



TREC Advisor

Texas Real Estate Commission ★ Volume 20, Number 4 ★ October 2009

Timely and Late Renewal Fee Increase Effective November 1, 2009

The Commission adopted amendments to increase the portion of the salesperson and broker renewal and late renewal fees collected for TREC operations. The amendments increase the timely renewal fees by \$8 for a two-year license and \$4 for a one-year license; late renewal fees would be increased by \$12 for a two-year license (\$6 for a one-year license) for the late renewal of a license that has been expired 90 days or less; and \$16 for a two-year license (\$8 for a one-year license) for the late renewal of a license that has been expired more than 90 days. The increase in fees will pay for TREC appropriations authorized by the 81st Legislature in 2009.

Commission Names New Administrator

Ending the agency's extensive search and screening process, on September 1, 2009, Douglas Oldmixon began serving as Administrator of the Texas Real Estate Commission and as Commissioner of the Texas Appraiser Licensing & Certification Board.

Doug was born and raised in coastal south Texas, attended high school in New Orleans and graduated college in Milwaukee. There he met and married his wife Jo-Dee Benson, had two children, and earned a Juris Doctor degree from the University of Wisconsin Law School. In 1989, Doug & Jo-Dee relocated to Austin to raise their young family.

Licensed as an Attorney and a Real Estate Broker for 24 years, Doug has worked in all major sectors of the real estate industry from law and finance to title insurance, from land development to sales brokerage, from institutional investments to portfolio management.

Accepting a unique opportunity for public service, Doug served as the Executive Director of the Texas Veterans Land Board from 2000 to 2003, providing the families of 1.6 million military veterans in Texas with low interest loans to acquire land, buy homes and make home improvements. The unprecedented success and growth of these programs allowed the agency to also build and operate a system of seven skilled nursing homes and four cemeteries dedicated to veterans.

From 2004 to 2009, Doug was Managing Broker & General Counsel at Spillar Oldmixon Advisors Realty, LLC, offering professional brokerage representation for investment, commercial and residential properties, and development services to clients in Texas.

Doug has served as an officer in the US Air Force Reserve since 1983, and is a veteran of Desert Storm with several tours of duty for Operations Noble Eagle, Enduring Freedom and Iraqi Freedom since 9/11/2001.

Now returning to public service to head one of Texas' largest licensing agencies, Doug has a distinct vision of TREC's potential. "I am very excited to lead the great team at TREC and TALCB at this critical time in our state's growth. The agency faces both legacy challenges and significant opportunities to better serve and protect millions of families in Texas - primarily by enhancing the education, skills and ethical practice standards of the real estate professionals who serve and represent them," Doug remarked to the agency staff as he began his new duties. "We look forward to strengthening our working partnerships with the major professional associations of 150,000+ of our licensed members, and also leveraging new technologies to communicate more effectively and to simplify the licensing process. With a sustained vision, and the cooperation of our major stakeholders, TREC can become one of the most effective and respected public agencies in Texas. Let's make that our common goal."



DOUGLAS E. OLDMIXON

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TEXAS REAL ESTATE COMMISSION

Meeting Highlights

August 17, 2009

The Texas Real Estate Commission held its regularly scheduled meeting at the TREC headquarters in Austin, Texas on Monday, August 17, 2009. Chairman John D. Eckstrum presided.

The Commission approved the annual internal audit report as presented by Rene Gonzales of Garza, Gonzales and Associates.

The Commission approved the proposal of two amended new home forms for permanent adoption. The same forms were adopted on an emergency basis with an effective date of September 1, 2009. (See art. pg.3)

The Commission adopted amendments to 22 TAC §535.51 concerning General Requirements; 22 TAC §535.64 regarding Accreditation of Schools and Approval of Courses and Instructors; 22 TAC §535.71, Mandatory Continuing Education: Approval of Providers, Courses and Instructors; and 22 TAC § 535.101 concerning Fees. After comments from the public the Commission chose to withdraw amendments to 22 TAC §535.66 and altered portions of §535.64 to eliminate changes proposed in the amendments to the approval period for a proprietary school and postponed the publication of pass rates for proprietary schools. (See pgs.4-5)

The Commission approved payment of two recovery trust fund claims in the amounts of \$50,000 and \$34,963. The Commission denied payment of one recovery trust fund claim in the amount of \$50,000.

The Commission adopted amendments to §535.212 concerning Education and Experience Requirements for an Inspector and §535.223 regarding standard inspection report forms. (See pgs. 4-5)

The Commission authorized staff to draft rules concerning the TREC policy for licensing corporations and LLCs.

The Commission chose Douglas Oldmixon as the new TREC administrator. (See pg. 1)

The Commission authorized the Chairman to determine how interviews would be conducted concerning applicants who had applied to serve on the Broker-Lawyer Committee.

