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Make Sure to Respond to Commission Requests and Keep Your Contact Information Current

In the last issue we briefly talked about whether criminal matters can affect your license status (see November 2012 TRECAdvisor Newsletter). In that article, we talked about the need to cooperate fully with TREC’s Standards & Enforcement Services Division in an investigation – “respond promptly to requests for information and submit all requested documentation.”

**Failure to Respond = Discipline** - This is critical and, in fact, failure to respond to TREC is one of the more common ways that a license holder might be disciplined. This requirement is not limited to investigations of criminal matters but instead applies to any request by the Commission for documents that relate to a real estate transaction conducted by that license holder or to information that relates to a complaint.

**10 Working Days** - Further, when TREC investigates a complaint against a license holder, the license holder is required to provide the requested information “within a reasonable time.” Under Commission Rules, this means “10 working days from receipt of” the request.

If you do not provide the requested information within a reasonable time, or make acceptable arrangements with the agency for an extension you are subject to discipline, including an administrative penalty and other disciplinary action such as a suspension or revocation of your license. The easiest way to avoid that – respond, provide any documents or other information requested, and cooperate.

**Keep Your Information Current** - And just as important as providing requested information – keep your contact information current. This means your mailing address, phone number, and email. When you change your contact information, inform the Commission within 10 days of the change. Otherwise, you might violate the License Act and Commission Rules by failing to respond to a request for information when you probably would have responded timely if you had kept the contact information current. (And not keeping your information current is also a rule violation.)

Fortunately, this is easy to do. You can go to the TREC website at [www.trec.texas.gov](http://www.trec.texas.gov) and update this information online for no charge. Please let us know; it’s your business.
From the Administrator...

Happy New Year! While many of you may not read this until this first month of the new year is almost over, I still want to wish you all the very best in 2013. May this year truly be your best one yet.

At TREC, we started the year with a full plate of tasks designed to make what we do more effective for both our license holders and the people of Texas we serve. Here are some highlights.

The Education Standards Advisory Committee met on January 7th and dove right into their task of clarifying and expanding the guidance provided to educators and course developers for the specific pre-license education courses that the Commission has designated as “core”. Beginning with “Principles of Real Estate”, the committee will eventually offer recommendations to strengthen all 14 “core” courses, as well as other education related matters. Stay tuned.

The Inspector Advisory Committee has two inspector positions and two public member positions open for appointment starting in February. Applications for all openings will be accepted until January 30 and interested parties will be interviewed by an appointed panel to help the Commission choose wisely. A proposal is being considered to change the public member appointments from six years to two years at a time, with reappointments available for up to six years total. This will hopefully increase the willingness of public members to serve.

The Texas Legislature began its biennial session on January 8th and it promises to be a lively one as usual. The agency will be carefully monitoring all proposed legislation that will have an effect on our license holders and provide resource testimony when invited and appropriate. There is a good chance that a bill to update the laws regarding inspectors may be filed and if so we will surely assist.

2013 promises to be a steady building year for the agency. We look forward to implementing additional online tools to serve both license holders and the public, and upgrading many of our website tools to be more comprehensive, accurate and responsive. As always, we welcome your comments on all we do.

The Commission will meet next on Monday February 11 at 10 a.m. in Room 170 of the Stephen F. Austin building at 1700 North Congress Avenue, just two blocks north of the State Capitol. We welcome our license holders and any members of the public who are interested in watching the Commission in action and offering public comments. Come on by and say thanks to the volunteer policy makers who serve you by overseeing the priorities and activities of the agency. Know that the meetings are also broadcast live over the internet and video recorded as the official record of the meeting. Links to the agenda, materials, live broadcast and video archive are all available on the agency’s website. Hope to see you soon!

Important Dates to Remember

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td>TREC Broker Lawyer Committee</td>
<td>Feb 1</td>
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<tr>
<td>TREC Commission Meeting</td>
<td>Feb 11</td>
</tr>
<tr>
<td>President’s Day</td>
<td>Feb 18</td>
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</table>
**RMT Used as A Marketing Tool… I think Not!**

Concerns were raised at a recent broker forum about the possibility of utilizing TREC’s new Relationship Management Tool (RMT) for the purposes of recruiting. These concerns were the result of recent overview of the RMT in this newsletter that explained that licensees can log into their account and search all available license holders by name, region, and license number and send invitations to prospective sponsors and sponsorees with just a few clicks of a mouse. The RMT was developed to help expedite the change of sponsor process by placing that process in the hands of our licensees, thereby eliminating the need to wait on TREC staff to process the request. While nothing prohibits a broker from using the RMT to solicit salespeople, at a cost of $20 per invitation to each prospective sponsoree, utilization of the RMT for such purpose is likely to be very cost prohibitive. The ads found on local websites and in trade publications will most likely continue to be a brokers choice for recruiting new agents.

