



# TREC Advisor

Texas Real Estate Commission ★ Volume 11, Number 1 • March 2000

## Year End Reports Show...



### ONE-THIRD MILLION PHONE CALLS TO TREC....

#### More new real estate salespersons licensed in FY99...

ONE OR TWO EXTRA RINGS ON THE PHONE when calling the Texas Real Estate Commission (TREC) may not be too surprising on some days, especially Mondays. The fiscal year 1999 year-end report for the agency clearly depicts this point.

#### Information and Assistance

TREC staff fielded 334,713 telephone calls from the public during the year. These ranged from consumer requests for assistance with both general and specific questions from licensees. This figure reflects one part of the agency's overall communication effort that includes its web page, TREC-L e-mail notification system, and the publication *TREC Advisor*. During FY99, nearly 1,030,000 web pages were viewed, almost 4,000 documents were provided through the TREC Fax-On-Demand automated system, and more than 2,100 individuals subscribed to the TREC-L list server notification system. The agency's regular publication, *TREC Advisor*, had over 100,000 subscribers during the past fiscal year.

As can be seen from the above totals, a considerable amount of the agency's resources are directed towards responding to constituent requests, notifying licensees of statutory and rule changes, determining licensee needs, providing public information as well as preparing and distributing materials describing TREC functions.

#### Licensing Real Estate Professionals

During the past year, new real estate licenses issued to individuals totaled 13,275 (compared with 12,813 in FY98). The number of individually renewed licenses (most of which are two-year licenses) came to 53,974. During the year, the number of salespersons currently licensed in Texas grew from 68,797 to 69,383—reversing a downward trend over the past eight years. This brought the total number of real estate licenses

to nearly 110,000—roughly the same number as at the year's beginning.

Slightly more than 23,000 examinations were administered in FY99. Roughly 90% of these were salesperson exams. While less than half of sales and inspector candidates pass on the first attempt, the overall applicant pass rate is relatively high - ranging from 3 out of 4 inspector candidates up to more than 9 of 10 broker candidates. While salesperson and broker candidates may take the examination multiple times, inspector candidates are limited by law to three attempts in a six-month period of eligibility.

As of August 31, 1999, the number of licensed Inspectors totaled 1,698 while there were 1,027 Easement and Right-of-Way agents. Real estate Salespersons and Brokers totaled 69,383 and 40,696 respectively.

#### Complaint Resolution and Enforcement

The Enforcement Division has the responsibility of providing firm, fair, and consistent enforcement of The Texas Real Estate License Act, Timeshare Act, Residential Service Company Act, and Rules adopted by the Commission. During the past fiscal year, approximately 2,900 complaints were filed against licensees. These consisted of license application determinations, administrative matters, and complaints filed by consumers. TREC's Enforcement Division was able to close 2,700 complaints during the past 12 months. This was a significant increase in the number of cases resolved, compared to past performance and earlier projections.

A marked decrease was reported  
*Please turn to page 3.*

#### Examination Pass Rate FY '99

	1st Time Pass	Applicant Pass
Salesperson	43 %	85 %
Broker	62	91
Inspector	30	74

*During the year, the number of salespersons currently licensed in Texas grew from 68,797 to 69,383—reversing a downward trend over the past eight years.*

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**THE MISSION of the Texas Real Estate Commission** is to assist and protect consumers of real estate services, and foster economic growth in Texas. Through its programs of education, licensing and industry regulation, the Commission ensures the availability of capable and honest real estate service providers.

Official publication of the  
**Texas Real Estate Commission**  
Volume 11, Number 1 • March 2000

State of Texas  
**George W. Bush**  
Governor

**Commission Members:**

**Jay C. Brummett**  
Chairman  
Broker member

**Chris T. Folmer**  
Vice-Chairperson  
Public member

**Kay Sutton**  
Secretary  
Broker member

**James N. Austin, Jr.**  
Broker member

**C. Michael Brodie**  
Broker member

**Ramon "Mick" Cantu**  
Public member

**Maria Gonzalez-Gil**  
Public member

**Lawrence D. Joki**  
Broker member

**Deanna Mayfield**  
Broker member

**TREC Administrator**  
**Wayne Thorburn**

Desktop Publisher  
**Dan White, Jr.**

The TRECAdvisor (ISSN 1047-4579) is published by the Texas Real Estate Commission (TREC) as an educational service to licensees in the state of Texas. The purpose of the newsletter is to promote a better understanding of the Real Estate License Act and to inform all licensees of changes affecting laws and practices in the real estate industry. The TRECAdvisor is funded through legislative appropriations and subscriptions collected from TREC licensees. The official text of TREC rules is filed with the Office of the Secretary of State, Texas Register. TREC encourages reproduction of this newsletter with the appropriate acknowledgments. Subscriptions are available for \$4.00 for two years. Single issues are \$1.00. To order a subscription or a single issue write to TRECAdvisor, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. For information regarding TREC, contact:

