



TREC Advisor

The agency exists to safeguard the public interest and protect consumers of real estate services. In accord with state and federal laws the agency oversees real estate brokerage, appraisal, inspection, home warranty and timeshare interest providers. Through education, licensing and regulation, the agency ensures the availability of qualified and ethical service providers, thereby facilitating economic growth and opportunity in Texas.

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Who must take TREC's New Broker Responsibility Course and Where will it be offered?

Effective for licenses on active status that expire after August 31, 2012, a broker who sponsors a salesperson, a designated broker of a business entity, or a license holder who is a delegated supervisor of one or more license holders for six months or more during the current license cycle must attend a six hour broker responsibility course required by §1101.458 of the Act. A broker may also designate any sponsored or affiliated license holder to take the course as a matter of policy for a brokerage.

At the August 13 meeting, the commission will be taking

action on a rule that as proposed will allow a licensee who is required to complete the course to complete it during their next renewal cycle if the license holder has completed all of their MCE requirements prior to July 1, 2012.

As education providers are approved to offer the MCE Broker Responsibility course they will be listed at the following web page:

<http://www.trec.texas.gov/education/>

Broker Responsibility Course Training Update

The Commission adopted rules relating to the Broker Responsibility course and instructor requirements at its February 27, 2012 meeting. The Broker Responsibility course must be offered by a TREC approved MCE provider and taught by an instructor who has attended instructor training and is certified to teach this specific course.

TREC rules require that prior to attending an instructor training course a person must have Core instructor approval with three years of experience in teaching or training AND a college degree in the subject area of Real Estate OR five years of professional experience in the subject areas of Principles of Real Estate, Law of Agency, Law of Contracts and Real Estate Brokerage; or the equivalent of those requirements as determined by the Commission.

On May 7, 2012, the Commission approved the Broker Responsibility Course, and now the Real Estate Center at Texas A&M will begin to offer Broker Responsibility

Training sessions for instructors who want to teach the new course, have met the above requirements, and are eligible to attend the training sessions. If you want to teach the new course and are currently approved as a Core instructor in the above subject areas you may go to the following link for registration instructions: <http://recenter.tamu.edu/register>

If you want to teach the new course and are a Core Instructor but have not been approved to teach the above subject areas, submit a request to education@trec.texas.gov for your file to be reviewed towards meeting these requirements. No fee is required.

If you want to teach the new course and you are not currently an approved Core Instructor, please submit the Instructor Application Form for core and MCE non-elective courses ED INE-02. It can be downloaded from the TREC website under the forms laws and contracts tab under core provider forms.

From the Chair...

The Commission met on May 7th for its regular quarterly meeting in Austin. Staff updated the Commission on ongoing agency improvements in technology matters, introduced some new staff and presented normal Recovery Fund cases and disciplinary matters for approval. Notably, three major items were considered and acted upon by the Commission at this meeting.

First, we approved the curriculum for the new Broker Responsibility MCE course that goes into effect on September 1, 2012. Many volunteers, working with the Real Estate Center at Texas A&M University spent months drafting and refining these materials to provide a meaningful review of those important areas of the laws and rules which are key to effective operation of a real estate brokerage and provide all of the protections that consumers are entitled to. Instructor training has already begun and the course will be available later this summer to be taken by brokers who sponsor agents or are designated brokers for a licensed business entity, and the broker's delegated supervisors who are responsible for day-to-day oversight of the brokerage activities of other agents.

Next, one of the most important items the Commission considered was the 5 Year Strategic Plan that resulted from input from license holders and the public at the Strategic Planning Listening Tour in March. The plan outlines a long range vision to continually improve the regulatory side of the real estate industry. It contains issues regarding licensing process simplification,

education enhancement and technology improvements. The plan will be available on the agency website this month. I encourage you to read it to better understand where we are and where we are going.

Finally, the Commission took action on another issue which stems from our status as a self-directed, semi-independent agency. The agency proposed changes to some fees, including those fees paid by education providers to have courses approved by the agency. At this time, there are no fees for core education courses, which require substantial time to review, and MCE courses each pay the same fee, regardless of length. Together, current fees collected do not cover even half of the cost of maintaining the education department. The proposed fees will be scaled to the course length and better approximate the amount of work needed to review them. The proposed rules are open for comment and we welcome your input.

Our next regularly scheduled meeting is on August 13 at 10 am. Feel free to stop by and meet the Commissioners and staff. We'd love to see and hear from you.



Avis Wukasch, Chair

TREC Processing Applications in 10 days or less!

The Texas Real Estate Commission and Appraiser Board are happy to announce we are processing new license applications, renewals and sponsorship in less than 10 business days. This is a great improvement thanks to staff's hard work.