If you have any questions or concerns about the RMT, please contact Christine Anderson, TREC Public Affairs Specialist at Christine.Anderson@trec.texas.gov

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**My License Online Services: Registration Reminder**

The Real Estate Commission reminds license holders and applicants, when registering with TREC’s online services, to keep track of your User ID and password. If you have lost track of your User ID, or no longer have access to the email address used when you originally registered with the agency, you will need to contact the agency.

If you receive an error message while trying to create an account with us that states, “entity already associated with another account”, this means you have already created an account. You can log in with your account information that you have used in the past. Make sure you keep track of your online services User ID to ensure seamless interaction with the agency’s online services. If you cannot remember this previous login information, you will need to email or call the agency to have the account reset, and this can delay use of our services.

For more information and a guide on TREC’s online services please click the yellow button at the top of the home page and click on help in the top right hand corner of the page.

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**Use TREC’s Relationship Management Tool and Save $20!**

The Texas Real Estate Commission launched a new Relationship Management Tool in October 2012 that allows licensees to change their sponsorship status online through the My License Online Services feature on TREC’s website.

Brokers and salespersons currently pay a $20 fee to update their sponsorship status with TREC. As of Jan. 1, licensees who submit a paper request to update their sponsorships, instead of using the online tool, will pay the additional $20 paper-filing fee for each request.
Supervising Broker Best Practices

To assist a broker who is considering operating a real estate brokerage the Association of Real Estate Regulatory Officials (ARELLO) has created a guide of best practices. This business endeavor comes with great responsibility and liability.

ARELLO prepared this resource as a basic template that can be modified by brokers to fit the particular set of policies, laws and rules in their respective jurisdiction. Brokers are encouraged to seek legal counsel in the development of their specific company policies and procedures. To download the full guide click here.

Education Standards Advisory Committee Update

The Education Standards Advisory Committee is a new committee established by the Real Estate Commission late last fall. The Committee’s function is to “regularly review and revise curriculum standards, course content requirements and instruction certification requirements for core and MCE courses.” The Committee has met twice since it was formed and is currently in the process of reviewing existing core course curriculum requirements and other education-related matters.

For each core real estate course required by the License Act, the Committee will review the statutorily mandated topics that must be covered in the course, and then survey several approved courses in the subject to determine to what degree each topic is covered and whether other related topics included in the courses might be of value to all students taking the course. For each course, the Committee intends to make recommendations to the Commission on whether to amend the core education rules to include additional topics.

The first course to be reviewed by the Committee was principles of real estate, a 60 hour course with 11 statutorily mandated topics. Using the method described above, the Committee is in the process of developing a recommendation to the Commission regarding the curriculum requirements for principles of real estate courses.
Eric Wilson

Eric joined TREC as a web administrator on December 1, 2012, and is an experienced web developer who spent the last 5 years as a web administrator at the Office of the Attorney General. Prior to that he worked for a local mortgage company as an IT administrator and marketing specialist. He is originally from California but moved here with his wife Rebecca in 1999. Eric and his wife live in northwest Austin where they spend most of their time trying to keep up with their 6 year old daughter Morgan.

Bridget Lee

Bridgett joined TALCB on December 17, 2012, as a Legal Assistant. Bridgett comes to us from the Texas Commission on Environmental Quality where she was an Natural Resource Specialist for 2 years. Bridgett lives with her husband of 7 years, 15 year old son, and their miniature Yorkie Gigi in Liberty Hill. Bridgett is currently finishing her graduate degree at Texas State University San Marcos. She enjoys spending her free time, reading a good book, watching classic movies, cooking, and hanging out with family and friends.

Leah Alexander

Leah joined TREC as an Attorney in the Standards and Enforcement Division January 1, 2013. Leah recently moved to Austin with her husband and four children. Before taking time off to raise her children, Leah was in private legal practice in Ann Arbor, Michigan.

The Real Estate Commission is Hiring!

The Real Estate Commission is in need of good people to fill several positions with us! Open positions are located on our website located on the “Contact Us/Agency Info Tab”, and are regularly updated. Check back often for new and exciting opportunities with a great agency!
Rule Actions proposed at the November 5, 2012 Meeting of the Commission.

The Commission will meet next on Monday February 11 at 10 a.m. in Room 170 of the Stephen F Austin building at 1700 North Congress Avenue. The Commission welcomes its license holders and any members of the public who are interested in participating in the meetings. The following are rule actions proposed at the last meeting that may be adopted during the February meeting.

PROPOSED RULES

Chapter 533 Practice and Procedure
22 TAC §533.3 Filing and Notice
The amendment to §533.3 changes the address to TREC’s current address and removes the limitation on the number of pages that may be sent to the commission via facsimile.

Chapter 535, General Provisions
Subchapter A. Definitions
22 TAC §535.1 Definitions
The amendment to §535.1 changes the definition of the acronym “SAE” from “Salesperson Annual Education” to “Salesperson Apprentice Education”.