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

TEXAS REAL ESTATE COMMISSION

# Meeting Highlights

**December 13, 1999**



DURING the public comment period at the Texas Real Estate Commission (TREC) meeting, Commissioners received a report on licensure requirements under the Mortgage Broker License Act administered by the Texas Savings & Loan Department. Commissioners were also presented with information on proposed changes to standards of practice for real estate inspectors recommended by the Texas Real Estate Inspector Committee. A motion was adopted to begin a formal review and rule making process concerning these recommendations. The proposal would repeal 22 TAC §535.222, and adopt in its place new §§535.227-535.231.

Further discussion was held on previously proposed amendments to 22 TAC Chapter 537 that would put eight revised standard contract forms into effect. Commissioners approved a newly revised form that provides a notice to prospective buyers relating to title insurance and utility districts. This form will assist real estate agents and consumers in transactions where standard TREC promulgated forms are not used; for example, in cases where new home builder sales contracts are utilized, or transactions involving U.S. Department of Housing and Urban Development (HUD) properties.

The 2000 schedule for TREC's comprehensive rule review process was set, allowing TREC staff to continue its rule review and submit possible changes to §§535.91-535.402. These rules relate to numerous provisions such as license renewals and procedure, place of business, display of license, sponsorship, rule violations, initiation of investigations, hearings, licensing and other regulations for inspectors, registration of easement and right-of-way agents, and advertising by residential rental locators.

A recommendation by the TREC Administrator was approved to designate Dr. Sabrina Hassumani as Assistant Administrator. She is currently Business Manager for the College of Business Administration at the University of Houston and will begin work at TREC in mid-January.

An annual review of investment policies for the Real Estate Recovery Fund received

**The 2000 schedule for TREC's comprehensive rule review process was set, allowing TREC staff to continue its rule review process and submit possible changes...**

approval, along with four claims for payment from the fund.

**February 7, 2000**

ACTION WAS TAKEN by the Commission on Monday, February 7<sup>th</sup>, to begin a rule review process for 22 TAC §§535.91-535.123 concerning licensing provisions of The Real Estate License Act. Three payments from the Real Estate Recovery Fund, and the agency's strategic planning process, were also authorized. The statutorily required annual election of officers for the Commission was held with Commissioner Christine T. Folmer of El Paso chosen as Vice-Chairperson, and Commissioner Kay Sutton from Midland, elected as Secretary. Jay Brummett of Austin, appointed by the Governor, continues his term as Chairman.

Status reports were presented to the Commission on several pending matters. These issues include proposed amendments to 22 TAC Chapter 537 concerning standard contract forms; proposed repeal of 22 TAC §535.222 and adoption of new §§535.227-535.231, concerning standards of practice for real estate inspections; and proposed amendments to 22 TAC §§535.71-535.73 governing mandatory continuing education (MCE). Final consideration of both the MCE rules and new standards of practice for home inspections will be on the agenda for the upcoming March 27<sup>th</sup> Commission meeting.

Discussions were also held regarding concerns and potential need for disclosure when licensees act in multiple roles, such as by providing both real estate and mortgage brokerage services. Finally, Commissioners conducted an in-depth review regarding "after-the-fact" referral fees and related matters involving relocation firms and affinity groups.

## TREC Chairman Elected to ARELLO Board; Southern Conference to Meet in Austin

**A**T ITS ANNUAL CONFERENCE held last October in Savannah, Georgia, the international Association of Real Estate License Law Officials (ARELLO) elected Texas Real Estate Commission Chairman Jay Brummett to serve on the organization's Board of Directors. Brummett's election provides the State of Texas with representation on a national level in considering legal and ethical standards of practice for the real estate profession.

"I am very pleased and honored to have been chosen to serve on the Board of this fine organization." Chairman Brummett commented. "ARELLO is an internationally well respected and effective organization that works to improve the administration and enforcement of real estate license requirements and regulatory laws. I appreciate the confidence my colleagues from other states have shown in me by providing an opportunity to participate in their deliberations on behalf of Texas."

ARELLO policy issues often provide opportunities for enhancement of future regulatory provisions to accommodate the changing needs of consumers, as well as new ways of doing business within the real estate sector. "Added insight and participation in the process of developing future regulatory policy-making recommendations will be very helpful to the State of Texas," Brummett said.

He went on to explain that, "fortunately Texas has, for many years, held a good

reputation regarding its own stringent licensing requirements and enforcement of high standards among real estate practitioners. Experience and educational requirements currently administered by the Texas Real Estate Commission are really second to none in creating a business climate in which consumers can expect honesty, integrity, and professionalism in dealing with qualified real estate agents. That standard of quality must be maintained," said Brummett.