If you have submitted an application to the agency and have not heard from us within 10 business days of our receipt of your application,

you can contact the agency via our reception and communications staff by email at information@trec.texas.gov. Staff is responding to emails in less than 48 hours!

As always, we encourage all license holders to renew their license early and follow carefully all the directions on the application. For details on how to renew your license please go to our website www.trec.texas.gov.

BEWARE OF THIS BUSINESS MODEL & HOW IT MAY AFFECT YOUR LICENSE

THE BUSINESS MODEL

A Company offers a variety of services to sellers that include listing packages A, B or C. If listing package C is chosen, the seller is obligated to pay an upfront fee to the Company directly and the Company refers the seller to a Texas broker to list the property in the local MLS and/or Realtor.com. A listing agreement is executed between the seller and Texas broker and the broker's fee is paid upfront by the Company. In essence, the Company has sent a prospective seller or "lead" to the Texas broker and the Company has collected a fee for this service from the seller. In Texas, the Company is conducting real estate brokerage services as it is offering listing packages to sellers for the sale of real property and being paid for the service. The Company is also assisting the Texas broker by sending prospective leads

THE QUESTION TO ASK

The question a Texas broker should ask, "Is the Company a real estate licensee in Texas or another state?" If the answer is "No," the Company is considered to be conducting *unlicensed* real estate brokerage in Texas. The Texas Real Estate Commission may issue the Company an order to cease and desist its

unlicensed activity and impose administrative penalties. The unlicensed activity of the Company may be referred to law enforcement for criminal proceedings. The fact that the Company's services are offered through a web site not maintained in Texas is not material. In Texas, a license is required for a person or business to solicit listings.

HOW YOUR LICENSE IS AFFECTED

A Texas broker is prohibited by the Texas Real Estate License Act from establishing this type of business association with the Company if the Company is not a license holder in Texas or another state. The Texas Real Estate Commission may take disciplinary action against its license holders for such an association.

WHAT CAN YOU DO?

Texas brokers may provide listing services to sellers who are referred by an unlicensed person or business, however, the unlicensed person or business cannot be paid directly or indirectly for the listing service and the Texas broker cannot pay for the referred business. A Texas broker may share a commission with a foreign licensee so long as the foreign licensee does not engage in activities requiring a license in Texas.

New Pre-Licensing Education Requirements for a Real Estate Salesperson's License

Effective September 1, 2012, pre-license education requirements for a salesperson license will change from the initial 210 hours, 60 hours of which may be in related courses, to an initial 180 hours all in specific core real estate courses. An applicant must complete the following courses before applying for a license.

Real Estate Principles – 60 hrs

Law of Agency – 30 hrs

Law of Contracts – 30 hrs

Promulgated Contract Forms – 30 hrs

Real Estate Finance – 30 hrs

As of September 1, 2012, related course credit will no longer be accepted to meet the education requirements for a salesperson's license, though these will still count when applying for a broker's license at that point in a salesperson's career.

The initial salesperson license will issue for a period of two years. For the first renewal, the salesperson must have completed 90 hours of additional core real estate course credits. For each renewal period thereafter, the salesperson will be subject to the Mandatory Continuing Education (MCE) requirements to renew a license.

Adopted Rules May 7, 2012 Meeting of the Commission

ADOPTED RULES

the Act. *effective date: 06/03/2012*

Subchapter E. Requirements for Licensure

22 TAC §535.53. Business Entities.

Adopted without changes to the proposed text as published in the March 16, 2012, issue of the *Texas Register* (37 TexReg 1894) .

The adopted amendments clarify that a business entity obtaining or renewing a license or an entity changing its designated broker needs to provide proof that the new designated broker directly owns at least 10% of the business entity obtaining or renewing the license and that the new designated broker is an officer, manager, or general partner of the entity. If the new designated broker does not directly own at least 10% of the business entity, it needs to show proof that the entity maintains the appropriate errors and omissions insurance as required by the Act. . *effective date: 06/03/2012*

Subchapter L. Termination of Salesperson's Association with Sponsoring Broker

22 TAC §535.121. Inactive License.

Adopted without changes to the proposed text as published in the March 16, 2012, issue of the *Texas Register* (37TexReg 1894).

The amendments implement the relevant provisions of Senate Bill (SB) 747, 82nd Texas Legislature, Regular Session (2011). In relevant part, SB 747 amends Texas Occupations Code, Chapter 1101 to require licensure as a broker for any business entity as defined in Section 1.002 of the Business Organizations Code. The amendments to §535.121 clarify that the section applies to all business entities as defined under

Subchapter R. Real Estate Inspectors

22 TAC §535.211. Professional Liability Insurance or Any Other Insurance that Provides Coverage for Violations of Subchapter G of Texas Occupations Code, Chapter 1102.

