months suspension of salesperson license fully probated for 6 months, effective February 21, 2003; acted negligently or incompetently by signing the buyer's signature to two (2) disclosure documents that were attached to a sales contract without the buyer's authorization and/or knowledge, in violation of Section 15(a)(6)(W) of The Real Estate License Act

Montgomery, Diana Louise
(Dallas); license# 463479

Revocation of salesperson license, effective February 26, 2003 failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Hicks, Ben Dick Jr.
(Arlington); license# 401092

Revocation of salesperson license, effective February 26, 2003 failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Howard-Koch, Trisa
(Denton); license# 436848

Agreed administrative penalty against salesperson license in the amount of \$1,000.00, entered February 28, 2003; made a material misstatement of fact on two (2) late renewal applications by not revealing an unpaid judgment and periods of unlicensed activity, in violation of Section 15(a)(2)



Renew your broker, salesperson or inspector license online at www.trec.state.tx.us

(Continued from page 1)

seller unless you understand, agree to, and sign an agency disclosure agreement. Be satisfied that the person representing you is experienced in all aspects of a Mexican transaction.

Consider only the purchase of **private** property. Ejidal property, similar to Indian lands in the U.S., was established as a result of the Mexican revolution of 1917. Ejidal property is not private property, however, and is offered often at a far lower price but it cannot be sold legally or promised to be sold until it becomes private property. Be certain that you and your agent are dealing only with the owner of record or someone who has his or her legitimate power of attorney. Insist upon receiving a copy of the seller's deed as a condition of your offer. If you or your agent do not understand Spanish, get it translated.

Get a title investigation and buy title insurance for the full amount of your purchase price. While the initial search may seem expensive for some areas, the title policy transfers risk to the insurance company and minimizes yours as the buyer. Think carefully about how you acquire title in order to avoid or minimize probate and transfer costs in the future. Avoid costly and time-consuming

litigation by insisting upon a binding arbitration clause in your contracts.

Be sure to budget for closing costs and get a full estimate in writing from the company supervising your transfer. Certain costs are fixed regardless of value but others depend on the sales price. Closing costs may run from 13% to 20% of the cost of a \$50,000 US dollar property but be only 3.5% of a multimillion dollar property. The major portion of your payment should be withheld or held in escrow until the deed has been signed by the seller and, if applicable, the bank trustee (if a fideicomiso).

Insist upon receiving a registered title document for your property. If the seller is financing the property, sign a document protecting his interests in the event of your default. Be sure you know the amount which is declared in your deed and understand the tax implications involved. Finally, make sure you use an experienced neutral third party to supervise the transfer of title to you.

By following the above points you can become a proud and satisfied owner of real estate in Mexico - a country with mountains, lakes, rivers, forests, deserts and seashore, a nation with history, ancient cultures, handcrafts, folklore and many other wonderful aspects.

Got A Question About A Relocation Company?

Through a link maintained on the TREC web site, licensees may directly access

The Real Estate Coalition for Cooperative Business Practices (the Coalition) of the Employee Relocation Council by clicking on "The Interchange" on the Coalition's website at

<http://coalition.erc.org>

Licensees may raise concerns about their dealings with a relocation company and send a message to the appropriate company for response.

FYI Quick Links

Homebuyer's E-Guide from the Real Estate Center at Texas A&M University
<http://www.recenter.tamu.edu>

Consumer Protection Division, Texas Attorney General
<http://www.oag.state.tx.us/consumer/>

Savings and Loan Department of Texas
1-512-475-1350
<http://tsld.state.tx.us/>

Information concerning mortgage broker licensing and regulation

Texas Department of Insurance
1-512-463-6169 1-800-578-4677
<http://www.tdi.state.tx.us/>

Answers to questions regarding homeowner's insurance, title insurance, and related services

Texas Department of Housing and Community Affairs
1-512-475-3800
<http://www.tdhca.state.tx.us/>

Housing assistance programs, manufactured housing and additional consumer information

U.S. Department of Housing and Urban Development (HUD)
1-202-401-0388
<http://www.hud.gov/>

Housing assistance programs, FHA loan information and additional consumer information