"I will continue my commitment to making certain that our real estate consumers are fully protected, and that our high standards of professional practice within Texas remain uncompromised," he concluded.

ARELLO's primary mission is to equip regulatory officials with the means of carrying out their responsibility of protecting the interests of all concerned in real estate brokerage transactions through fair and impartial application of the law. Texas will host the 2000 ARELLO Southern Conference on June 22-24, in Austin.



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**Jay C. Brummett**

*Chairman,*

*Texas Real Estate Commission*

## Year End Reports... continued from page 1.

in the amount of time spent on case resolution due to more efficient investigative and complaint resolution policies. Approximately 85% of all complaints were resolved within six months of filing, resulting in a quicker turnaround than projected.

### Violations

Roughly four percent of all complaints resulted in one of six sanctions. Each of these have potential repercussions on an individual's future ability to conduct business or can affect the status of a license. The complaints were closed through either "agreed orders" (an agreement reached between an Enforcement Division attorney and the respondent and approved by the administrative law judge) or an administrative hearing. A total of 53 cases reached final disposition through hearings conducted by TREC's administrative law judge. In only one case did an appeal to the full Commission occur following an administrative hearing. In that instance, the Commission voted to affirm the hearing officer's initial decision

### Enforcement Sanctions

	Number
Cease and Desist Letters	9
Referrals to District Attorney or Attorney General	9
License Suspensions	12
License Revocations	23
Reprimands Entered	30
Administrative Penalties	23
<b>Total Sanctions</b>	<b>106</b>

Given the overall number of cases processed, the relatively small incidence of sanctions (roughly 4 %) appears to indicate that disciplinary measures result in only the most serious instances of violations and are used sparingly. Such actions appear to be imposed only as a final recourse when no other option remains viable. All of this is done in the interest of balancing the protection of consumers with the rights of licensees. The ultimate mission is to ensure a qualified real estate professional.

### Calendar of Events

#### Commission Meetings:

March 27, 2000  
May 8, 2000  
June 22, 2000  
August 14, 2000

#### Broker-Lawyer Meeting:

April 13-14, 2000

#### Inspector Committee Meeting:

March 10, 2000

#### Web site:

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

TRECFax: (512) 419-1623  
Phone: (800) 250-TREC (8732)  
or (512) 459-6544



*Practitioners in the field of real estate, and those who regulate the industry, hope to utilize information from these meetings to improve the quality of standards and services on a national and international scale.*

## Commission Assists Other Jurisdictions Nationally and Internationally

IN A SERIES OF RECENT MEETINGS AND CONFERENCES, Texas Real Estate Commissioners and staff have been called upon to confer with real estate professionals and regulators on a national and international level regarding procedures and requirements for licensing, education, and enforcement.

### **Nuevo Leon, Mexico**

In November, Commission Chairman Jay Brummett, Commissioner Larry Jokl, and Texas Real Estate Commission (TREC) Administrator Wayne Thorburn attended the Third Annual International Forum in Monterrey, Mexico, sponsored by the Asociacion Mexicana de Profesionales Inmobiliarios (AMPI). The purpose of the conference was to analyze real estate services between North American Free Trade Agreement (NAFTA) countries from both a regulatory and business enterprise standpoint.

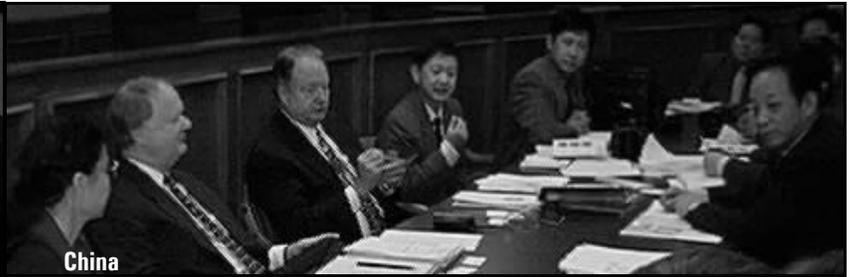
Chairman Brummett presented a letter of greetings from Governor George W. Bush to the AMPI organization of real estate pro-

Austin to meet with TREC's Chairman, Administrator, and staff. The Oklahoma Commission's purpose in conferring with TREC was to explore the possibility of developing and promulgating standardized contract forms for use by their state's licensees.

The meeting focused on the types of forms that TREC issues, the process by which such forms are adopted and amended, the role played by the Broker-Lawyer Committee, enforcement of requirements involved with the use of standard forms, and the type of support among consumers and the real estate profession that exists for standardized contract forms.



Mexico



China



Oklahoma

### **Shandong, China**

Two separate delegations from the Shandong Province Construction Company (SPCC) in China also recently met with TREC. Sixteen individuals, led by SPCC Vice President Liu Yanmo and SPCC House-Reform Office Vice Director, Gao, Guangzhong, traveled to Austin to talk with various agencies that have operational functions and programs similar to theirs.

