“There has been a proliferation of the use of “coming soon” or “pocket” listings over the past year. While there may be legitimate reasons for the use of this marketing method, license holders should be aware that selling property using this method, under certain circumstances, may result in a complaint with the Commission and finding that the license holder has violated TREC laws and rules.

Some common characteristics of this practice are: a license holder has a listing on a property and advertises it on a limited basis as “coming soon,” or does not advertise it at all outside of their own brokerage (“pocket listing”); the property is not entered into the local MLS system or other online property listings; the property is not available for general showings or open houses; or the property is not otherwise given full exposure to the market. Although TREC does not restrict how a property can be marketed, license holders must still comply with their required fiduciary duties.

Under Section 531.1 of TREC Rules, a license holder cannot put their self-interest above that of their client. So motivation for and disclosure of the effect of an off-market listing are key factors that TREC will consider when investigating a “coming soon” listing complaint. If the property is being marketed as “coming soon” because the seller is still preparing the property for sale, that is a legitimate use of this method. If, however, the property is being marketed as “coming soon” so the listing broker can try to acquire a buyer before it is exposed to other agents, then it appears that the listing broker may be putting the broker’s own financial interest ahead of the client’s interest. Unless the listing broker obtained the seller’s informed consent after full disclosure to the seller that limited exposure could result in fewer showings and offers, the listing broker may be in violation of TREC rules and subject to disciplinary action.

To counter this complaint and potential finding, a broker should fully inform the seller as to the potentially negative effect of any limited exposure to the market and obtain the seller’s clear and unambiguous consent – preferably in writing - to the use of any limited exposure marketing method."
At our regular quarterly meeting on August 18th, the Commission met to advance its important work of ensuring effective regulation of real estate service providers in Texas. At our meeting, we heard progress reports from three of our advisory committees: the Inspector Committee, the Educations Standards Advisory Committee and the Broker Responsibility Working Group, from our Budget Committee, and from the Administrator and staff. There has been a lot of activity over the summer and for that we offer our sincere gratitude to the many volunteers who staff these advisory working groups.

We learned that the State Auditor’s office published and then withdrew a report based on an audit of fiscal year 2013 activity. Turns out that while the accounting rules are the same, the reporting rules for the eight self-directed, semi-independent agencies (we are one) are quite different from other state agencies, and TREC is the most complex of all, since more than 50% of all funds we collect are sent to other agencies – like the Real Estate Center at A&M.

We approved an annual internal audit report filed by Garza/Gonzales for 2014. We approved the 2015-2019 Strategic Plan and the 2015 fiscal year budget that reflects the plan’s priorities. We also approved the text of the new Broker Responsibility Course for 2015-16. Many thanks to the agency team members and Commissioners who contributed significantly to these three major accomplishments. The detailed process for each was inclusive, comprehensive and, with some extra efforts, went quite smoothly.

As our required quadrennial rule review process advanced, we approved previously published amendments to several rules including TAC Chapters 533, 535, 537, and 541 – including adoption of a new promulgated addendum for Mandatory Membership in an Owners’ Association. Rule amendments were proposed for TAC Chapter 535, 539, 543 and a new addendum for Reservation of Oil, Gas and Other Minerals. These latter are open for comment through September and we encourage your input.

The item that drew the most interest at the meeting was a proposed amendment to Chapter 535 that would require “correspondence” courses to be accredited by a distance education reviewer and offered online with additional delivery quality safeguards. Certain providers who cooperate with post-secondary educational institutions to offer more traditional correspondence courses through a college’s “adult education or extension” program expressed concern about the impact on their business. The Commission’s rules clearly require the provider to ensure that the course offering meets the college’s “accreditation standards,” which is not the same as “adult education or extension course standards”. We encourage all with an interest in the quality of education to offer comments to the Commission prior to September 26th.

Our next regularly scheduled meeting is on November 18th. We will also have a workshop meeting on the 17th to prepare for the legislative session in 2015. Until then, we hope you each have a great autumn season and enjoy some football! Stay healthy and make time to enjoy your family and friends. We plan to do the same.
TREC Rule § 535.62 requires previously approved core (qualifying) courses to be revised to meet new curriculum requirements. Last issue we included an article about the required updates for Real Estate Principals I and II and Real Estate Law of Agency courses. These course revisions are due this year. Other courses that have been revised but will not be due until next year are Law of Contracts, Promulgated Contract Forms, and Real Estate Finance. Included below is a handy chart for education providers which shows deadlines for course revisions for both classroom and alternative delivery method courses. Education providers are encouraged to submit these courses to us well in advance to allow time for review and approval prior to course revision due dates so there is continued course availability for students. Course Application forms are available on the TREC website.

What if you’ve previously paid a course application fee and obtained a 4-year approval to offer one of these courses prior to curriculum revisions?

You should receive a prorated credit for the unexpired time remaining on that course approval. The Commission will calculate the unexpired credit by dividing the fee paid by 48 months and multiplying the monthly prorated fee times the number of full months remaining between the date of approval and the expiration date of the prior version.

What if a student has taken the old version of the qualifying course and submits the course completion certificate after the deadline? The course will not be acceptable for qualifying credit if completed after the deadline for that course revision. However, the course may be accepted for elective qualifying credit (also known as related credit) provided it does not violate §535.54(c) of the Commission Rules.

Providers should email education@trec.texas.gov if there are questions regarding the content in this article.