The Commission approved three Proposals for Decision from the State Office of Administrative Hearings.

The next scheduled meetings of the Commission will be October 19, 2009, at 10 a.m. and December 14, 2009, at the TREC headquarters in Austin, TX.

The Texas Online initiative was developed to aid Texans when interacting with state agencies by going online instead of standing in line. TREC has increased the convenience to licensees by offering web-based license renewals, original applications and other time saving services, such as the *TRECAdvisor* newsletter, online. The resulting decrease in operating costs has allowed TREC to avoid some fee increases, realign resources and increase other services to licensees. To further this effort, TREC is considering adopting an email delivery system for license renewal notices. **Instead of sending the current renewal postcard notices, TREC would send an email to licensees 90 days, 60 days and 30 days prior to their upcoming license expiration date.** These email notices would be sent to all active license holders, and notices to sponsored licensees (salespersons, apprentice and real estate inspectors, appraiser trainees) would be sent to their sponsors as well. **As part of a related initiative, at completion of an online renewal, TREC would provide a website link to the licensee which allows the printing of license certificates (with companion wallet-size certificates) by the licensee.** Currently almost 85% of license renewals are completed online and an email address is required to do so. To ensure the success of this proposed effort, TREC needs a valid email address for each licensee. TREC welcomes your input on these proposed initiatives. Please send your comments to admin@trec.state.tx.us .

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

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

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RULE ACTIONS FROM AUGUST 17, 2009 MEETING OF THE TEXAS REAL ESTATE COMMISSION

RULE NO.	EARLIEST DATE OF ADOPTION	SUMMARY OF PROPOSED RULE <i>For text of the rules as they were filed with the Texas Register, go to the web site www.trec.state.tx.us</i>
22 TAC §537.30 and §537.31	10/19/2009	The amendments as proposed <ul style="list-style-type: none"> eliminate from the new home contracts provisions required by the Texas Residential Construction Commission Act (Title 16 of the Texas Property Code) that will not be appropriate after the September 1, 2009, expiration of the Act. In §537.30 and §537.31, Standard Contract Forms TREC Nos. 23-8 and 24-8 are amended to delete from Paragraph 22 the references to the Addendum Containing Required Notices Under §5.016, §420.001 and §420.002, Texas Property Code, which is being proposed for repeal.
22 TAC §537.50	10/19/2009	The amendments as proposed <ul style="list-style-type: none"> repeal the Addendum Containing Required Notices Under §5.016, §420.001 and §420.002, Texas Property Code, which will no longer be required to be provided to buyers of new homes.

RULE NO.	EFFECTIVE DATE	SUMMARY OF RULES ADOPTED BY EMERGENCY ACTION <i>For text of the rules as they were filed with the Texas Register, go to the web site www.trec.state.tx.us</i>
22 TAC §537.30 and §537.31 (emergency adoption)	9/1/2009	The rules <ul style="list-style-type: none"> are adopted on an emergency basis to eliminate from the new home contracts provisions required by the Texas Residential Construction Commission Act (Title 16 of the Texas Property Code) that will not be appropriate after the September 1, 2009, expiration of the Act. Section 537.30 and section 537.31, Standard Contract Forms TREC Nos. 23-8 and 24-8 are amended to delete from Paragraph 22 the references to the Addendum Containing Required Notices Under §5.016, §420.001 and §420.002, Texas Property Code.
22 TAC §537.50 (emergency adoption)	9/1/2009	The amendments as proposed <ul style="list-style-type: none"> repeal the Addendum Containing Required Notices Under §5.016, §420.001 and §420.002, Texas Property Code, which will no longer be required to be provided to buyers of new homes.

RULE NO.	EFFECTIVE DATE	SUMMARY OF RULES ADOPTED <i>For text of the rules as they were filed with the Texas Register, go to the web site www.trec.state.tx.us</i>
22 TAC §535.51 (adopted)	11/1/2009	The rule as adopted <ul style="list-style-type: none"> corrects and clarifies the requirements for obtaining an education evaluation and submitting an application for licensure; includes stylistic changes to improve readability and restore to subsection (e) (relettered as subsection (f)) text that was inadvertently omitted at the time of the last amendments to this section; changes the fee schedule on the late renewal application forms adopted by reference to reflect an increase in late renewal fees from \$45 to \$51 for the annual late renewal of a real estate salesperson or broker license for a person whose license has been expired 90 days or less; and late renewal fee from \$60 to \$68 for the annual late renewal of a real estate salesperson or broker license for a person whose license has been expired more than 90 days but less than one year; and changes the fee schedule on the salesperson original application, late renewal application forms, and the broker step down application form adopted by reference to reflect an increase in the fee paid by such applicants to the Real Estate Center from \$17.50 to \$20.00.