Information provided to SPCC officials focused on real estate related programs and policies, as well as the process by which regulations are established. Of special interest was how TREC functions as a governmental agency in a market-based economy. The SPCC is currently facing new market related issues and situations that have not been previously encountered.

TREC is pleased to share its experience and insight with other jurisdictions as well as learn of other approaches to help improve regulatory procedures and policies. The agency welcomes all opportunities to work with others in communicating, developing, and coordinating future economic initiatives and regulatory measures that will be of mutual benefit to consumers and professional real estate practitioners.

professionals. The Governor wrote that the meeting provided "...a great opportunity for participants to discuss the importance of real estate practices under NAFTA provisions and how they affect businesses and consumers in the Americas."

In addressing the meeting as a keynote speaker, TREC Administrator Wayne Thorburn discussed details of real estate licensing in Texas at a time when implementation of government licensing is being considered by Mexican officials. Practitioners in the field of real estate, and those who regulate the industry, hope to utilize information from the conference to improve the quality of standards and services on an international scale.

### **Oklahoma**

In December, an eleven member group from the Oklahoma Real Estate Commission led by its Chairman, John Moslev, came to

## New Rules for Mandatory Continuing Education

AT ITS FEBRUARY 7 MEETING, the Real Estate Commission proposed amendments to the rules relating to mandatory continuing education ("MCE") for real estate licensees. Sections 535.71, 535.72 and 535.73 of the Rules of the Commission would be affected by the proposed amendments. Final adoption of the proposals could occur at the March 27, 2000 meeting of the Commission.

One proposed amendment would lift the present prohibition against holding MCE courses in brokerage offices, provided that courses be held in a "location conducive to instruction that is separate and apart from the work area, such as a classroom, training

room, conference room, or assembly hall." Another proposed change would allow MCE providers to withhold course credit from students who persist in disruptive behavior during class. Other proposed provisions would modify the approval process for MCE instructors and the grading process for correspondence and alternative delivery courses.

The proposed amendments have been published in the *Texas Register*, and interested individuals are invited to submit written comments concerning the proposals at this time. Comments should be forwarded to the Real Estate Commission, in care of the Office of the General Counsel, P.O. Box 12188, Austin, Texas 78711-2188.



**One proposed amendment would lift the present prohibition against holding MCE courses in brokerage offices...**

## Real Estate Licensees May Also Need a Mortgage Broker License

UNDER RULES RECENTLY ADOPTED by the Texas Savings & Loan Department a person who receives a mortgage application from a prospective borrower, decides where the application will be sent, and receives a fee for any services in connection with the mortgage loan application, shall be presumed to be a Mortgage Broker

or Loan Officer and required to be licensed under the Mortgage Broker License Act. Further information on licensure can be obtained from the Texas Savings & Loan Department, 2601 N. Lamar, #201, Austin, TX 78705 or at its web page [www.tsls.state.tx.us](http://www.tsls.state.tx.us)

## TREC Seeks Public Input for 2001-05 Strategic Plan



AS PART OF THE PROCESS of developing its strategic plan for the next five years, TREC will be holding three public forums next month. These forums will provide an opportunity for public comment and input into the process of determining agency priorities. Each session will be held from 1:00 p.m. to 4:00 p.m. and all interested persons are invited to attend.

### Houston

Tuesday, March 21st  
Houston Association of  
Realtors  
3693 Southwest Freeway  
Houston

### Dallas

Wednesday, March 22nd  
Greater Dallas Association  
of Realtors  
8210 N. Stemmons Freeway  
Dallas

### Austin

Monday, March 27th  
Texas Real Estate  
Commission  
1101 Camino La Costa  
Austin

## New TREC Assistant Administrator Selected



DR. SABRINA HASSUMANI was recently named Assistant Administrator following approval by the Texas Real Estate Commission. In her new position, Ms. Hassumani will assist the Administrator as well as perform duties in the Administrator's absence.

For the past ten years, Ms. Hassumani served as college Business Manager at the University of Houston, first with the College of Social Sciences and most recently with the College of Business Administration. Hassumani coordinated budget, expenditure, and payroll processes in compliance with state fiscal planning, accounting, and reporting requirements. Her responsibilities at the college involved overseeing a budget of

\$20 million. Additionally, she served as chief human resources officer and provided assistance to the Dean in implementing organizational decisions.