### DEADLINES FOR REVISION OF CORE COURSES

<table>
<thead>
<tr>
<th>Course Title</th>
<th>Form Number</th>
<th>Deadline for Revision of Classroom Delivery Courses</th>
<th>Deadline for Revision of Alternative Delivery Courses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principles of Real Estate I</td>
<td>PRINS 1-0</td>
<td>September 5, 2014</td>
<td>December 5, 2014</td>
</tr>
<tr>
<td>Principles of Real Estate II</td>
<td>PRINS 2-0</td>
<td>September 5, 2014</td>
<td>December 5, 2014</td>
</tr>
<tr>
<td>Law of Agency</td>
<td>LOA-0</td>
<td>November 17, 2014</td>
<td>February 17, 2015</td>
</tr>
<tr>
<td>Promulgated Contract Forms</td>
<td>PCF-0</td>
<td>March 3, 2015</td>
<td>June 3, 2015</td>
</tr>
<tr>
<td>Real Estate Finance</td>
<td>REF-0</td>
<td>May 21, 2015</td>
<td>August 21, 2015</td>
</tr>
</tbody>
</table>
Tell Me More About TREC Form 47-0
(Addendum for property in a propane gas system service area)

The addendum for property in a propane gas system service area (Form 47-0) became effective March 5, 2014. The form was required due to passage of new legislation in 2013 that required a disclosure notice in response to a new section of law, Section 141.010 of the Texas Utilities Code. This section of the Utilities Code sets standards regarding propane gas distribution systems.

What is a propane gas distribution system? A propane gas system is defined as one or more propane storage containers, equipment, and facilities connected to a contiguous piping system through which propane gas is supplied by a distribution to at least 10 customers. Basically, it is a central propane distribution tank with gas lines running to each property in a neighborhood.

How do you know if the property is located in a propane gas distribution system area? The Railroad Commission lists the propane distribution system retailers and the neighborhoods and counties in which they provide service at the following link: http://www.rrc.state.tx.us/gas-services/propane-distribution-systems/propane-distribution-system-retailers/ According to the Railroad Commission site, the amendment is currently necessary for only a few subdivisions in approximately 12 Texas counties.

What is required of sellers under this new law? If the property is located in a propane gas distribution system area, the law requires the notice to be provided to the buyer of the property. With the notice, the seller must attach a copy of the county notice that is recorded in the county clerk’s property records by the propane distributor. The seller can obtain a copy of the required recorded notice from the county clerk’s office where the property is located or from the distribution system retailer. The buyer and seller should sign the acknowledgment at or before the execution of the real property contract.
§533.3 Filing and Notice
The amendments to §533.3 move a reworded subsection 533.4(b) to subsection (a) as a more logical location for that provision; establish that calculation of timeframes for replying to notices are from the date sent; add language that notices may also be sent by email for evidence of actual knowledge; reorganize and edit the rest of the section to better reflect current procedures; note in general where the Administrative Procedures Act and SOAH's procedural rules are applicable; and clarify and simplify the rule for greater understanding.

§533.4 Failure to Answer, Failure to Attend Hearing and Default
The amendments to §533.4 provide clarity and consistency by restructuring, renumbering, streamlining wording and correcting terminology and establish that calculation of timeframes for replying to notices are from the date sent. Subsection (b) was moved to §533.3(a) as a more logical location for that provision. Subsection (f) was moved and edited from §533.2(a) as a more logical location for that provision.

§533.9 Computation of Time
The new §533.9 sets out the criteria used to calculate time for sending or receiving any required notice for clarity and consistency in calculating dates.

§535.146 Failure to Properly Account for Money; Commingling, §535.159 Failure to Properly Deposit Escrow Monies, §535.160, Failing to Properly Disburse Escrow Money and new §535.146 Maintaining Trust Money
The new §535.146, Maintaining Trust Money, is adopted following a comprehensive rule review of Chapter 535 and combines and replaces §535.146, §535.159 and §535.160.

§541.1 Criminal Offense Guidelines and §541.2 Criminal History Evaluation Letters
The amendments to §541.1 clarify the scope of the bribery offense, add offenses involving theft and felonies involving the manufacture, delivery, or intent to deliver controlled substances to the list of criminal offenses that TREC considers when determining a person’s ability to perform the duties and responsibilities of persons licensed by TREC, remove language that is duplicative of the Texas Criminal Code, and add clarity and consistency of terminology throughout the TREC Rules.

The amendments to §541.2 make conforming terminology changes to the rule.

Chapter 537 Professional Agreements and Standard Contracts
The following revised contract forms were adopted by reference through amendment to Chapter 537:
- TREC No. 36-8, Addendum For Property Subject to Mandatory Membership in a Property Owners' Association

(The proposed amendments to the Addendum for Reservation for Oil, Gas and Other Minerals and proposed new Mutual Termination Contract Form that was sent back to the Broker Lawyer Committee for additional consideration were not adopted. See the TREC website for the re-proposed Addendum for Reservation for Oil, Gas and Other Minerals.)
PROPOSED RULES

The following amendments to or new rules were proposed at the August 18, 2014, meeting of the Commission. You can see the full text of these rules on the “Proposed Rules” section of the TREC Website. Comments may be submitted to the general counsel before October 26, 2014.

Chapter 535 General Provisions

The proposed amendments to Chapter 535 are made following a comprehensive quadrennial rule review of this chapter to better reflect current TREC procedures, to simplify and clarify where needed and to improve overall readability. To accomplish this, redundant or unused provisions were removed and certain rules were restructured in whole or in part. Rules that are no longer needed or that have been totally rewritten are being proposed for repeal.

The proposed amendments capitalize the term “Commission” and replace the term “licensee” with “license holder” throughout the chapter. The terms “promptly” and “reasonable time” were replaced throughout the chapter with the specific timeframe previously set out in the chapter definitions (3 days and 10 days respectively) so that the required timeframe would be immediately clear in each rule. Other substantive changes by subchapter are:

Subchapter A: adds new definitions for terms used throughout the Chapter, and deletes other definitions that are no longer used throughout the Chapter.