Subchapter F. Pre-License Education and Examination
22 TAC §535.64. Obtaining Approval to Offer a Course
The amendment extends the effective date for expiration of existing courses approved prior to the effective date of the previous revision to December 31, 2014.

Subchapter R. Real Estate Inspectors
The amendments are proposed to track revisions to the inspector standards of practice as proposed under separate rule. The amendments also clarify how the form is to be used by an inspector and in what ways an inspector is authorized to modify the form. The amendments provide an additional exemption for inspectors conducting inspections on single component systems, which are defined by the rule. The amendments adopt by reference a new Property Inspection Form (REI 7-3) and removes the requirements for the two current forms, REI 7A1 and REI 7-2.

22 TAC §535.227-§535.233, Standards of Practice. (REPEAL)
The repeal of the sections is proposed because the subjects addressed in these sections will be covered in new §§535.227-535.233 TREC is simultaneously proposing as part of the Real Estate Inspector Committee comprehensive review and recommendations regarding inspector standards of practice.

22 TAC §535.227-§535.233. Standards of Practice (NEW)
The Texas Real Estate Inspector Committee, an advisory committee of six professional inspectors and three public members appointed by TREC, recommended the proposal of the new rules following a comprehensive review of the Standards. The new rules update and clarify the current Standards of Practice (Standards) for real estate inspectors. The proposed rules make several non-substantive changes to the Standards by making them easier to read and providing a clearer understanding of what an inspector is and is not required to inspect and report. In addition, the rules make several substantive changes to the Standards by making them easier to read and providing a clearer understanding of what an inspector is and is not required to inspect and report. In addition, the rules make several substantive changes to the Standards to encourage a more performance-based approach to real estate inspections. The Committee recommends both the substantive and non-substantive revisions.

The substantive changes to the Standards are as follows:
•§535.227, paragraph (a) expands the definition of “Accessible; adds a definition for “Component”; expands the current definition of “Inspect”; and clarifies that an inspector is
required to report deficiencies “as specified by these standards of practice”; expands the definition of “Performance”; adds a definition for “Substantially completed”; and adds a definition for “Technically exhaustive.” Paragraph (b)(3) clarifies the intent and limitations of the Standards; specifies that an inspector not be required to inspect sub-surface drainage systems; and determines compatibility, product lawsuits, listing, and testing or protocol authority. It also determines the presence, absence or risk of “Chinese drywall”; determines the cause or source of a condition; verifies sizing efficiency or adequacy of a gutter or downspout system; or light a pilot light.

§535.228, paragraph (a) amends current rule language relating to crawl space ventilation and drainage to focus on the performance of the item. It also removes and consolidates redundant exemplars found in the current Standards. Paragraph (b) amends current rule language relating to grading and draining around the foundation to focus on the performance of the item. Paragraph (c) removes the specific requirement that an inspector report as deficient a roof covering that is not appropriate for the slope of the roof. It also specifies that an inspector not be required to examine exhaustively all fasteners and adhesions. Paragraph (d) amends current rule language relating to attic space ventilation to focus on the performance of the item. In addition to those items currently required to be inspected relating to exterior walls and windows. Paragraph (f) requires an inspector to report deficiencies in weather-stripping, gaskets or other air barrier materials. It also specifies that an inspector not be required to provide an exhaustive list of locations of deficiencies and water penetrations. Paragraph (j) removes the requirement that an inspector report deficiencies in visible footings, piers, posts, pilings, joists, decking, water proofing at interfaces, flashing, surfaces coverings, and attachment points of porches, decks, balconies and carports.

§535.229, paragraph (a) consolidates several redundant ground and bonding items. It also removes the requirement that inspectors report as deficient the absence of arc-fault circuit interrupters. Paragraph (b) requires an inspector to inspect installed carbon monoxide alarms. The new rule updates the ground-fault circuit interruption language and moves the doorbell language from its current location under “appliances” to §535.229(b). It also removes and consolidates redundant exemplars found in the current Standards for switches and receptacles, and clarifies that an inspector is not required to remove the covers of junction, fixture, receptacle or switch boxes unless specifically required to do so by the Standards.

§535.230, paragraph (a) clarifies the intent of the Standards regarding heating equipment, including expanding the current rule language relating to inadequate access and clearances, gas shut off valves, and gas appliance connectors, to provide more specificity. The new rules require an inspector to report deficiencies in the performance of a heat pump in electrical units. Paragraph (b) clarifies the intent of the Standards regarding cooling equipment and other evaporative coolers, including expanding the current rule language relating to inadequate access and clearances to provide more specificity. Paragraph (c) removes the requirement to report shut down, drained winterized units. It also consolidates several exemplars found in the current Standards. Paragraph (d) removes several items found in the current Standards, deemed unrealistic for an inspector to inspect. Paragraph (e) clarifies at what outdoor temperature an inspector is required to operate a heat pump and specifies that an inspector is not required to verify the tonnage match of indoor coils and outside coils or condensing units.