Adopted without changes to the proposed text as published in the March 16, 2012, issue of the *Texas Register* (37 TexReg 1895)..

The amendments delete the reference to a form number in the section, provide that the form to be used is approved by the commission, and authorize the commission to determine whether other documentation is acceptable as proof of insurance. *effective date: 06/03/2012*

22 TAC §535.226 Sponsorship of Apprentice Inspectors and Real Estate Inspectors

Adopted without changes to the proposed text as published in the March 16, 2012, issue of the *Texas Register* (37 TexReg 1895).

The amendment allows a professional inspector to delegate the sponsorship of an apprentice or real estate inspector to another professional inspector who is qualified to sponsor, provided that the sponsoring professional inspector remains responsible for the conduct of the sponsored inspector. The amendment also corrects a typo in the title of the section. *effective date: 06/03/2012*

Chapter 537, Professional Agreements and Standard Contracts

§537.43. Standard Contract Form TREC No. 36□7.
Adopted without changes to the text and with

changes to the form adopted by reference as proposed in the March 16, 2012, issue of the *Texas Register* (37 TexReg 1896).

The amendment to §537.43 adopts by reference Standard Contract Form TREC No. 36-7. The differences between the form as proposed and as adopted are as follows: A space was added to include the telephone number of the Property Owner's Association on the line naming the association; paragraph A is reformatted for clarity; in paragraph E, the word "obtaining" is inserted between "of" and "the" in the last sentence and change "at closing" to "prior to the Title Company ordering the information" so that the last clause reads "cost of obtaining the information prior to the Title Company ordering the information."

The changes to the form as proposed include the following: Paragraph A.1 is revised, new paragraph A.2 acknowledges recent statutory

revisions which permit a buyer to obtain a resale certificate directly from a property owner's association, and paragraph A.3 (currently A.2) is unchanged. Paragraph C is revised to replace "resulting from" to "associated with" to track recent statutory changes to Chapter 207, Property Code. New paragraph E provides that the seller authorizes the association to release information such as the status of dues, special assessments, violations of covenants and restrictions, and a waiver of any right of first refusal if requested by the buyer, the title company, or any broker to the sale.

Amendments to the form change the main telephone number and website address for TREC located in the box at the bottom of the forms. effective date: 07/01/2012

Rule Actions from the May 7, 2012 Meeting of the Commission that can be adopted at the August 13, 2012 meeting

PROPOSED RULES

Chapter 534, General Administration

§534.2 Processing Fees for Dishonored Payments

The amendment removes the reference to the processed check fee because the fee will be reflected in amendments to §535.101.

Subchapter I. Licenses

22 TAC §535.91 Renewal Notices

The amendments are proposed to implement the relevant provisions of Senate Bill (SB) 747, 82nd Texas Legislature, Regular Session (2011). In part, SB 747 amends Texas Occupations Code,

§1101.458 to require that certain licensees take a six-hour broker responsibility course to renew a license. The amendments to §535.91 clarify that a broker who has delegated licensees supervisory authority under §535.2 must notify the commission, within 30 days of delegation or termination of delegation, the name or names of such licensees and provide that licensees who are required to take the broker responsibility course and have already completed their MCE requirements prior to July 1, 2012 may, but are not required to take, the broker responsibility course for the first renewal of their license after September 1, 2012.

22 TAC §535.92 . Renewal: Time for Filing;

Satisfaction of Mandatory Continuing Education Requirements.

The amendment removes the reference to the MCE deferral fee and late reporting fee because the fees will be reflected in amendments to §535.101, concerning Fees.

22 TAC §535.95. Miscellaneous Provisions Concerning License or Registration Applications or Renewals, Including Fingerprinting Requirements.

The amendments are proposed to implement the relevant provisions of Senate Bill (SB) 1733, 82nd Texas Legislature, Regular Session (2011). The effective date of SB 1733 is June 17, 2011.

Senate Bill 1733 amends Texas Occupations Code to add §55.004 which allows for alternate demonstrations of competency to meet license requirements, establishes a period during which an otherwise qualified person may seek employment or practice with an expired license, and authorizes the TREC administrator to issue licenses by endorsement.

The bill authorizes a state agency to adopt rules to allow alternative demonstrations of competency to meet the requirements for obtaining the license under the new section. New subsection (f) establishes the criteria to be used to demonstrate competency under the new section.