Subchapter B: amends §535.2 to require that the broker give notice of the scope of authorized activities to a sponsored salesperson in writing, ties the handling of trust funds to the requirements of revised §535.146; revises §535.4 to hold a person conducting brokerage business from another state through the mail, internet or other medium under the jurisdiction of The Real Estate Licensing Act (Act) if the property is located in Texas and adds §535.21, Mailing Address and other Contact Information that was moved from §535.96.

Subchapter D: adds §535.43, Education Standards Advisory Committee, that was moved from Subchapter G, §535.75 and adds §535.44, Commission Seal, to clarify that the Commission seal may be used only by the Commission for official agency business.

Subchapter E: adds language related to specific requirements of each real estate license type, including language that was moved from Subchapter I which now houses rules related to renewal only; repeals §535.54 since the provisions of that section were moved to other more appropriate sections within the Chapter; adds a new §535.54 dealing with hearings on license denial and probationary licenses that was moved from Subchapter I; amends §535.56 to revise the experience point credits allowed for application for a broker license based on recommendations from the Broker Responsibility Working Group; and amends §535.57 regarding licensure examinations to put all relevant provisions from the Chapter in one location and adds more specific requirements regarding the administration of licensing examinations.

Subchapter F: The proposed rules regarding pre-licensure education programs are reorganized and updated to better reflect TREC policies and procedures, to more clearly reflect the approval process for real estate and real estate inspector educational programs and to simplify for greater understanding. Most of the proposed rules contain the same requirements as in the current rules, although more clearly set out and more consistently applied across educational programs for different license types. However, based on policy recommendations from the Education Standards Advisory Committee (ESAC) and procedural issues raised by TREC ELS and ITS.
Proposed Rule Actions from the August 18th Meeting of the Commission

staff, there are some substantive changes set out below. All of these changes have been reviewed and recommended by ESAC and the Texas Real Estate Inspector Committee (TREIC).

Correspondence Courses will not be allowed as a delivery method for TREC real estate pre-licensure courses after December 31, 2015 due lack of any meaningful standards or oversight of courses delivered by this method. The amendments do not eliminate the use of all online courses. Online courses may still be offered if they qualify as alternative delivery. Under the proposal, alternative delivery courses must be certified by a distance learning certification center acceptable to TREC. This certification center reviews the course and certifies the quality of the design and delivery, including that: the course is designed for mastery based learning; verification that the average time it takes a student to complete the course is the number hours assigned for credit for the course; the instructor is certified as a distance education instructor; and a procedure is in place to authenticate that the person registered to take the course is the person taking the course and final exam. The Commission rules currently provide alternative delivery and there are courses approved under this method in use today. The amendments do not phase out the use of correspondence courses for inspector courses at this time so that TREIC can have more time to study available alternatives for inspector courses, given the different nature of inspector courses and the dramatically lower pool of students and available providers.

Terminology was changed for consistency, including “proprietary school” being changed to the more generic “provider”, “core” being changed to “qualifying” and “classroom delivery” to include live webinars where the instructor and student can see each other via computer or other technology.

Clarifying that approved providers can provide approved real estate and real estate inspection qualifying courses and not have to get a separate approval by license program.

A separate section was developed to deal with accredited colleges and universities, since these are the only entities exempt from approval of core educational programs and courses by statute. It should be noted that TREC still has the statutory authority to determine whether core courses offered by an accredited college or university qualifies for credit for a license. Courses that qualify for academic credit and meet the statutory content requirements will be accepted for credit by TREC. However, accredited colleges and universities who wish to offer courses that do not qualify for academic credit to be used toward qualifying license requirements can do so, but must comply with the course approval process set out by TREC rule for that course. The rule also reflects the current TREC requirement that a college or university must be approved as a continuing education (CE) provider to offer courses for CE credit and CE courses offered must comply with the course approval process set out by TREC rule.

Class rosters for pre-licensure courses still have to be retained by providers but do not have to be delivered to TREC monthly. Certificates of completion issued by the provider for qualifying courses will remain the evidence students submit to receive credit toward a license. Course completion certificates will now have to also include the instructor’s name and TREC identification number and the date of issuance.

Beginning January 1, 2016, instructors of qualifying and non-elective continuing education courses will be required to complete 8 hours of adult education training every 5 years.

Subchapter G: The proposed rules regarding continuing education programs are reorganized and updated to better reflect TREC policies and procedures, to more clearly reflect the approval process for real estate and real estate inspector educational programs and to simplify for greater understanding. Most of the proposed rules contain the same requirements as in the current rules, although more clearly set out and more
Proposed Rule Actions from the August 18th Meeting of the Commission

consistently applied across educational programs for different license types. However, based on policy recommendations from the Education Standards Advisory Committee (ESAC) and procedural issues raised by TREC ELS and ITS staff, there are some substantive changes set out below. All of these changes have been reviewed and recommended by ESAC and the Texas Real Estate Inspector Committee (TREIC).

Correspondence Courses will not be allowed as a delivery method for TREC real estate related continuing education courses after December 31, 2015 due lack of any meaningful standards or oversight of courses delivered by this method. See issue and summary as under Subchapter F.

Clarifying that approved CE providers can provide approved CE real estate and real estate inspection courses and not have to get a separate approval by license program.

Class rosters or Alternative Delivery Methods Reporting form will continue to be required to be submitted in a format required by TREC for all CE courses.

The requirement for open enrollment to the general public for all courses was removed to recognize that trade associations market courses to members who pay dues and allow brokerage firms to become providers and get their in house training courses approved for CE credit.

The method of using proctored supervised videos for CE classroom instruction was removed as it did not comport to the methods of delivery ESAC recommended. This does not prohibit the use of videos in a classroom course taught by an approved instructor.