§535.231, paragraph (a) removes the requirement that an inspector report on static water pressure and the lack of pressure reducing valves or expansion tanks. The new rule amends current rule language relating to fixtures and faucets not connected to appliances and fixture drains to focus on the performance of the item. The rule also removes and consolidates several exemplars found in the current Standards. Paragraph (b) clarifies the intent of the Standards regarding water heaters, including expanding the current rule language relating to inadequate access and clearances, gas shut off valves, and gas appliance connectors, to provide more specificity. The rule also removes and consolidates several exemplars found in the current Standards. Paragraph (c) clarifies the intent of the Standards regarding Hydro-massage therapy equipment, including expanding the current rule language relating to inadequate access and the performance and condition of components.

§535.232, amends current rule language relating to several appliances to focus on the performance of the item. The rule changes the titles of several subsections of current §535.232 to bring them in line with industry terminology. The rule also removes and consolidates several
exemplars related to various appliances found in the current Standards. Specifically, the rule adds several new requirements for ranges, cooktops, and ovens, including requiring the inspector to report as deficient combustible material within a certain area of cooktop burners, certain limitations regarding gas shutoff valves or connectors, and deficiencies in mounting and performance. The rule removes the requirement that an inspector inspect trash compactors, adds a requirement under “Garage door operators” that an inspector report as deficient installed photo electric sensors located more than six inches above the garage floor, and moves door bells requirements to new §535.229(b).

§535.233 removes the Outdoor Cooking Equipment Section, Gas Supply Section, Other Built-In Appliance Section and Whole House Vacuum System section. Subparagraph (1) changes the titles of several subsection is of §535.233 to bring them in line with industry terminology. The new rule clarifies the intent of the Standards regarding Landscape irrigation (sprinkler) systems, including requiring an inspector to report as deficient: inoperative zone valves), the absence of shut-off valves between the water meter and backflow device, and deficiencies in the performance of the water emission devices; such as, sprayer heads, rotary sprinkler heads, bubblers or drip lines. The new rules specify that an inspector is not required to inspect sizing and effectiveness of backflow prevention device. Subparagraph (2) require an inspector to report as deficient the presence of a single blockable main drain (potential entrapment hazard), the absence of ground-fault circuit interrupter protection devices and deficiencies in lighting fixtures. The rule specifies that an inspector is not required to disassemble filters, or determine the effectiveness of entrapment covers. Subparagraph (3) requires an inspector to report as deficient the absence of ground-fault circuit interrupter protection devices in grade-level portions of unfinished accessory buildings used for storage or work areas, boathouses, and boat hoists. Subparagraph (5) requires an inspector to report on the location of the distribution field in a private septic system. 22 TAC §535.224.Practice and Procedure.

Chapter 539 Rules Relating to the Residential Service Company Act

Subchapter D. Definitions

22 TAC §539.31. Residential Service Contract. The amendments to §539.31 define Chapter 1303 of the Occupations Code as the Act.

Subchapter G. Application for License

22 TAC §539.61. Application and Licensing; §539.62. Application to Approve Evidence of Coverage/ Schedule of Charges; §539.63. Termination of Application; §539.64. Mailing Address and Other Contact Information; §539.65. Change in Company Ownership or Officers and §539.66. Change in Operation

The amendment to §539.61, Application for Residential Service Company License, changes the title and deletes subsection (c) because it is moved to new §539.63. It also adopts a revised application form.

New §539.62, Application to Approve Evidence of Coverage/ Schedule of Charges, requires that each approved evidence of coverage must include a form number and approval date, and requires that a company obtain the commission’s prior approval before offering discounts or other change in any amount to be charged a consumer.

New §539.63, Termination of Application, authorizes the commission to terminate an application if the applicant fails to respond within 90 days after the commission notifies the applicant to provide additional information.

New §539.64, Mailing Address and Other Contact Information, requires companies to provide a mailing address, telephone number and email address to the commission, report subsequent changes to such information within 10 days after a change, and deems the last known mailing address provided to the commission to be the address of the company if it fails to update the information.

New §539.65, Change in Company Ownership or Officers, requires a company to report changes in its ownership or officers to the commission on a new form adopted by reference.

New §539.66, Change in Operation, requires a residential service company to notify the commission within 30 days if the company wishes to begin issuing and administering contracts in affiliation with another company, and requires a company to provide additional
information regarding the relationship between the company and the affiliate.

**Subchapter H. Miscellaneous Forms**

*22 TAC §539.71. Miscellaneous Forms.*

The amendment to §539.71, Miscellaneous Forms, amends various forms adopted by reference.

**Subchapter I. Funded Reserves**

*22 TAC §539.81. Funded Reserves and §539.82. Security.*

The subchapter title is changed to Financial Assurances from Funded Reserves to more accurately reflect the contents of the subchapter.

- The amendment to §539.81, Funded Reserves, authorizes the commission to accept, with prior authorization, other types of assets as funded reserves such as government backed instruments, and requires companies to complete monthly reconciliations to prove that the company meets the minimum funded reserve requirements of the Act, and increase the funded reserve as required.