RULE NO.	EFFECTIVE DATE	SUMMARY OF RULES ADOPTED <i>For text of the rules as they were filed with the Texas Register, go to the web site www.trec.state.tx.us</i>
22 TAC §535.212 (adopted)	9/13/2009	The rule as adopted <ul style="list-style-type: none"> • updates a reference to the recently revised standard inspection report form, which was not changed when the REI 7A-0 form was replaced by the REI 7A-1, effective February 1, 2009; and • adds a reference to form REI 7-2, which was adopted as an amendment to 22 TAC §535.223.
22 TAC §535.223 (adopted)	9/13/2009	The rule as adopted <ul style="list-style-type: none"> • adopts by reference a revised standard inspection report form; • requires inspectors to use either the 7-2 form or the 7A-1 form for inspections of one-to-four family residential properties; and • corrects the rule reference on the first page of the form, modifies the header on pages 3-6 to indicate that "D=Deficient," and makes minor stylistic revisions to the form.
22 TAC §535.64 (adopted)	9/13/2009	The rule as adopted <ul style="list-style-type: none"> • revises the application for instructor approval (ED 4-2) pursuant to changes to requirements to teach the required legal update and ethics courses, proposed in §535.71.
22 TAC §535.66	Amendment withdrawn effective 8/31/2009	The amendment which would have <ul style="list-style-type: none"> • reduced the period of accreditation of schools from five years to two years; • defined how a school's passage rate would be calculated and published by the commission; and • updated the Education Provider Application, form ED 1-0, to form ED 1-1 to reflect a revised fee for a two-year accreditation was withdrawn from consideration after the Commission received comments in opposition to the changes.
22 TAC §535.71 (adopted)	9/13/2009	The rule as adopted <ul style="list-style-type: none"> • adds the TREC web site address to paragraph (d) concerning availability of forms; • adopts by reference MCE Form 16-1 which has been revised for use as an instructor application for MCE elective courses only; and • changes the requirements for approval of instructors of Mandatory Continuing Education required legal update and ethics courses.
22 TAC §535.101 (adopted)	11/1/2009	The rule as adopted <ul style="list-style-type: none"> • increases the salesperson and broker annual renewal fees from \$30 to \$34; late renewal fee from \$45 to \$51 for the annual late renewal of a real estate salesperson or broker license for a person whose license has been expired 90 days or less; and late renewal fee from \$60 to \$68 for the annual late renewal of a real estate salesperson or broker license for a person whose license has been expired more than 90 days but less than one year.

Part of Real Estate Broker and Salesperson Exams to Change

Effective October 1, 2009, the National portion of the Real Estate Broker and Salesperson exams changed. Exam revisions include changes in the numbers of items across topic areas, an increased emphasis on items that require application of knowledge rather than simple recall/recognition, and scenario-based questions in the Broker exam. A revised Candidate Information Brochure (CIB) will be available at the PSI website.



Disciplinary Actions June 2009-August 2009

Bolgiano & Courtright, LLC (McKinney); License #N/A

Assessment of an administrative penalty in the amount of \$1,000, entered August 20, 2009; and order to cease and desist unlicensed real estate brokerage activity at the time of the matter, Bolgiano & Courtright, LLC was not duly licensed as a real estate broker and it acted, engaged in, and represented that it was a real estate broker by conducting real estate brokerage services by and through its owners and associates, who were each licensed as individual Texas real estate brokers or salespersons, in violation of §1101.351(a) of the Texas Occupations Code

Marin, Jimmy (Irving); License #510866

Agreed reprimand of salesperson license, entered August 18, 2009; Agreed administrative penalty of \$500, entered August 18, 2009; acting negligently or incompetently as a buyer's agent by failing to insure that there was a written amendment between the parties obligating the seller to make repairs prior to closing and acting negligently or incompetently by assuring the buyers the matter could be resolved after closing, in violation of §1101.652(b)(1) of the Texas Occupations Code

Steele, Summer Rivers (Carmine); License #515542

Revocation of salesperson license, effective August 17, 2009; obtaining a real estate license by making a material misstatement in a license application by failing to disclose that she had been placed on probation in a criminal proceeding in violation of §1101.652(a)(2) of the Texas Occupations Code (2 counts); failing to notify the Commission, not later than the 30th day after the date of a final conviction or the entry of a plea of guilty or nolo contendere, that the person has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud, in violation of §1101.652(a)(9) of the Texas Occupations Code; entering a plea of guilty or nolo contendere to or is convicted of a felony in which fraud is an essential element, and the time for appeal has elapsed or the judgment or conviction has been affirmed on appeal, without regard to an order granting community supervision that suspends the imposition of the sentence, in violation of §1101.652(a)(1) of the Texas Occupations Code