The subjects permitted for related credit hours for a broker’s license were tightened up.

Requirements on the type of courses that qualify for credit for the various license types were not changed but were moved to the appropriate rule for that license type.

Allowing partial credit for a real estate CE course that was not fully attended was removed for consistency since partial credit is not currently allowed for real estate core, inspector core, and inspector CE courses and it is difficult to determine and program for partial credit.

Subchapter I: restructures and clarifies the rules regarding license renewal; moves other provisions not dealing with renewals (§§ 535.94, 535.96 and portions of 535.95) to other more appropriate subchapters; and amends language to stipulate that the fee to defer completion of continuing education for up to an additional 60 days will now be due at the time of the filing of the renewal application.

Subchapter J: revises §535.101 effective January 1, 2015, as part of the FY2015 budget adopted by TREC including restructuring license fees by reducing renewal fees and increasing fees for initial applications and reinstatements; setting out the statutory fee required for the Real Estate Recovery Trust Account.

Subchapter L: restructures the chapter and adds language to more clearly set out when each real estate license type becomes inactive and how to reactive a license on inactive status.

Subchapter R: restructures §535.208 and add provisions related to license renewal for members of the military and military spouses; clarifies in §535.209 that an applicant is not eligible to take the inspector examination until the applicant provides evidence to the Commission that all education and experience requirements have been met; revises §535.210 effective January 1, 2015, as part of the FY2015 budget adopted by the Commission, including restructuring inspector license application fees, slightly reducing the examination fee and significantly reducing the contribution to the Real Estate Inspection Recovery Fund; restructures §§535.213 and .218 for improved readability after removal of certain
provisions related to approval of education providers, courses or instructors that were moved to Subchapters F or G.

Subchapter T: adds clarifying language to the requirements for obtaining and renewing an easement or right-of-way agent license.

Chapter 537 Professional Agreements and Standard Contracts

The proposed amendments to Chapter 537 are made following a comprehensive quadrennial rule review of Chapter 537 to better reflect current TREC procedures and to simplify and clarify where needed. Throughout the chapter, the proposed amendments capitalize the term “Commission” and replace the term “licensee” with “license holder.”

The proposed amendments also contain two substantive changes that were recommended by the Broker-Lawyer Committee.

Texas real estate license holders are generally required to use forms promulgated by TREC when negotiating contacts for the sale of real property. These forms are drafted and recommended for adoption by the Texas Real Estate Broker-Lawyer Committee, an advisory body consisting of six attorneys appointed by the President of the State Bar of Texas, six brokers appointed by TREC, and one public member appointed by the governor.

The Broker-Lawyer Committee recommended that §537.11, Use of Standard Contract Forms be revised to prohibit a computer file or program version of the Standard Contract forms to allow an end user to strike through the text of the promulgated form and to clarify that the blanks may be scalable to the text.

The Broker-Lawyer Committee also recommended proposal of a revised Addendum for Reservation of Oil, Gas and Other Minerals, which is adopted by reference in §537.51. Standard Contract Form TREC No. 44-1. This proposed addendum revises the definitions of “mineral estate” and “surface rights”, allows the portion reserved by a seller to be reflected as a percentage or fractional interest, adds an “Important Notice” paragraph alerting the parties about the complex nature of reserving mineral rights, and changes the language regarding “Consult an Attorney” to be consistent with that provision in other TREC contract forms. This proposed addendum was revised by the Broker-Lawyer Committee following receipt of several comments by the public and two trade associations following publication of a different proposed addendum. One association, after consulting with several oil and gas attorneys, presented new language that they felt better reflected industry definitions practices. Much of that language has been incorporated into this new proposed addendum.

Chapter 539 Rules Relating to the Residential Service Company Act

The proposed amendments to Chapter 539 are made following a comprehensive quadrennial rule review of Chapter 539 to better reflect current TREC procedures and to simplify and clarify where needed to improve readability. Section 539.140, Schedule of Administrative Penalties, was also revised to insert statutory provisions that were previously inadvertently omitted. Revised forms for the annual and mid-year reports, which are adopted by reference in §§539.91 and 539.137 respectively, are also being proposed.