Prior to becoming College Business Manager, Hassumani held numerous other positions with the University of Houston, including Director of Marketing for *Arte Publico Press*. She received a Bachelor of Arts Degree in 1982, a Master of Arts in 1986 and her Ph.D. in English in 1997 all from the University of Houston

## Employee of the Quarter

TREC IS PROUD TO ANNOUNCE that Susan Kasper recently received the first Employee of the Quarter award for fiscal year 2000. Each honoree receives a framed certificate, use of a special reserved Employee of the Quarter parking space, one day of administrative leave, recognition on TREC's web page, and the addition of his or her name to the permanent Employee of the Quarter plaque on display in the TREC headquarters building lobby.

Susan works in the Staff Services Division as an accountant. Among her many duties, Susan is responsible for reviewing staff travel vouchers and issuing reimbursement payments as well as reviewing the agency telephone billings. TREC considers Susan a valuable asset and commends her professionalism and dedication to the work of the Commission



# Disciplinary Actions

## October 1999 - January 2000

### **Ayres, James Hanes** (Houston); license #197470

Revocation of broker license, effective, November 1, 1999; making substantial deletions and insertions to the printed language of Texas Real Estate Commission contract forms, in violation of 22 TAC Section 537.11(c) of the Rules of the Texas Real Estate Commission (the Rules); acting negligently or incompetently in violation of Section 15(a)(6)(W) of The Texas Real Estate License Act (TRELA); placing his own interest above that of his principal by having all parties sign an agreement absolving him of his responsibilities as a real estate agent in violation of 22 TAC Section 531.1(3) of the Rules.

### **Baldwin, Robert Basil** (Austin); license #126803

Agreed Reprimand of broker license, entered December 2, 1999; Agreed administrative penalty of \$200.00, entered December 2, 1999; failing to complete mandatory continuing education hours within the 60-day period provided by 22 TAC Section 535.92(h) of the Rules, in violation of Section 15B(b) of TRELA.

### **Brady, Clinton Scott** (Denton); license #458908

Revocation of salesperson license; effective December 27, 1999; failing to provide information to the Commission in response to the Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of Section 15B(b) of TRELA and 22 TAC Section 535.91(a) of the Rules.

### **Carder, Lester Eugene** (Lake Kiowa); license #126383

Agreed reprimand of broker license, entered January 13, 2000; Agreed administrative penalty of \$1,000.00, entered January 13, 2000; employing and sharing commissions with an unlicensed salesperson previously under his sponsorship for multiple listing and sales transactions conducted while the salesperson was unlicensed, in violation of Sections 15(a)(6)(F), (S), and (W) of TRELA, and allowing the salesperson to advertise properties for sale without the property owners' prior knowledge and consent, in violation of Section 15(a)(6)(O) of TRELA.

### **Conine, Charles Kent** (Dallas); license #209884

Agreed reprimand of broker license, entered December 15, 1999; Agreed administrative penalty of \$200.00, entered December 15, 1999; failing to complete mandatory continuing education hours and pay the \$200.00 fee within the 60-day period provided by 22 TAC Section 535.92(h) of the Rules in violation of Section 15B(b) of TRELA.

### **Cooper, Frances June** (Houston); license #256492

Revocation of broker license, effective January 21, 2000; failing to complete

mandatory continuing education hours and pay the \$200.00 fee within the 60-day period provided by 22 TAC Section 535.92(h) of the Rules in violation of Section 15B(b) of TRELA.

### **Crivello, Manuele Frank** (Garland); license #401878

Agreed 60-day suspension of salesperson license, fully probated for 6 months, effective December 3, 1999; holding security deposits without the property owner's permission and failing to provide to the owner an accounting of the owner's funds held by the agent within 30 days after the accounting was requested by the owner, thereby violating Sections 15(a)(6)(E) and 15(a)(6)(W) of TRELA and Section 535.146(b) of the Rules.

### **Easley, Sheryl A.** (Houston); license #413662

Revocation of broker license, effective January 21, 2000; failing to pay, within the 60-day period, the \$200 fee required by 22 TAC section 535.92(a) of the Rules in violation of Section 15B(b) of TRELA.

### **Elmore, M. J.** (San Antonio); license #382871

Revocation of broker license, effective January 3, 2000; payment of \$34,540.86 made by the Texas Real Estate Commission from the Real Estate Recovery Fund toward satisfaction of a judgment against M. J. Elmore in violation of Section 8(i) of TRELA.

### **Fleming, Kevin Austin** (Austin); license #367228

Agreed reprimand of broker license; entered November 17, 1999; Agreed administrative penalty of \$200.00, entered November 17, 1999; failing to complete mandatory continuing education hours and pay the \$200.00 fee within the 60-day period provided by 22 TAC 535.92(h) of the Rules in violation of Section 15B(b) of TRELA.

### **Greer, Robert L.** (Sandia); license #326790

Agreed 30-day suspension of broker license, fully probated for 6 months, effective December 6, 1999; negligently or incompetently performing brokerage service by submitting a sales contract that did not reflect the parties final agreement to a title company and representing it as the final negotiated contract, in violation of Section 15(a)(6)(W) of TRELA.