Frankino, Debbie Jean (Cypress); License #499308

Agreed 120-day suspension of salesperson license, effective August 11, 2009. Beginning October 1, 2009 remaining 60-days fully probated for 2 years; Agreed administrative penalty of \$1,000, entered August 1, 2009; procuring or attempting to procure a license under this Chapter for the license holder by making a material misstatement of fact in an application for license, in violation of §1101.652(a)(2) of the Texas Occupations Code and 22 TAC §535.143; failing to notify the Commission, no later than the 30th day after the date Respondent had been placed on deferred adjudication, in violation of §1101.652(a)(9) of the Texas Occupations Code

Ravichandran, Thiruvadi V. (Plano); License #

Assessment of an administrative penalty in the amount of \$1,000.00, and order to cease and desist unlicensed brokerage activity, entered August 5, 2009; acting in the capacity of, engaging in the business of, or advertising or holding himself out as engaging in or conducting the business of a real estate salesperson or broker without first obtaining a real estate license, in violation of §1101.351(a) of the Texas Occupations Code

Yancy, Darren Gene, Sr. (Burleson); License #516385

Agreed 12 months suspension of broker license, effective August 1, 2009. Beginning November 1, 2009 remaining 9 months fully probated for 3 years acting negligently and engaging in conduct that demonstrates untrustworthiness in completing contract forms and structuring a broker's commission as a net listing to the disadvantage of his client, in violation of §1101.652(b)(1) and (2) of the Texas Occupations Code and 22 TAC §535.16(b); failing in his primary duty as real estate agent to represent the interests of the agent's client, placing a personal interest above that of his client, and using his expertise to the disadvantage of a person with whom the licensee deals, in violation of 22 TAC § 531.1(1) and (3), and 22 TAC §535.144(b); pursuing a continued and flagrant course of misrepresentation of his client's rights, charging an undisclosed commission, offering to sell real property on terms other than those authorized by the owner of the real property or the owner's authorized agent, and publishing an unjustified or unwarranted threat of a legal proceeding or other action against his client, in violation of §§1101.652(b)(6),(13),(20), and (25) of the Texas Occupations Code

Stoneburner, Aaron William (Austin); License #562168

Revocation of salesperson license, effective August 21, 2009 failing within a reasonable time to make good a check issued to the Commission, in violation of §1101.652(a)(4) of the Texas Occupations Code; failing to pay a check processing fee within 15 days after the Commission has mailed a request for payment, in violation of 22 TAC §534.2(a)

Ray, Reuben James, II (Missouri City); License #363878

Revocation of salesperson license, effective July 30, 2009; failing to notify the commission, not later than the 30th day after the date of a final conviction or the entry of a plea of guilty or nolo contendere, that the person

Calendar of Events

Commission Meetings

**October 19, 2009
At 10:00 a.m.
(Austin)**

**Broker-Lawyer
Committee Meetings
October 8-9, 2009
(Austin)**

**Inspector Committee Meetings
None at this time**

Web site:
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has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud, in violation of §1101.652(a)(9) of the Texas Occupations Code.

**Carter, Emily Ann
(Whitney); License #483487**

Agreed 2 year suspension of salesperson license, effective July 29, 2009, beginning January 29, 2010; remaining 18 months fully probated for 5 years. While acting as a principal and as a buyer's agent for Arcata Basin Corporation (ABC) or Troy St. Pierre (Pierre) or unknown investors, Ms. Carter assisted in the negotiations and sales of approximately 14 real properties under a scheme that included an executed 1st sales contract between the seller and ABC or Pierre and/or assigns for a sales price that appeared to be a value within the range of a comparative market analysis. Prior to the closing, a 2nd contract was executed between the seller and an investor/buyer for a sales price that was substantially greater than the 1st sales contract. Contemporaneous to the 2nd sales contract, the seller was required to sign a promissory note payable to ABC for the difference in price between the 1st and 2nd sales contracts and this was listed on the HUD closing statement as a debit to the seller for payoff of an unrecorded lien. Thereafter, all of the 14 properties were foreclosed by third party lenders. In 4 of these transactions, Ms. Carter was the buyer or the seller and she engaged in misrepresentation, dishonesty and/or fraud, in violation of §1101.652(a)(3) of the Texas Occupations Code. In 11 of the transactions, Ms. Carter's conduct was at minimum negligent and incompetent, in violation of §1101.652(b)(1) of the Texas Occupations Code and her conduct was dishonest or in bad faith or demonstrated untrustworthy, in violation of §1101.652(b)(2) of the Texas Occupations Code. In addition, Ms. Carter established an association and aided and abetted or conspired with ABC and Pierre, a corporation and person who were not licensed as real estate brokers or salespersons but conducted real estate brokerage assisting in the sale of properties and receiving substantial fees for the services, in violation of §§1101.652(26) & (27) of the Texas Occupations Code.