- New §539.82, Security, requires each company to confirm by February 1 of each year that the security required by §1303.154(b) of the Act is sufficient, or increase the amount to meet the minimum required.

**Subchapter J. Annual Report**

*22 TAC §539.91. Annual Report*

The amendment to §539.91, Annual Report, adopts by reference a revised annual report form and requires companies to file an Annual Report by February 1 of each year for the preceding calendar year.

**Subchapter N. Mid-year Report**

*22 TAC §539.137. Mid-Year Report*

The amendment to §539.137, Mid-Year Report, adopts by reference amendments to the Mid-Year Report Form and changes the filing date from August 15 to August 1.

**Subchapter Q. Issues Affecting Consumers**

*22 TAC §539.160. Copy of Residential Service Company Contract and §539.161. Advertising*

The amendments propose a new subchapter titled Q. Issues Affecting Consumers. New §539.160, Copy of Residential Service Company Contract, requires companies to provide a contract holder a copy of a residential service contract within 15 days after payment is made or the residential service contract becomes effective, whichever is sooner. New §539.161, Advertising, subjects companies to disciplinary action if they use a side-by-side comparison in advertising if the contracts being compared are not substantially the same.

**Subchapter X. Fees**

*22 TAC §539.231. Fees*

The amendments to §539.231, Fees, clarify that the filing fees for an application to approve an evidence of coverage and schedule of charges also applies to changes to an approved evidence of coverage and schedule of charges.
### TREC Enforcement Actions

<table>
<thead>
<tr>
<th>Name and Location</th>
<th>Order</th>
<th>Basis For Order</th>
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<tbody>
<tr>
<td><strong>Case#: 120081</strong></td>
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<tr>
<td>ROULIAS, KIMBERLY K (license # 511565) Real Estate Broker / Salesperson-I DALLAS (DALLAS) Effective Date: 11/30/2012</td>
<td>Agreed 1 year suspension of broker license fully probated for 1 year. Agreed administrative penalty of $3,000.00.</td>
<td>Consumer Complaint Respondent failed to obtain the required written consent of the buyer to act as an intermediary in a sales transaction. Respondent was negligent in drafting a sales contract and in not keeping clients informed, along with advising the parties regarding the validity or legal sufficiency of contract rights to terminate and seek return of earnest money for failure to deliver the condominium resale certificate timely and failing to fill in the effective date of the contract.</td>
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<td><strong>Violation(s)</strong></td>
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<tr>
<td>1101.559(a)</td>
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<td>1101.652(b)(01)</td>
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<tr>
<td>1101.654(a)(2)</td>
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| **Case#: 102883**  |       |                 |
| SMITH, JEFFERY LEE (license # 430382) Real Estate Broker / Salesperson-I SAN ANTONIO (BEXAR) Effective Date: 11/30/2012 | Agreed 5 years suspension of broker license. Beginning February 28, 2013, the remaining 4 years and 9 months of suspension are to be probated. Agreed administrative penalty of $5,000.00. | Consumer Complaint Respondent acted negligently or incompetently in the course of his company managing real property for others. Respondent commingled the funds of others with his own funds, and failed to retain for 4 years documentary records of each deposit and withdrawal from a trust account. |
| **Violation(s)**   |       |                 |
| 1101.652(b)(01)   |       |                 |
| 1101.652(b)(10)   |       |                 |
| 22 TAC 535.146(b) (1/11) |       |                 |

| **Case#: 110651**  |       |                 |
| DELEON, ISELA ALEJANDRA (license # 576702) Real Estate Broker / Salesperson-I HOUSTON (HARRIS) Effective Date: 10/15/2011 | Agreed 34 months suspension of salesperson license fully probated for 34 months. Agreed amended administrative penalty of $2,000.00. Agreed amended completion of 30 classroom hours of an agency law course on or before January 15, 2013. | Consumer Complaint Respondent engaged in conduct that was dishonest or in bad faith or that demonstrated untrustworthiness while acting as a broker or salesperson. Respondent failed within a reasonable time to properly account for or remit money that was received by the license holder and that belonged to another person. |
| **Violation(s)**   |       |                 |
| 1101.652(b)(02)   |       |                 |
| 1101.652(b)(09)   |       |                 |