### **Gulley, Michael Hamilton** (McQueeney); license #262037

Agreed reprimand of salesperson license, entered January 20, 2000; Agreed administrative penalty of \$200.00, entered January 20, 2000; failing to complete mandatory continuing education hours and pay the \$200.00 fee within the 60-day period provided by 22 TAC Section

535.92(h) of the Rules in violation of Section 15B(b) of TRELA.

### **Jones, Patricia H.** (Dallas); license #447645

Revocation of salesperson license, effective January 21, 2000; failing to complete mandatory continuing education hours and pay the \$200.00 fee within the 60-day period provided by 22 TAC Section 535.92(h) of the Rules in violation of Section 15B(b) of TRELA.

### **Kaiser, Tonja Rene** (Weatherford); license #460182

Agreed 1 month suspension of salesperson license, fully probated for 6 months, effective October 4, 1999; Agreed administrative penalty of \$250.00, entered October 4, 1999 misidentifying and showing the wrong property to the buyer, thereby acting negligently or incompetently in performing an act for which a person is required to hold a real estate license in violation of Section 15(a)(6)(W) of TRELA; failing to make clear to the buyer whom she is representing, in violation of Section 15(a)(6)(D) of TRELA.

### **Ko, Bing B.** (Houston); license #345219

Revocation of salesperson license, effective December 3, 1999; associating with an unlicensed corporation performing acts as a real estate licensee, in violation of Section 15(a)(6)(S) of TRELA; commingling funds belonging to others in a personal account, in violation of Section 15(a)(6)(E) of TRELA; conveying false information regarding the acceptance of a lease constituting dishonest dealings, bad faith or untrustworthiness, in violation of Section 15(a)(6)(V) of TRELA.

### **Lowe, Gloria Jean** (McAllen); license #952385

Agreed reprimand of salesperson license, entered October 15, 1999; Agreed administrative penalty of \$1,500.00, entered October 15, 1999; failing to respond to requests for information and provide documents in her possession within a reasonable time in 3 cases, in violation of Sections 15(a)(6)(W), 15(a)(7) and 15(a)(8) of TRELA.

### **Lowe, John Douglas** (McAllen); license #344791

Agreed 1 month suspension of broker license, fully probated for 6 months; effective October 15, 1999; Agreed administrative penalty of \$750.00, entered October 15, 1999 acting negligently by failing to respond to requests for information and provide documents in his possession within a reasonable time in three cases, in violation of Section 15(a)(6)(W) of TRELA.

### **McKim, Dristi Kay** (Pasadena); license #434964

Agreed reprimand of salesperson license,

entered December 13, 1999; Agreed administrative penalty of \$250.00, entered December 13, 1999; releasing the lock box code and allowing unsupervised access to the property of a principal constituting acting negligently or incompetently, in violation of Section of 15(a)(6)(W) of TRELA.

### **Miller, David Jackson** (Austin); license #402859

Revocation of salesperson license, effective January 3, 2000; failing to complete mandatory continuing education hours within the 60-day period provided by 22 TAC Section 535.92(h) of the Rules in violation of Section 15B(b) of TRELA.

### **Montoya, Ted A. (Bryan)** license #372371

Agreed reprimand of salesperson license; entered October 14, 1999; Agreed administrative penalty of \$250.00, entered October 14, 1999; giving legal advice and preparing a contract for deed transaction where mandatory use standard contract forms were appropriate, in violation of Section 15B(b) of TRELA and 22 TAC Section 537.11(b)&(c) of the Rules.

### **Mowery, Eleanor Fisher** (Dallas); license #317615

Agreed reprimand of salesperson license, entered October 25, 1999; Agreed administrative penalty of \$200.00, entered October 25, 1999; failing to complete mandatory continuing education hours within the 60-day period provided by 22 TAC Section 535.92(h) of the Rules, in violation of Section 15B(b) of TRELA.

### **Mulder, Orous Alan** (Dallas); license #317615

Agreed reprimand of broker license, entered October 18, 1999; Agreed administrative penalty of \$200.00, entered October 18, 1999; failing to complete mandatory continuing education hours and pay the \$200.00 fee within the 60-day period provided by 22 TAC Section 535.92(h) of the Rules in violation of Section 15B(b) of TRELA.

### **Novak, Butch Frank** (Austin); license #459699

Agreed reprimand of salesperson license, entered October 5, 1999; Agreed administrative penalty of \$250.00, entered October 5, 1999; failing to include an expiration date in a buyer representation agreement that was not subject to prior notice, in violation of Section 15(a)(6)(G) of TRELA.

### **Peyton School of Real Estate** (Houston); license #2042

Withdrawal of accreditation effective November 7, 1999; failing to pay education program fees required by Section 11(a)(10) of TRELA, in violation of 22 TAC Section 535.66(rr) of the Rules.