**Masserrano, John V.
(Austin); License #N/A**

Agreed assessment of an administrative penalty of \$1,000 and order to cease and desist unlicensed real estate brokerage activity, entered July 24, 2009. In 2006, Mr. Masserrano as owner of Masserrano Real Estate and Consulting, LLC acted, engaged in, and represented that he or the company were real estate brokers or salespersons without first holding a license issued by the Texas Real Estate Commission by; (1) intending to assist a client in their lease negotiations for a commercial property in Texas with the expectation of receiving a payment for his services and (2) maintained a web site that offered real estate brokerage services. Mr. Masserrano's conduct described above was a violation of §1101.351(a) of the Texas Occupations Code.

**Cannady, Erica V.
(San Antonio); License #535378**

Agreed reprimand of salesperson license, entered July 24, 2009. Agreed administrative penalty of \$1,000, entered July 24, 2009. The sponsoring broker of Ms. Cannady authorized her to maintain a branch office location with another associate salesperson as long as Ms. Cannady was responsible for the rent and operating expenses. Without authorization, Ms. Cannady proceeded to receive and negotiate compensation for real estate brokerage services as well. Although Ms. Cannady regretted her conduct and maintained it was not done deliberately to circumvent the Real Estate License Act, her conduct is in violation of §1101.651(b) of the Texas Occupations Code.

**Deem, Karol Kristine
(Galveston); License #460708**

Agreed reprimand of broker license, entered July 24, 2009. Agreed administrative penalty of \$500, entered July 24, 2009 acting negligently or incompetently in not promptly communicating with seller, not keeping seller informed of financing issues and close dates, failing to investigate claims of monies due in transaction, not supervising salesperson despite being named intermediary in contract, not staying apprised of salesperson also being purchaser, and not retaining documentation in transaction, in violation of §1101.652(b)(1), Texas Occupations Code.

**Tompkins, Patricia Ann
(Dallas); License #421211**

Assessment of an administrative penalty of \$2,000 and order to cease and desist unlicensed real estate brokerage activity, entered July 16, 2009; after the expiration of her real estate salesperson license, Ms. Thompson continued to execute property management agreements and contracts, and represent that she was a real estate salesperson and property manager, in violation of §§1101.351(a)(1), and 1101.758(a) of the Texas Occupations Code. Furthermore, on or about May 8, 2008, in Cause No. DC-07-10755-I in the 162nd District Court of Dallas County, Texas, Ms. Thompson and her property management company, Pegasus Properties, were found jointly liable for breach of contract, fraud, negligent misrepresentation, breach of fiduciary duty, and liability under the Texas Theft Liability Act

**Villatoro, Christina W.
(Katy); License #517318**

Revocation of salesperson license, effective July 13, 2009. Licensee acted negligently or incompetently in completing contract forms in violation of §1101.652(b)(1) of the Texas Occupations Code. Licensee engaged in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness by failing to enter the correct agreement of the parties in the contract forms, in violation of §1101.652(B)(2) of the Texas Occupations Code. Licensee failed to make clear to all parties to a real estate transaction the party for whom the license holder is acting by making inconsistent disclosures of representation on the contract, in violation of §1101.652(B)(7) of the Texas Occupations Code. Licensee failed to inform a principal in the transaction of significant information about the transaction in violation of 22 TEX. ADMIN. CODE § 535.156(c).

Expanded Telephone Answering Hours!

Beginning October 19, 2009, the TREC Communication Center will answer incoming telephone calls beginning at 7 AM and ending at 6 PM Monday -Friday, adding 10 additional hours to the current schedule of 8 AM to 5 PM daily. We are expanding our service hours to answer more calls each day, and hopefully lessen the wait time of all our callers. Please let us know what you think. Aiming high to serve you better.

To renew your license you must pay a renewal fee.

There are three steps to renew.

- 1. Complete** the required **education** for the license type. **(Total of 210 core hrs. and 60 related or core hours for SAE or 15 hours of MCE)**
- 2. Submit** your **fingerprints** through L-1 if you haven't already done so.
- 3. Pay** the renewal **fee**.

Education and fingerprinting are not required for a timely renewed inactive license if you are subject to MCE.

If you are subject to SAE you are required to complete the education requirement even if you are renewing on an inactive status. Renewals without education for this type of license will be rejected. **Both SAE and fingerprinting should be completed at least 10 days prior to the license expiration date.** Fingerprinting is not required for a timely renewed inactive license if you are subject to SAE.

Late renewal applications require the submission of fingerprints if not previously obtained for TREC.