<p>| <strong>Case#: 111397</strong>  |       |                 |
| GUTHRIE, MOLLY D (license # 409931) Real Estate Broker / Salesperson-I AUSTIN (TRAVIS) Effective Date: 11/15/2012 | Agreed 3 year suspension of salesperson license. Agreed completion of 30 classroom hours in a Principles 1 course and 30 classroom hours of a Property Management course on or before May 15, 2013. | Consumer Complaint Respondent conducted property management services without the authorization or knowledge of her sponsoring broker and collected a monthly property management fee directly without the knowledge of her sponsoring broker. Respondent failed to deposit with her broker funds she collected for others and the funds were not maintained in a trust or escrow account. Respondent failed to timely remit the deposits and rental payments for the properties she managed to the owner. Respondent drafted a document that affected the interest in real property. |
| <strong>Violation(s)</strong>   |       |                 |
| 1101.651(b)       |       |                 |
| 1101.652(b)(09)   |       |                 |
| 1101.654(a)(1)    |       |                 |
| 1101.655          |       |                 |
| 22 TAC 535.159(f) |       |                 |</p>
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<th>Name and Location</th>
<th>Order</th>
<th>Basis For Order</th>
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<tbody>
<tr>
<td><strong>Case#: 121367,102570,120604,120804 COLONIAL HOME WARRANTY (license # 0) None WILMINGTON(NEW CASTLE)</strong> Effective Date: 11/29/2012</td>
<td>Agreed administrative penalty of $5,000.00. Agreed to cease and desist from engaging in all activities for which a residential service company license is required until such time as appropriate licensing is obtained.</td>
<td>Consumer Complaint Respondent issued a residential service contract or performed or arranged to perform services under a residential service contract without first obtaining a residential service company license. Respondent issued an evidence of coverage to a person in this state that was not filed and approved by the Commission. Respondent used, in conjunction with its evidence of coverage, a schedule of charges for services covered under the evidence of coverage that was not filed and approved by the Commission.</td>
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<td><strong>Violation(s)</strong></td>
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<td>1303.101</td>
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<td>1303.251(b)</td>
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<td>1303.253(a)</td>
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<tr>
<td><strong>Case#: 130178 BAKER, DWIGHT WAYNE (license # 528839) Real Estate Broker / Salesperson-I ROUND ROCK(WILLIAMSON) Effective Date: 11/30/2012</strong></td>
<td>Agreed 7 year suspension of salesperson license fully probated for 7 years. Agreed administrative penalty of $1,000.00.</td>
<td>Administrative Complaint Respondent pled guilty to a felony offense. Respondent failed to notify the Commission within 30-days after entry of the plea.</td>
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<td><strong>Violation(s)</strong></td>
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<td>1101.652(a)(09)</td>
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<tr>
<td><strong>Case#: 121794 PRITCHETT, ROBERT ALLEN (license # 495917) Real Estate Broker / Salesperson-I CYPRESS(HARRIS) Effective Date: 11/15/2012</strong></td>
<td>Agreed 4 year suspension of salesperson license fully probated for 4 years.</td>
<td>Administrative Complaint Respondent pled guilty to a felony offense.</td>
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<td><strong>Violation(s)</strong></td>
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<td>1101.652(a)(01)</td>
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<td><strong>Case#: 121380 CHOICE, PATRICIA DION (license # 596090) Real Estate Broker / Salesperson-I FORT WORTH(TARRANT) Effective Date: 11/9/2012</strong></td>
<td>Agreed 1 year suspension of salesperson license fully probated for 3 years. Agreed administrative penalty of $2,000.00.</td>
<td>Administrative Complaint Respondent pled guilty to a criminal offense involving fraud. Respondent failed to notify the Commission within 30 days after entry of the plea.</td>
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<td><strong>Violation(s)</strong></td>
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<td>Name and Location</td>
<td>Order</td>
<td>Basis For Order</td>
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<tr>
<td><strong>Case#: 120878</strong> HAUCK, ROBIN ROGER (license # 404683) Real Estate Broker / Salesperson-I TEMPLE(BELL) Effective Date: 11/29/2012</td>
<td>Revocation of broker license.</td>
<td>Administrative Complaint Respondent failed to repay the Commission for payment of $20,627.43 plus interest made from the Real Estate Recovery Trust Account toward satisfaction of a judgment.</td>
</tr>
<tr>
<td><strong>Violation(s)</strong></td>
<td>1101.655</td>
<td></td>
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<tr>
<td><strong>Case#: 121517</strong> RIVERA, ROBERT (license # ) Real Estate Broker / Salesperson-I FORT WORTH(TARRANT) Effective Date: 11/1/2012</td>
<td>Agreed 8 year probation upon issuance of a salesperson license.</td>
<td>Applications Commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1. Applicant provided documentation addressing the factors outlined in Tex. Occ. Code §53.023 and, subject to reasonable terms of a probationary license, demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Tex. Occ. Code §1101.354(2).</td>
</tr>
<tr>
<td><strong>Case#: 130157</strong> MORRIS, VICKI R (license # 624642) Real Estate Broker / Salesperson-I SAN ANTONIO(COMAL) Effective Date: 11/28/2012</td>
<td>Agreed 3 year probationary salesperson license issued.</td>
<td>Applications Commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1. Applicant provided documentation addressing the factors outlined in Tex. Occ. Code §53.023 and, subject to reasonable terms of a probationary license, demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Tex. Occ. Code §1101.354(2).</td>
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</table>
TALCB was created by an act of the Texas Legislature in 1991 to license, certify and regulate real estate appraisers in Texas under state and federal laws. In 2011, TALCB’s jurisdiction was expanded to register and regulate appraisal management companies.