Chapter 543 Rules Relating to the Provisions of the Texas Timeshare Act

The proposed amendments to Chapter 543 are made following a comprehensive quadrennial rule review of Chapter 543 to better reflect current TREC procedures and to simplify and clarify where needed to improve readability.
<table>
<thead>
<tr>
<th>Name and Location</th>
<th>Order</th>
<th>Basis For Order</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Case#: 141168,140334</strong>&lt;br&gt;SHINE, GORDON (license # 0) None ARLINGTON(TARRANT) Effective Date: 8/7/2014&lt;br&gt;&lt;br&gt;<strong>Violation(s)</strong>&lt;br&gt;1101.351(a)</td>
<td>Ordered to cease and desist all unlicensed real estate brokerage activities. Assessment of an administrative penalty of $10,000.00.</td>
<td>Consumer Complaint&lt;br&gt;In two cases, Respondent acted as or represented that he was a broker or salesperson without first obtaining a real estate license and entered into a property management agreement, negotiated a lease, accepted money for repairs and escrow and failed to make the repairs or return the money. Respondent also identified himself as the listing agent for a single family residential property and negotiated a lease and accepted a security deposit and application fees, even though the property owner did not give Respondent authority to negotiate on her behalf.</td>
</tr>
<tr>
<td><strong>Case#: 141318</strong>&lt;br&gt;RONQUILLE, DANNY DEVEREAUX (license # 428489) Real Estate Broker / Salesperson-I HOUSTON(HARRIS) Effective Date: 8/1/2014&lt;br&gt;&lt;br&gt;<strong>Violation(s)</strong>&lt;br&gt;1101.652(b)(01)</td>
<td>Agreed three-year suspension of broker license fully probated for three years. Agreed administrative penalty of $1,000.00.</td>
<td>Consumer Complaint&lt;br&gt;Respondent is the owner and designated broker of Bryce Daniel, Inc., a Texas real estate broker. Bryce Daniel, Inc. submitted invoices to an apartment complex owner for apartment locating services by salespersons who were not sponsored by Bryce Daniel, Inc., at the time the apartment locating services were performed.</td>
</tr>
<tr>
<td><strong>Case#: 141318</strong>&lt;br&gt;BRYCE DANIEL INC (license # 9000493) Real Estate Company-O HOUSTON(HARRIS) Effective Date: 8/1/2014&lt;br&gt;&lt;br&gt;<strong>Violation(s)</strong>&lt;br&gt;1101.652(b)(01)</td>
<td>Agreed three-year suspension of broker license fully probated for three years. Agreed administrative penalty of $1,000.00.</td>
<td>Consumer Complaint&lt;br&gt;Respondent submitted invoices to an apartment complex owner for apartment locating services by salespersons who were not sponsored by Bryce Daniel, Inc., at the time the apartment locating services were performed.</td>
</tr>
<tr>
<td><strong>Case#: 131751</strong>&lt;br&gt;KW MANAGEMENT LLC (license # 492214) Real Estate Company-O AUSTIN(TRAVIS) Effective Date: 8/5/2014&lt;br&gt;&lt;br&gt;<strong>Violation(s)</strong>&lt;br&gt;22 TAC 535.002(g)</td>
<td>Agreed reprimand of broker. Agreed administrative penalty of $500.00.</td>
<td>Consumer Complaint&lt;br&gt;Respondent failed to ensure that a sponsored salesperson’s advertising complies with 22 TEX. ADMIN. CODE § 535.154 (relating to advertising).</td>
</tr>
<tr>
<td>Name and Location</td>
<td>Order</td>
<td>Basis For Order</td>
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<td><strong>Case#: 131751</strong>&lt;br&gt;MARTIN, CAROLE ANN&lt;br&gt;(license # 360265) Real Estate Broker / Salesperson-I&lt;br&gt;AUSTIN(TRAVIS)&lt;br&gt;Effective Date: 8/5/2014</td>
<td>Agreed reprimand of salesperson. Agreed administrative penalty of $600.00.</td>
<td>Consumer Complaint&lt;br&gt;Respondent acted negligently or incompetently by advertising incorrect acreage for a property when Respondent was aware that part of the property had been sold in 2010. Respondent provided prospective buyers with a 1993 survey and did not inform the prospective buyers that the survey was inaccurate due to the 2010 sale. Respondent also used the name “Martin &amp; Company,” which improperly implied that she, a salesperson, is the person responsible for the operation of a real estate brokerage business.</td>
</tr>
<tr>
<td><strong>Violation(s)</strong>&lt;br&gt;1101.652(b)(01)&lt;br&gt;22 TAC 535.154(g)</td>
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</tr>
<tr>
<td><strong>Case#: 131766</strong>&lt;br&gt;MORTON/BANNON ENTERPRISES INC.&lt;br&gt;(license # 0) None&lt;br&gt;CONROE(MONTGOMERY)&lt;br&gt;Effective Date: 8/11/2014</td>
<td>Ordered to cease and desist all unlicensed real estate brokerage activities. Assessment of an administrative penalty of $5,000.00.</td>
<td>Consumer Complaint&lt;br&gt;Respondent engaged in real estate brokerage activities without a license by negotiating a deeded timeshare resale transaction.</td>
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<tr>
<td><strong>Violation(s)</strong>&lt;br&gt;1101.351(a-1)</td>
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<tr>
<td><strong>Case#: 141709</strong>&lt;br&gt;QUINONES, SUSAN MARIE&lt;br&gt;(license # 492186) Real Estate Broker / Salesperson-I&lt;br&gt;COPPERAS COVE(CORYELL)&lt;br&gt;Effective Date: 8/15/2014</td>
<td>Agreed revocation of salesperson license. Agreed administrative penalty of $10,900.00.</td>
<td>Consumer Complaint&lt;br&gt;In 27 cases, Respondent entered into property management agreements and failed to turn over rent due and security deposits when the property management agreements were terminated. In three cases, Respondent failed to cooperate with the Commission’s investigation of the complaints.</td>
</tr>
<tr>
<td><strong>Violation(s)</strong>&lt;br&gt;1101.652(a)(05)&lt;br&gt;1101.652(a)(06)&lt;br&gt;1101.652(b)(01)&lt;br&gt;1101.652(b)(09)</td>
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<tr>
<td><strong>Case#: 141441</strong>&lt;br&gt;CRAWFORD, JOHN CHRISTOPHER&lt;br&gt;(license # 455489) Real Estate Broker / Salesperson-I&lt;br&gt;SUGAR LAND(FORT BEND)&lt;br&gt;Effective Date: 8/21/2014</td>
<td>Ordered to cease and desist all unlicensed real estate brokerage activities. Assessment of an administrative penalty of $20,000.00</td>
<td>Consumer Complaint&lt;br&gt;Respondent engaged in real estate brokerage activities without a license by assisting a prospective tenant in finding a rental property and collecting fees for those services.</td>
</tr>
<tr>
<td><strong>Violation(s)</strong>&lt;br&gt;1101.351(a)</td>
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<tr>
<td>Name and Location</td>
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| **Case #: 140581**
PETER B MERRITT LLC
(license # 517954) Real
Estate Company-O
HOUSTON(HARRIS)
Effective Date: 8/22/2014 | Agreed reprimand of broker. Agreed administrative penalty of $2,500.00 | Consumer Complaint
Respondent did not obtain written consent to act as an intermediary. A salesperson sponsored by Respondent, forwarded an offer to a prospective buyer without flagging the seller's changes for him. Respondent also failed to advise its sponsored salesperson of the scope of the salesperson's authorized activities under The Real Estate License Act. |
| **Violation(s)** | | |
| 1101.559(a) | | |
| 1101.652(b)(01) | | |
| 22 TAC 535.002(a) | | |
| **Case #: 140581**
MERRITT, PETER BRYANT
(license # 185826) Real
Estate Broker / 
Salesperson-I
HOUSTON(HARRIS)
Effective Date: 8/22/2014 | Agreed reprimand of broker. Agreed administrative penalty of $500.00. | Consumer Complaint
Respondent was and is the designated broker of Peter B. Merritt, LLC, a licensed brokerage entity. Peter B. Merritt, LLC did not obtain written consent to act as an intermediary. A salesperson, sponsored by Peter B. Merritt, LLC, forwarded an offer to a prospective buyer without flagging the seller's changes for him. Respondent also failed to advise the LLC's sponsored salesperson of the scope of the salesperson's authorized activities under The Real Estate License Act. |
| **Violation(s)** | | |
| 22 TAC 535.002(a) | | |
| **Case #: 130325**
FAIRCHILD, RUSSELL EDWARD
(license # 525499) Real
Estate Broker / 
Salesperson-I
STEPHENVILLE(ERATH)
Effective Date: 8/25/2014 | Agreed reprimand of salesperson. Agreed twelve-month suspension of salesperson license. | Consumer Complaint
Respondent engaged in property management and failed to have a fully executed property management agreement with the owner, failed to maintain security for keys to six real properties, and failed to return keys and copies of leases to the property owner or its designated agent when the management period ended. Respondent failed within a reasonable time to properly account for or remit money that was received by the salesperson or his assistant that belonged to another person. |
| **Violation(s)** | | |
| 1101.652(b)(01) | | |
| 1101.652(b)(09) | | |
| **Case #: 141675**
GARCIA, ERASMO
(license # 444633) Real
Estate Broker / 
Salesperson-I
SAN ANTONIO(BEXAR)
Effective Date: 8/29/2014 | Ordered to comply with the Order of August 18, 2009, and pay the $1,000.00 administrative penalty. Suspension of salesperson license until the administrative penalty is paid in full. | Administrative Complaint
Respondent failed to pay an administrative penalty imposed by a Final Order of the Commission. |
<p>| <strong>Violation(s)</strong> | | |
| 1101.652(a)(10) | | |</p>
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<tr>
<th>Name and Location</th>
<th>Order</th>
<th>Basis For Order</th>
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<tbody>
<tr>
<td><strong>Case#: 141468</strong></td>
<td>Revocation of broker license.</td>
<td>Administrative Complaint Revocation of license by operation of law upon imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision pursuant to Tex. Occ. Code §53.021(b).</td>
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<tr>
<td>BARROW, BILLY JACK</td>
<td>(license # 612293) Real Estate Broker / Salesperson-EL PASO(EL PASO) Effective Date: 3/29/2014</td>
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<td><strong>Violation(s)</strong></td>
<td></td>
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<td>53.021 (Broker/Sales)</td>
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| **Case#: 141572**  | Revocation of salesperson license. | Administrative Complaint Revocation of license by operation of law upon imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision pursuant to Tex. Occ. Code §53.021(b). |
| SHEELER, SAMUEL LEE | (license # 590294) Real Estate Broker / Salesperson-DRIPPING SPRINGS(HAYS) Effective Date: 7/3/2014 | |
| **Violation(s)** |  | |
| 53.021 (Broker/Sales) | | |