Blackshear, Val (Houston); License #N/A

Agreed assessment of an administrative penalty of \$1,000 and order to cease and desist unlicensed real estate brokerage activity, entered July 10, 2009; individually engaged in, and represented she was a real estate licensee without first holding a license issued by the Texas Real Estate Commission by conducting real estate brokerage services in leasing real estate transactions wherein she received compensation for real estate brokerage activities, in violation of §1101.351(a) of the Texas Occupations Code.

FirstPlace Realty, Inc. (Austin); License #429612

Agreed reprimand of broker license, entered July 3, 2009; publishing or causing to be published an advertisement that misleads or is likely to deceive the public, tends to create a misleading impression, or fails to identify the person causing the advertisement to be published as a licensed broker or agent, by causing brokerage-related business cards to be left on the front doors of numerous real properties which cards contained a message on the back that appeared to be handwritten and implied that the brokerage firm's agents had a potential buyer in mind for that particular property when they did not, in violation of §1101.652(b)(23) of the Texas Occupations Code.

McConnell, John Paul (Austin); License #202976

Agreed reprimand of broker license, entered July 3, 2009. Agreed administrative penalty of \$1,250, entered July 3, 2009; publishing or causing to be published an advertisement that misleads or is likely to deceive the public, tends to create a misleading impression, or fails to identify the person causing the advertisement to be published as a licensed broker or agent, by causing brokerage-related business cards to be left on the front doors of numerous real properties which cards contained a message on the back that appeared to be handwritten and implied that he or the brokerage firm for which he was the designated officer had a potential buyer in mind for that particular property when they did not, in violation of §1101.652(b)(23) of the Texas Occupations Code.

Grindinger, Marlene (Highland Village); License #206031

Agreed revocation of broker license fully probated for 3 years and 9 months, effective July 15, 2009; payment of \$30,152.28 made by the Texas Real Estate Recovery Trust Account toward satisfaction of a judgment against Marlene Grindinger, as provided by §1101.655(a) of the Texas Occupations Code

Cantu, Gina Delrio (Rosharon); License #551351

Agreed revocation of salesperson license fully probated for 1 year, effective July 2, 2009. Agreed administrative penalty of \$500, entered July 2, 2009; failing within a reasonable time to make good a check issued to the Commission, in violation of §1101.652(a)(4) of the Texas Occupations Code; failing to pay a check processing fee within 15 days after the Commission has mailed a request for payment, in violation of 22 TAC §534.2(a)

Mena, San Juanita (Houston); License #496176

Agreed administrative penalty of \$200, entered June 25, 2009; acting as or representing that the person is a salesperson and accepting valuable consideration for services as a salesperson, in violation of §1101.351(a)(1) of the Texas Occupations Code; and engaging in the business of, acting in the capacity of, or advertising or holding herself out as engaging in or conducting the business of a real estate salesperson within the state without first obtaining a real estate salesperson license, in violation of §1101.758(a) of the Texas Occupations Code.

E.P.S. Realtors, Inc. (Brownsville); License #592437

Agreed administrative penalty of \$500, entered June 18, 2009; acting in the capacity of, engaging in the business of, or advertising or holding itself out as engaging in or conducting business as a real estate broker without first obtaining a license, in violation of §1101.351(a) of the Texas Occupations Code

Lizardi, Ricardo, Jr. (Brownsville); License #333175

Agreed reprimand of broker license, entered June 18, 2009. Agreed administrative penalty of \$500, entered June 18, 2009; acting negligently in failing to notify seller and public of need to complete probate proceeding to convey property, not treating all parties fairly in intermediary relationship, failing to obtain written authorization from buyer for intermediary brokerage, not notifying buyer of seller chosen title co. or all of completion of probate, in violation of §1101.652(b)(1) and §1101.651(d)(3), Texas Occupations Code; and, establishing relationship with person other than license holder when required to be licensed, in violation of §1101.652(b)(26), Texas Occupations Code.

Lone Star Realtors & Mortgage, Inc. (Houston); License #514599

Agreed revocation of broker license fully probated for 3 years, effective June 15, 2009. Agreed administrative penalty of \$500, entered June 15, 2009; acting negligently and incompetently by failing to properly supervise and train licensees under sponsorship, failing to train sponsored salespersons to negotiate termination of the contract in good faith, failing to properly train salespersons regarding the explanation of contract provisions to principals in a transaction, failing to properly train and supervise sponsored salespersons regarding lock box code information to the public, failing to obtain copies of contractual agreements entered into by sponsored salespersons, failing to train salespersons on termination of listing agreements in good faith, failing to insure proper formation and establishment of intermediary relationships, failing to insure salespersons do not maintain separate branch offices, failing to properly train salespersons on brokerage liens, failing to properly train and supervise sponsored salespersons in property management activities, failing to insure sponsored salespersons place client monies in the broker's trust account, failing within a reasonable time to properly account for or remit money that is received by a license holder that belongs to another person, in violation of §§1101.652(b)(1) and (9) of the Texas Occupations Code and are further cause for the assessment of an administrative penalty under Texas Occupations Code §1101.701.