*Please turn to page 7.*

## Inquiring Minds Want to Know: Why Did You Get in Trouble?

By Deborah H. Long

REGULATORY AGENCY NEWSLETTERS—such as this one—remind us that licensees make mistakes, sometimes serious ones, in their dealings with the public. Violations mentioned in these publications range from trust account mismanagement to misrepresentation to fraud and worse. And even though it is a relatively small percentage of professionals who are found guilty of professional misconduct, we know that they represent the proverbial “tip of the iceberg.”

Members of the public often do not want to get involved in the complaint process, perceiving that it might be too cumbersome. Some aggrieved individuals may be unaware that a complaint process exists.

When I discuss the complaint cases mentioned in my state's real estate licensing newsletter with my students, it's not uncommon to hear this reaction: “There but for the grace of God...” In other words, these licensed professionals are relieved to see that their names have not yet ap-

peared on those notorious back pages. But they are also expressing the concern that they have committed similar violations to those described in the newsletter. They just haven't been caught yet. To some extent, those quarterly communiqués from our regulators are an important deterrent to practitioners who need constant reminders that their conduct is being watched.

But there are other factors that keep us from getting in trouble. One of those factors is

*Please turn to page 8.*



*“These licensed professionals are relieved to see that their names have not yet appeared on those notorious back pages. But they are also expressing the concern that they have committed similar violations to those described in the newsletter. They just haven't been caught yet.”*

**Ramos, Patti C.**  
(Corpus Christi); license #455072

Agreed reprimand of salesperson license, entered January 21, 2000; failing within a reasonable time to make good a check issued to the Commission and to pay the processing fee within 15 days in violation of 15(a)(4) of TRELA and 22 TAC Section 535.2(b) of the Rules.

**Rebecca Lee Salazar**  
(Harlingen); license #421666

Reprimand of salesperson license, entered January 3, 2000; although buyers were verbally informed, licensee when selling her property failed to provide written disclosure of her license status in violation of 22 TAC Section 535.144 of the Rules of the Texas Real Estate Commission, in violation of Section 15B(b) of TRELA.

**Slater, Wayne Victor**  
(San Antonio); license #80219

Five year suspension of broker license, fully probated for 5 years effective November 8, 1999; two convictions for the felony offense of mail fraud, aiding and abetting, in violation of Sections 4(a) and 4(e) of Article 6252-13c, Texas Civil Statutes.

**Tan, James L.**  
(Allen); license #294206

Agreed 120-day suspension of broker license, probated for 6 months, effective October 1, 1999; placing magazine advertisements offering property for sale without the owner's knowledge or consent, in violation of Section 15(a)(6)(O) of TRELA; acting negligently or incompetently in performing an act for which a person is required to hold a real estate license, in violation of Section 15(a)(6)(W) of TRELA.

**Taylor, John Wesley**  
(Lockhart); license #391608

Agreed reprimand of salesperson license, entered October 10, 1999; Agreed administrative penalty of \$200.00, entered October 10, 1999; failing to complete mandatory continuing education hours and pay the \$200.00 fee within the 60-day period provided by 22 TAC Section 535.92(h) of the

Rules in violation of Section 15B(b) of TRELA.

**Terrell, Nelda Sue**  
(Onalaska); license #433050

Revocation of salesperson license, effective November 15, 1999; failing to account for or remit monies obtained from the sale of timber from client's lands, in violation of Section 15(a)(6)(E) of TRELA; conduct which constitutes dishonest dealings, bad faith or untrustworthiness, in violation of Section 15(a)(6)(V) of TRELA.

**Torquato, Lorene Kay**  
(Austin); license #439400

Revocation of salesperson license, effective January 3, 2000; failing to provide information to the Commission in response to the Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of Section 15B(b) of TRELA and 22 TAC Section 535.91(a) of the Rules.

**Truitt, James Edward**  
(Denton); license #217592

Revocation of salesperson license, effective January 3, 2000; failing to provide information to the Commission in response to the Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of Section 15B(b) of TRELA and 22 TAC Section 535.91(a) of the Rules.

**Turpin, Robert Porter**  
(Fort Worth); license#193453

Revocation of broker license, effective January 24, 2000; while acting on his own behalf as a buyer and while also acting on behalf of the sellers as their real estate agent, failing to keep his promises to the sellers to make mortgage payments on the property, to market and lease the property, to reimburse sellers for their payment of his obligations, to indemnify sellers for financial liabilities related to the property and their indebtedness concerning the property, and to otherwise fulfill his fiduciary duties to the sellers, all of which caused substantial financial harm to the sellers and all of which constitutes (1) engaging in misrep-

resentation or dishonest or fraudulent actions in the purchase and subsequent leasing of real property in his own name, in violation of Section 15(a)(3) of TRELA; (2) engaging in conduct which constitutes dishonest dealings, bad faith, or untrustworthiness while performing the acts of a real estate broker, in violation of Section 15(a)(6)(V) of TRELA and (3) acting negligently or incompetently in performing an act for which a person is required to hold a real estate license, in violation of Section 15(a)(6)(W) of TRELA; additionally, failing to make clear to the sellers the party for which he was acting, in violation of Section 15(a)(6)(D) of TRELA.