Inside this issue: TALCB Seeks AMC Representative (Page 1) From the Commissioner (Page 2) Proposed Rule Changes (page 3)

**TALCB Seeks AMC Representative for Advisory Committee**

Along with placing AMCs under the regulatory jurisdiction of TALCB, HB 1146 also created a three person AMC Advisory Committee to make recommendations to TALCB regarding AMC regulatory matters. As established by the bill, the Vice Chair of TALCB acts as the presiding officer of the committee. The bill grants the Governor the authority to appoint the other two members: one public member with demonstrated business ability and one member who is a "controlling person" of an AMC registered with TALCB to do business in Texas. Any AMC principal or manager who meets the statutory definition of "controlling person" and who is interested in being appointed to serve on this advisory committee for a two-year term should send an application to the Governor's Appointments Office. Details on the appointment process can be found at this website: http://governor.state.tx.us/appointments/

The statutory definition "controlling person" is contained at Texas Occupation Code Sec. 1104.003 (b)(6):

"Controlling person" means:

(A) an owner, officer, or director of an appraisal management company;

(B) an individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and the authority to enter into agreements with appraisers for the performance of appraisals; or

(C) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.
Happy New Year! While many of you may not read this until this first month of the new year is almost over, I still want to wish you all the very best in 2013. May this year truly be your best one yet.

At TALCB, we started the year by welcoming back Mark Mrnak, our enforcement Director. Mark has been on 6 months of active duty with the USAF Reserve JAG Corps. We are happy to have a full team again, since there is always plenty of work to be done to resolve the high volume of complaints we have.

We also began 2013 with a full plate of tasks designed to make what we do more effective for both our license holders and the people of Texas we serve. Here are some highlights.

The Board’s Enforcement Committee continues to make advances in reviewing all of the policies and procedures approved for use by our enforcement team. Working diligently to gather ideas from stakeholders and staff, the Committee is steadily reinforcing current policies where appropriate and making recommendations for improvements where advisable. Stay tuned.

The Board will soon receive two new appointments by the Governor to its new Appraisal Management Company (AMC) Advisory Committee, a statutory body established under HB2375 to assist the Board with recommendations on policies regarding AMCs, a new class of regulated entity since July of 2012. The Vice-chair of the Board also acts as Chair of the AMC Committee.

The Texas Legislature began its biennial session on January 8th and it promises to be a lively one as usual. The agency will be carefully monitoring all proposed legislation that will have an effect on our license holders and provide resource testimony when invited and appropriate.

The Appraisal Subcommittee (ASC) has proposed repeal and re-write of its “Policy Statements” the equivalent of federal rules that govern its application of federal oversight authority to the states. These are now in the “comment period” and have received quite a few comments from stakeholders, including Texas. We will continue to monitor and attempt to influence the final results to ensure they are clear, reasonable and fair.

Save the date: the Association of Appraiser Regulatory Officials (AARO) will be having its Spring meeting in Austin on April 27-29 at the downtown Omni Hotel. More information is available on the AARO website at www.aaro.net for anyone interested. As it gets closer, we will publish additional details.

The Board will meet next on Friday February 15 at 10 AM in Room 170 of the Stephen F Austin building at 1700 North Congress Avenue, just two blocks north of the State Capitol. We welcome our license holders and members of the public to attend, observe and even comment. Come on by and say thanks to the volunteer policy makers who serve you by overseeing the priorities and activities of the agency. Know that the meetings are also broadcast live over the internet and video recorded as the official record of the meeting. Links to the agenda, materials, live broadcast and video archive are all available on the agency’s website. As always, we welcome your comments on all we do.

Important Dates to Remember
TALCB Board Meeting—Feb 15
President’s Day—Agency Closed—Feb 18
The Board will meet next on Friday February 15 at 10 AM in Room 170 of the Stephen F Austin building at 1700 North Congress Avenue. The Board welcomes its license holders and any members of the public who are interested in participating in the meetings. The following are rule actions proposed at the last meeting that may be adopted at during the February meeting. The proposed rules can be found on our website on the Act & Rules tab.

22 TAC §155.2, Work Relating to Property Tax Protests: A new rule is proposed to clarify when USPAP applies to work prepared by TALCB licensees for the purpose of a property tax protest and requires the use of a disclosure by TALCB licensees that are dually licensed or certified as a property tax consultant when they perform work for a property tax protest under their authority as a property tax consultant.

22 TAC §153.24, Complaint Processing: Amendments are proposed to clarify that receipt of a complaint intake form by TALCB does not constitute the filing of a formal complaint by the Board against the individual named on the complaint intake form. The amendments also more clearly set out all of the information that a respondent must provide to the Board following notification of receipt of a complaint intake form, establishes a timeframe for completion of a preliminary review to determine if a violation occurred and sets out the criteria and procedure for a contingent dismissal.