**Joyce, Raymond Daniel
(Galveston); License #475629**

Agreed 60-day suspension of salesperson license, effective June 11, 2009. Beginning July 11, 2009 remaining 30 days fully probated for 1 year. Agreed administrative penalty of \$500, entered June 11, 2009; acting negligently or incompetently, and in bad faith in preparation and communication of offer to client, in violation of §1101.652(b)(1) and (2), Texas Occupations Code; engaging in dishonest conduct in failure to notify client of receipt of counter offer, submitting same as final when not approved, leasing without permission and not making clear whom representing when property was being purchased by license holder, in violation of §§1101.652(a)(3), 1101.652(b)(2), (7), and (19), Texas Occupations Code; making false promises to influence client to enter into agreement to purchase, in violation of §§1101.652(b)(5) and 1101.654(a)(2), Texas Occupations Code; failed to provide on request copies of documents and deposit monies received as license holder for escrow, in violation of §§1101.652(b)(28) and (30), Texas Occupations Code; engaged in misrepresentation when buying in name of license holder in violation of §1101.652(a)(3), Texas Occupations Code; failed to provide IABS form, in violation of §1101.558(d), Texas Occupations Code; and, failed to advise client of opinion of market value when purchasing listing for self, in violation of 22 Texas Administrative Code §535.16(c).

**Vu, Joachim Tien
(Houston); License #444280**

Agreed 1 year suspension of broker license fully probated for 18 months, effective June 15, 2009. Agreed administrative penalty of \$500, entered June 15, 2009; acting negligently and incompetently by failing to properly supervise and train licensees under sponsorship, failing to train sponsored salespersons to negotiate termination of the contract in good faith, failing to properly train salespersons regarding the explanation of contract provisions to principals in a transaction, failing to properly train and supervise sponsored salespersons regarding lock box code information to the public, failing to obtain copies of contractual agreements entered into by sponsored salespersons, failing to train salespersons on termination of listing agreements in good faith, failing to insure proper formation and establishment of intermediary relationships, failing to insure salespersons do not maintain separate branch offices, failing to properly train salespersons on brokerage liens, failing to properly train and supervise sponsored salespersons in property management activities, failing to insure sponsored salespersons place client monies in the broker's trust account, failing within a reasonable time to properly account for or remit money that is received by a license holder that belongs to another person, in violation of §§1101.652(b)(1) and (9) of the Texas Occupations Code and are further cause for the assessment of an administrative penalty under Texas Occupations Code §1101.701.

**Libhart, Robert
(Granbury); License #451752**

Agreed revocation of salesperson license, effective June 15, 2009; entering a plea of guilty or nolo contendere to a felony in which fraud is an essential element, namely forging commission disbursement authorization, thereby authorizing the Texas Real Estate Commission to revoke the license pursuant to §1101.652(a)(1) of the Texas Occupations Code; engaging in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness, in violation of §1101.652(b)(1) of the Texas Occupations Code; withholding from or inserting into a statement of account or invoice a statement that the license holder knows makes the statement inaccurate in a material way, in violation of §1101.652(b)(24) of the Texas Occupations Code.

**Allen, Elizabeth Louise Lindon
(San Antonio); License #566507**

Agreed reprimand of salesperson license, entered June 12, 2009. Agreed administrative penalty of \$500, effective June 12, 2009; acting negligently or incompetently by failing to follow the required procedure to obtain proper authorization to show a property, in violation of §1101.652(b)(1) of the Texas Occupations Code; acting in bad faith or in an untrustworthy manner by showing a property without proper authorization and obtaining a gate access code by failing to be completely truthful with the listing agent's office regarding her authorization to show a property, in violation of §1101.652(b)(2) of Texas Occupations Code

**Rayner, Robert Paul
(Denton); License #324424**

Agreed 30-day suspension of broker license, effective June 1, 2009; failing to forward all offers to his client, in violation of Tex. Admin. Code §535.156(a) and (c); acting negligently in performing his fiduciary duties, in violation of §1101.652(b)(1) of the Texas Occupations Code; pursuing a continued and flagrant course of misrepresentative promotion and advertisement through the use of an unauthorized and unlicensed business name, Tom Fouts REALTORS, Inc., in violation of §1101.652(b)(6) and (23) of the Texas Occupations Code; establishing an association by employment or otherwise with a person or entity other than a license holder if the person or entity is expected or required to act as a license holder, in violation of §1101.652(b)(26) of the Texas Occupations Code.