**Walker, Ray Albert**  
(Houston); license #367103

Agreed reprimand of broker license, entered October 11, 1999; Agreed administrative penalty of \$250.00, entered October 11, 1999; failing within a reasonable time to make repayment to the Commission for a check that was returned due to insufficient funds, in violation of Section 15(a)(4) of TRELA.

**Walker, Raymond Lee**  
(Smithville); license #445671

Reprimand of salesperson license; entered October 13, 1999; after negotiating sale of residence and prior to closing, removing seller's personal property without consent of seller and failing to return property for over 30 days, in violation of Section 15(a)(6)(V) of TRELA.

**Walters, Jeffrey Lynn**  
(Baytown); license #408781

Revocation of salesperson license, effective January 10, 2000; conviction and incarceration for a felony mandating revocation, in violation of Section 4(e) of Article 6252-13c of TRELA.

**Wise, David Alberto**  
(McAllen); license #291220

Agreed reprimand of broker license, entered November 5, 1999; during a brief period negligently allowing a person with an expired real estate license to act as a real estate salesperson, in violation of Section 15(a)(6)(W) of TRELA.

★  
**Broker  
Lawyer  
Committee** ★  


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for changes in  
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## **Strategic Plan Public Meetings... Dallas, Houston, Austin See page 5**

### **Inquiring Minds Want to Know... Continued from page 7.**

our own ethical capacity and orientation. While many of our values were instilled in us as children and come from a variety of sources, our capacity to become even more adept at making moral judgement usually grows as we mature and experience marriage, parenthood and other significant life events.

Another factor in keeping us from going astray is professional standards or codes of conducts espoused by the private and public sector. While a code of ethics doesn't prevent misconduct, professional guidelines help us recognize the baseline for behavior. Codes of ethics set the minimum level of conduct we will tolerate from one another and help us make judgements about right and wrong. The majority of American companies subscribe to a code of ethics, acknowledging its importance in curbing workplace problems.

Many organizations realize the importance of yet another factor in minimizing opportunities for misconduct: internal controls, such as adequate supervision, training of staff and careful review of work. It is particularly important that rules are clearly established and consistently and fairly implemented. And while policy manuals and one-day employee orientation programs are useful in establishing ethical boundaries, they are often not enough to meet the frequent ethical challenges that many professionals face. More and more companies are establishing



**“Another factor keeping us from going astray is professional standards or codes of conduct espoused by the private and public sector.”**

mentoring programs to help practitioners cope effectively—often one-on-one—with work dilemmas.

Another critical factor in minimizing opportunities for misconduct is peer or team review. Peer auditing of critical cases or issues can be an effective tool in preventing problems or preventing their repetition. Sometimes, peer reviews by an independent group from another organization or from a regulatory body can be helpful as well as motivational.

Another determinant in minimizing misconduct is peer pressure within the organization. When the organization's leadership has clearly articulated the values of the company and more importantly, practices those values, then it is more likely that professionals affiliated with the company will practice them as well. We learn our values and ethics from people who have influence over us: first from our parents and family; then from

our teachers; and later in life, from our employers and leaders. If our leaders are corrupt, we are more likely to lower our expectations and on occasion, respond by becoming corrupt ourselves. On the other hand, when leaders have high standards, we are more likely to conform to higher standards as well.

The last—but not necessarily the least effective—factor in controlling our conduct is government regulation. Some licensees conduct themselves professionally because they don't want to pay the various penalties outlined by the rules and laws. But we also comply with regulation because we believe that a society without rules and laws would be chaotic. So while we may not particularly like the idea of government regulation and reminders from regulatory agencies that let us know our conduct is being measured, we also recognize the importance of some government control.

As I tell my students preparing to take their state licensing exam, the last place I ever want to see them is on the back pages of the licensing newsletter as the “poster child of the month” for bad judgement. It is hoped that the combination of their integrity, professional training, company values and leadership, their peers' influence, and government regulation will provide enough discipline and restraint to keep them from becoming an example to the rest of us of how not to conduct ourselves.

*The views expressed in this article are solely those of the author and do not necessarily reflect the opinions of the Texas Real Estate Commission. Deborah Long conducts workshops and seminars and writes ethics education articles. For more information contact Ms. Long at [d\\_long@mindspring.com](mailto:d_long@mindspring.com)*