| **Case#: 140883**  | Reprimand of salesperson. Assessment of an administrative penalty of $1500. Suspension of salesperson license until payment in full of the administrative penalty and requested information is received. | Administrative Complaint Respondent failed to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint to the Commission. |
| QUINTERO, MARIA MERCEDES | (license # 555648) Real Estate Broker / Salesperson-SPRING(MONTGOMERY) Effective Date: 8/12/2014 | |
| **Violation(s)** |  | |
| 1101.652(a)(06) | | |

<p>| <strong>Case#: 141842,142092</strong>  | Agreed two-year probationary broker license issued. Agreed administrative penalty of $1,000.00. | Applications Applicant conducted brokerage activities without being licensed through a real estate broker and salesperson. Applicant demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate broker. |
| OTTLEY GROUP, LLC | (license # 0) None HUTTO(WILLIAMSON) Effective Date: 8/27/2014 | |
| <strong>Violation(s)</strong> |  | |
| 1101.351(a-1) | | |</p>
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<tr>
<td><strong>Case#: 141472</strong>&lt;br&gt;HENRY, KRISTI JEAN&lt;br&gt;(license # 644966) Real Estate Broker / Salesperson-I&lt;br&gt;GALVESTON(GALVESTON)&lt;br&gt;Effective Date: 8/14/2014</td>
<td>Agreed two-year probationary salesperson license issued.</td>
<td>Applications&lt;br&gt;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.</td>
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<tr>
<td><strong>Case#: 141575</strong>&lt;br&gt;WRIGHT, CHESNEY LEMAL&lt;br&gt;(license # 510957) Real Estate Broker / Salesperson-I&lt;br&gt;ROCKWALL(ROCKWALL)&lt;br&gt;Effective Date: 8/19/2014</td>
<td>Agreed four-year probationary salesperson license issued.</td>
<td>Applications&lt;br&gt;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.</td>
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TALCB Bulletin

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: From the Chair (page 1) Adopted and Proposed Rules from the Board Meeting (page 2-3) Enforcement Report (page 4-5)

From the Chair

At the Board’s regular quarterly meeting on August 15th, we heard reports from each of our four Board committees and also from the AMC Advisory Committee, and from the Commissioner and staff. A great deal of work was accomplished over the summer months by these groups and I want to thank each of the Board members and staff who contributed and assisted. Key regular business we accomplished includes approval of several Agreed Orders, consideration of prior Order modification requests and approval of a Proposal for Decision from a hearing before the Administrative Law Judge at SOAH. We also adopted some revisions to Chapter 153 of the rules and proposed some revisions to Chapter 159, all as part of our required quadrennial rule review process. Details of the rule review process can be found on the agency’s website.