22 TAC §157.10, Right to Counsel, Right to Participate: Amendments are proposed to clarify that the cost of a hearing transcript will be paid by the party requesting it but when a transcript of a hearing is requested by a SOAH judge, the cost of the transcript will be split by the parties.

NEW/REVISED FORMS – effective November 9, 2012

Complaint Intake Form (Revised) - this form was revised to take the place of the current complaint forms for appraisers and AMCs and also can be used for unlicensed activity. In addition, it elicits additional information from the complainant to help expedite the preliminary review of the complaint.

Application to Serve on Peer Investigative Committee (PIC)/Act as Mentor - The PIC application form has been revised to apply to applicants who want to serve as mentors in addition to or instead of serving on a PIC.

Mentor Appointment Agreement - This is a new form that will be signed by people applying to serve as mentors.

Certification of Completion of Mentorship - This form replaces the Affidavit of Completion of Mentorship form and will be signed by the mentor following completion of mentorship hours by a respondent. This form is not required to be notarized.

APPRAISAL FOUNDATION PUBLISHES INFORMATIONAL BROCHURES FOR CONSUMERS & LENDERS.

The Appraisal Foundation - founded by Congress as a partnership between government and industry to establish standards for the industry - has published two new informational brochures regarding the guidelines for use of appraisers - one aimed at consumers and one at lenders. Both are very helpful educational pieces and we recommend you read them. They can be found on the TALCB website under the complaints and consumer info tab.

APPRAISAL FOUNDATION PUBLISHES INFORMATIONAL BROCHURES FOR CONSUMERS & LENDERS.
Happy New Year! I hope that this coming year will truly be your best one yet. The market continues to improve in Texas and that bodes well for business building opportunities for inspectors. Good luck!

The Inspector Committee has three major issues that are currently pending. A little about each:

- The revisions to the Standards of Practice and report form are open for comment and may be enacted by the Commission at its next meeting, with an effective date later in the Spring. This project has taken two years to complete and is worthy of careful consideration and attention.

- The Inspector Committee has two inspector positions and two public member positions open for appointment starting in February. Applications for all openings will be accepted until January 30 and interested parties will be interviewed by an appointed panel to help the Commission choose wisely. A proposal is being considered to change the public member appointments from six years to two years at a time, with reappointments available for up to six years total. This will hopefully increase the willingness of public members to serve.

- The Texas Legislature began its biennial session on January 8th and it promises to be a lively one as usual. The agency will be carefully monitoring all proposed legislation that will have an effect on our license holders and provide resource testimony when invited and appropriate. There is a good chance that a bill to update the laws regarding inspectors may be filed and we look forward to being a quality resource to assist with its shaping as requested.

February 2013 brings an end to the six year terms of service for three of our Committee members – inspectors Brad Phillips and Curtis Carr and public member Jill Frankel. Each has been a faithful and productive member of the Committee and we will miss their insight and wisdom. We certainly wish them all the best as they regain time to devote to other pursuits. Your service is greatly appreciated.

2013 will be a steady building year for the agency as we implement additional online tools to serve both license holders and the public. Watch for specific announcements as each website enhancement arrives. And as always, we welcome your comments on all we do. Email is the easiest way to reach us. Use information@trec.texas.gov for general comments or administrator@trec.texas.gov to reach me directly.
NEW INSPECTOR EXAM BEGAN ON JANUARY 1, 2013

All new applicants, including applicants who filed an application prior to January 1, 2013, but did not take the exam prior to that date, are required to take a new exam for licensure. The new exam is composed of two parts: one part for national topics and one part for Texas specific topics.

The national part of the exam consists of 200 questions and the Texas part consists of 25 questions, all multiple choice. Examination content outline and reference material is available in the State of Texas Professional Inspector and Real Estate Inspector Examination Candidate Information Brochure (CIB). You can access the CIB through a link on the Inspector Information Main Page of the TREC website.

The exam fee is $230.00 and is required each time the national and Texas parts of the exam are taken together or when the national part is taken alone. If one part of the exam has been passed, the applicant is required to retest only on the part that has been failed. The $61.00 Texas exam fee is required if the applicant is only retaking the state part of the exam.

Important Notes for Current Inspector Applicants:

- Applicants who have a current application open as of December 31, 2012, and who have taken and failed the inspector examination that was in effect prior to January 1, 2013, may choose to retake the pre-January 1, 2013, exam if they qualify for reexamination under that same application. The applicant must notify the Commission in writing when requesting reexamination.

- TREC may waive the national part of the exam if an applicant maintains an active license in another state and has passed the National Home Inspector Examination (NHIE) developed by the Examination Board of Professional Home inspectors. The applicant must provide the Commission with a license history or documentation from the other state indicating that the NHIE was passed.

Important Dates to Remember

Inspector Committee Interviews—January 28
Texas Real Estate Inspector Committee Meeting—Feb 1