**McKee, Joni B. Alexander
(Fort Worth); License #279426**

Agreed 3 year suspension of broker license, effective June 1, 2009; beginning December 1, 2009 remaining 2 years and 6 months fully probated for 10 years. Ms. McKee split commissions or paid fees to and associated with JAM & Associates, Inc., a business entity not duly licensed as a real estate broker, in violation of §§1101.652(b)(11), (25), & (27) of Texas Occupations Code; Ms. McKee acted negligently and incompetently in her supervision of a salesperson she sponsored by failing to timely notify the Commission of her salesperson's use of a business name, Affordable Management Services, her salesperson's failure to comply with intermediary requirements, her salesperson's failure to conduct her services competently as a buyer's agent, and use of a bank account to hold the funds of others that was not properly labeled as a trust or escrow account, in violation of §1101.652(b)(1) of the Texas Occupations Code; Ms. McKee failed to timely notify the Commission of her use of a business name, ERA & Associates as required by 22 TAC §535.154(c), in violation of §1101.656 of the Texas Occupations Code; while providing property management services, Ms. McKee acted negligently and incompetently, commingled

money that belonged to another person with her own money, failed within a reasonable time to properly account for or remit money that belonged to another person, and further failed to comply with same requirements for accounting and holding monies that belonged to others pursuant to 22 TAC §§535.146 & 535.159, in violation of §§1101.652(b)(1), (9), & (10) and 1101.656 of the Texas Occupations Code; in a sales transaction, Ms. McKee failed to comply with intermediary requirements pursuant to §1101.559 of the Texas Occupations Code and acted negligently and incompetently when she failed to perform due diligence or make inquiries regarding a city inspection and instead assumed a certificate of occupancy had been issued when in fact it had not, in violation of §§1101.652(b)(1) and 1101.656 of the Texas Occupations Code; and after becoming the subject of a complaint to the Commission, Ms. McKee failed to provide information within a reasonable time, failed to produce on request documents related to the complaint, and failed to maintain for a period of 4 years documentary record of each deposit or withdrawal from a trust account as required by 22 TAC §535.146(b), in violation of §§1101.652(a)(5)&(6) and 1101.656 of the Texas Occupations Code.

360Training.com, Inc.
(Austin); License #238

Agreed administrative penalty of \$2,500, entered June 4, 2009. Provider failed to submit MCE Form 9-7 promptly or immediately, thereby committing two (2) violations of 22 TAC 535.71(d)(7). Provider offered a course without written acknowledgment from the Commission, thereby committing one (1) violation of 22 TAC 535.71(s). Provider did not have a qualified person available to answer students' questions or provide assistance as necessary, thereby committing one (1) violation of 22 TAC 535.71(y)(3). Provider never reported a student's completion of a course to TREC, thereby committing one (1) violation of 22 TAC 535.72(d). Provider failed to submit MCE Form 9-7 promptly or immediately, thereby committing two (2) violations of 22 TAC 535.71(d)(7). Provider offered two courses without written acknowledgment from the Commission, thereby committing two (2) violations of 22 TAC 535.71(s). Provider did not have a qualified person available to answer students' questions or provide assistance as necessary, thereby committing one (1) violation of 22 TAC 535.71(y)(3), all pursuant to §1101.701 of the Texas Occupations Code.

Rodriguez, Wyndee Lynn
(San Antonio); License #430234

Agreed revocation of broker license fully probated for 1 year, effective June 26, 2009. Agreed administrative penalty of \$500, entered June 26, 2009; failing within a reasonable time to make good a check issued to the Commission, in violation of §1101.652(a)(4) of the Texas Occupations Code; failing to pay a check processing fee within 15 days after the Commission has mailed a request for payment, in violation of 22 TAC 534.2(a)

Little, Nancy Karen
(Houston); License #161076

Agreed reprimand of broker license, entered June 18, 2009. Agreed administrative penalty of \$500, entered June 18, 2009; failing within a reasonable time to make good a check issued to the Commission, in violation of §1101.652(a)(4) of the Texas Occupations Code; failing to pay a check processing fee within 15 days after the Commission has mailed a request for payment, in violation of 22 TAC §534.2(a)

Please be reminded that licensees who choose to renew active but do not complete the education or pay the deferral fee within 60 days are no longer referred to the Enforcement Division for disciplinary action. The license will go inactive. Any salespeople sponsored by an inactive broker will also go inactive.

To reactivate the license, the licensee will be required to complete the required MCE, pay the \$200 deferral fee, an additional \$250 late reporting fee and \$20 to reactivate the license by filing a Return to Active Status form for a broker or a salesperson sponsorship form for a salesperson.