Other major actions taken at the meetings included approval of the agency Strategic Plan for 2015-19 and the FY15 Budget that reflects its priorities. One area of note is that the FY15 budget included a recommendation for a small reduction to license renewal fees - $10 for certificate holders, $5 for license holders and $20 for appraiser trainees. This is a modest effort to address the affordability elements of access to this field and to reverse the small fee increase from three years ago. These reductions are proposed as part of a rule revision and we hope to make these effective on January 1, 2015 if adopted at our next meeting.

Lastly, if you’ve ever considered serving on the Board in the future, the process begins with an application filed with the Governor’s Appointments Office. The state of Texas relies on volunteer professionals like you to serve on the boards and commissions that comprise a significant part of the state’s regulatory structure. Check out the Board member page of the TALCB website (www.talcb.texas.gov) for more details and a link to the Governor’s office. If you’d like a personal perspective of what this service means to the profession and to the public, I’m sure any Board member would be willing to share their experiences with you. Contact information for each of us is also found on that same page. We welcome your interest.

Chair, Jamie Wickliffe

BULLETIN Page 1
ADOPTED RULES
The adopted rules were effective September 7, 2014 and can be found on our website at http://www.talcb.state.tx.us/ActAndRules/TALCB-Rules.asp.

22 TAC, Chapter 153:
- 22 TAC §153.3. The Board
- 22 TAC §153.5. Fees
- 22 TAC §153.8. Scope of Practice
- 22 TAC §153.9. Applications
- 22 TAC §153.10. Issuance of Certification, License, or Trainee Approval
- 22 TAC §153.11. Examinations
- 22 TAC §153.13. Educational Requirements
- 22 TAC §153.15. Experience Required for Certification or Licensing
- 22 TAC §153.17. Renewal or Extension of Certification and License or Renewal of Trainee Approval
- 22 TAC §153.18. Appraiser Continuing Education (ACE)
- 22 TAC §153.19. Licensing and Certification for Persons with Criminal Histories
- 22 TAC §153.20. Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure
- 22 TAC §153.21. Appraiser Trainees and Sponsors
- 22 TAC §153.23. Inactive Status
- 22 TAC §153.24. Complaint Processing
- 22 TAC §153.25. Temporary Out-of-State Appraiser Registration
- 22 TAC §153.26. Identity Theft
- 22 TAC §153.27. Certification and Licensure by Reciprocity
- 22 TAC §153.33. Signature or Endorsement of Appraisal
- 22 TAC §153.37. Criminal Matters Referred to Law Enforcement

Amendments to 22 TAC, Chapter 153 were adopted following a comprehensive rule review for this chapter to better reflect current TALCB procedures, to conform TALCB rules with criteria established by the Appraiser Qualifications Board, and to simplify and clarify where needed. The amendments capitalize the term “Board” and replace the term “licensee” with “license holder” throughout the Chapter. The adopted amendments also remove redundant or unused provisions and restructure certain rules to improve readability. Other specific amendments include:

The amendments to §153.3 clarify that the TALCB meetings are conducted in accordance with Robert’s Rules of Order unless state law or TALCB rules require otherwise. The amendments to §153.8 remove an outdated subsection relating to provisional licenses, which are no longer issued by the TALCB. The amendments to §153.9 clarify the date on which an applicant may reapply after TALCB initially denies a license application. This amendment conforms §153.9 with the changes previously made to §157.7 relating to Denial of a License.

The amendments to §153.11 clarify that an examination fee must be paid each time an examination is taken. The amendments to §153.17 clarify the deadlines and requirements for renewing a license or requesting an extension to renew a license.

The amendments to §153.18 clarify the requirements for Appraiser Continuing Education. The amendments to §153.19 clarify the licensing requirements for persons with criminal history and remove redundant provisions to better align the rule with the requirements in Texas Occupations Code §53.022. The amendments to §153.21 clarify the obligations of a sponsoring appraiser.

The amendments to §153.23 clarify when a license holder may request to be placed on inactive status and the requirements that must be satisfied for a license holder to return their license to active status. The amendments to §153.24 capitalize the terms “Complainant” and “Respondent” and restructure the text of the rule to clarify when a formal complaint is opened.

PROPOSED RULES
The proposed rules will be up for adoption at the November 20-21, 2014 meeting of the Board and can be found on our website at http://www.talcb.state.tx.us/ActAndRules/TALCB-Rules.asp. Comments on proposed rules should be sent to general.counsel@talcb.texas.gov on or before October 19, 2014.

22 TAC, Chapter 153:
- a. 22 TAC §153.1. Definitions
- b. 22 TAC §153.5. Fees

The proposed amendments to §153.1. Definitions eliminate redundant definitions for terms defined
elsewhere in state law and correct a reference to the Appraiser Qualifications Board. The proposed amendments to §153.5. Fees reduce renewal fees for license holders.

22 TAC §157.31. Investigative Conference
The proposed amendments to §157.31. Investigative Conference clarify the information that will be provided to a respondent prior to holding an investigative conference.

22 TAC, Chapter 159:
- 22 TAC §159.1. Definitions
- 22 TAC §159.3. Appraisal Management Company Advisory Committee
- 22 TAC §159.4. Jurisdiction and Exemptions
- 22 TAC §159.52. Fees
- 22 TAC §159.101. Registration Requirements
- 22 TAC §159.102. Eligibility for Registration; Ownership
- 22 TAC §159.103. Applications
- 22 TAC §159.104. Primary Contact; Appraiser Contact
- 22 TAC §159.105. Denial of Registration
- 22 TAC §159.107. Expiration
- 22 TAC §159.108. Renewal
- 22 TAC §159.109. Inactive Status
- 22 TAC §159.154. Competency of Appraisers
- 22 TAC §159.155. Periodic Review of Appraisals
- 22 TAC §159.156. Business Records
- 22 TAC §159.157. Compensation of Appraisers
- 22 TAC §159.159. Disclosure of Registered Name and Registration Number

The proposed amendments to §159.155 reduce the percentage of reviews that an Appraisal Management Company (AMC) must perform from five to two percent.

The proposed amendments to §159.109 allow an AMC to renew its license while the license is on inactive status.

RULE REVIEW
The quadrennial review of 22 TAC, Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act, was closed.

IMPORTANT DATES TO REMEMBER

OCTOBER 17 –20 - AARO Annual Meeting in DC

NOVEMBER 21—TALCB Board Meeting in Austin

Check the TALCB website regularly for postings of all of our upcoming meetings.
**Name & Action Taken**

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<th>Name &amp; Action Taken</th>
<th>Reason</th>
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| **ALI, Laura**<br>Lic. # TX-1334276-R Houston | **Board Action Taken:** The Board ORDERS that Respondent’s Texas appraiser certification (TX-1334276-R) be suspended, effective 5:00 p.m. (CST) on August 15th, 2014 and ending at 5:00 p.m. (CST) on August 14th, 2016. IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on September 14th, 2014, the suspension is to be fully probated for 23 months, ending 5:00 p.m. (CST) on August 14th, 2016, subject to the following terms and conditions:  
1) EDUCATION. On or before August 14th, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board.  
(a) A minimum, 15 classroom hour course in USPAP;  
(b) A minimum, 7 classroom hour course in the Sales Comparison Approach;  
I. No examination shall be required;  
(c) A minimum, 7 classroom hour course in the Cost Approach;  
I. No examination shall be required;  
(d) A minimum, 7 classroom hour course in the Income Approach;  
I. No examination shall be required;  
(e) A minimum, 7 classroom hour course in Residential Report Writing;  
I. No examination shall be required;  
2) MENTORSHIP. On or before November 14th, 2014, Respondent shall complete four (4) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below:  
(a) 2 hours of mentorship in sales comparison approach;  
(b) 1 hour of mentorship in residential report writing; and,  
(c) 1 hour of mentorship in sales history analysis and disclosure.  
3) WRITTEN REPORTS. On or before December 1st, 2014, Respondent shall submit to the Board a 1 page report for each of the three mentorship topic areas itemized above in which: ADDIT INFO AVAILABLE UPON REQUEST | **Complaint No.: 14-034**  
**Reason for Complaint:** A complaint was filed with the Board by LSI Appraisal, LLC., which alleged Respondent violated various provisions of the Uniform Standards of Professional Appraisal Practice (“USPAP”). | **Summary of Violations Found:**  
1) Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).  
2) Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and material omissions of material fact. |
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| JACKSON, Billy F. Lic. # TX-1320715-G Spring | **Board Action Taken:** The Board ORDERS:  
1) **MENTORSHIP.** On or before August 15, 2015. Respondent shall complete four (4) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below.  
a) Four (4) hours of mentorship concerning the above-noted violations and proper trainee supervision, on or before August 15, 2015. | **Complaint No.:** 14-079  
**Reason for Complaint:** The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the “Act”) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”). | **Summary of Violations Found:**  
1) Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).  
2) Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and material omissions of material fact. |
The Commission’s inspector advisory committee met on July 28 with a full agenda of items to consider and lots of interested parties in attendance, almost all of which was devoted to education related items. This key area continues to merit our focused attention.

As part of the agency’s quadrennial rule review process and biennial strategic planning process, significant clarifications to both the qualifying education and the always developing continuing education component were indicated. The development of the Inspector Continuing Education (ICE) program from its initial form is one key example of needed improvements. Expansion of the hands-on experience requirements through ride-along programs is another area we addressed. We made specific recommendations to the Commission on both of these, which were approved.

At the July meeting we approved recommendations to the Commission to reorganize and update all of the education rules consistent with staff’s recommendations from the rule review process. We did not agree with a recommendation of the TREC Educations Standards Advisory Committee to make major changes to non-classroom delivered education by requiring correspondence courses to receive a distance education certification. However, we remain concerned about some of the potential weaknesses in this form of delivery and will continue to research and discuss this issue in our Education Subcommittee and in the full Committee.

Just a reminder that the Standard Inspection Form REI 7-4 is mandatory for use as of September 1st. Please check your forms and make sure you are using the latest required form – which now contains additional notice language for consumers about the section for “Additional Information Provided by the Inspector.” This very important and flexible part of the inspection report allows the inspector to add supplemental information that is not required by the Commission but nonetheless contains key notices for the inspector’s client. We trust you will find it more useful.

We truly appreciate the outstanding level of stakeholder participation in all of our processes. Most homes receive a functional systems inspection at the time of purchase and buyers rely on the expertise of our license holders for important facts and opinions in this valuable report. Please stay engaged so that we can ensure sound policy recommendations in this important area of consumer protection. Your comments are always sought and welcomed. Thank you.

I look forward to working with all of you to continue to address the issues and concerns of the public and our industry. Our next meeting is on October 10th. Details are on the TREC website at the meetings link. We welcome your participation.

From the Chair