Subchapter J. Fees

22 TAC §535.101. Fees.

The amendments would increase from \$20 to \$50

the fee for filing a request for, or renewal of, a branch office license; increase from \$20 to \$50 the fee to request an inactive license be returned to active status; increase from \$20 to \$40 the fee for preparing a license history; increase from \$25 to \$50 the fee for the filing of a moral character determination; add a fee of \$50 plus \$20 per classroom hour for each core education course for a period of four years; add a fee of \$50 plus \$10 per classroom hour for each MCE course for a period of two years; increase from \$25 to \$150 the fee for the filing of an application for approval as an instructor for a two-year period for real estate core or MCE courses, or both; clarify the fee charged by the Federal Bureau of Investigation and Texas Department of Public Safety for fingerprinting or background check in connection with a license application or renewal; clarify the fee required by the Department of Information Resources as a subscription or convenience fee for use of an online payment system; and increase from \$25 to \$30 the fee for processing a returned check.

Subchapter R. Real Estate Inspectors

22 TAC §535.209. Examinations.

The amendments adopt the National Home Inspector Examination developed by the Examining Board of Professional Home Inspectors for the national section of the examination, including the cut score established by the Examining Board, and require that home inspector applicants must achieve a set passing score for the state section of the home inspector examinations to pass the examination. waive the requirements to take the national section of the examination of an applicant for a real estate or professional inspector license if the applicant maintains an active license in another state and has passed the national home inspector examination.

Important Dates to Remember

TREC Commission Meeting—Aug 13

**For a complete history of all enforcement actions please go to our website
www.trec.texas.gov and click on the complaints and consumer info tab.**

April 2012

Case#: 100625

YOUNG, HEATH ALLEN
(license # 476068) Real Estate Broker / Salesperson-I
LUBBOCK(LUBBOCK) Effective Date: 4/4/2012

Violation(s)
1101.652(b)(01)
1101.652(b)(09)

Agreed revocation of broker license

Consumer Complaint
Respondent used security deposits collected from tenants to pay for repairs to the property he managed, did not make timely payments for the insurance policy on the properties he managed causing the policy to lapse, and failed to return security deposits to the property owner upon termination of the property management agreement.

Case#: 101610

BRYANT, SANDRA LAWRENCE
(license # 261557) Real Estate Broker / Salesperson-I
MCKINNEY(COLLIN) Effective Date: 4/18/2012

Violation(s)
1101.652(b)(01)

Agreed reprimand of broker license

Consumer Complaint
Before her client, the seller, signed the contract of sale, Respondent incorrectly advised him that the contract of sale permitted him to keep his mineral interests in the parcels he was selling, Respondent later entered into an agreement to refund to her client the entire listing commission received from the transaction.

Case#: 101502

HICKS, KENT WESTON
(license # 151960) Real Estate Broker / Salesperson-I
SAN ANTONIO(BEXAR) Effective Date: 4/23/2012

Violation(s)
1101.652(b)(02)
1101.652(b)(05)
1101.652(b)(06)
1101.652(b)(23)

Agreed 2 year suspension of broker license fully probated for 2 years; Agreed administrative penalty of

\$5,000.00

Consumer Complaint

Respondent continued to advertise and issue certificates for a rebate program although he was in breach with the agreement with the company responsible for paying the rebate causing buyers that qualified for the program to be ineligible to receive the rebate.

Case#: **101069**

CHIESA, JEANETTE

(license # 595817) Real Estate Broker / Salesperson-I

AUSTIN(TRAVIS) Effective Date: 4/2/2012

Violation(s)
1101.652(a)(03)

Agreed reprimand of salesperson license. Completion of a thirty (30) hour agency law course due on or before May 31, 2012.

Consumer Complaint

Respondent engaged in misrepresentation when selling her own real property by removing a hot tub from the property before closing although it had been advertised as a feature of the property.

Case#: **120774**

GONZALEZ, ALBERTO III

(license # 459211) Real Estate Broker / Salesperson-I

WEBSTER(HARRIS) Effective Date: 4/23/2012

Violation(s)
1101.652(a)(04)
22 TAC 534.2(a)

Reprimand of broker license and suspension of broker license until payment in full of the \$589.00 fees and \$500.00 administrative penalty; Assessment of an administrative penalty of \$500.00

Administrative Complaint

Respondent failed, within a reasonable time, to make good a check issued to the Commission after the Commission mailed request for payment. Respondent failed to pay a check processing fee within 15 days after the Commission had mailed a request for payment.

Case#: **120589**

DELAGARZA, JAMES PATRICK JR

(license # 421515) Real Estate Broker / Salesperson-I

ALLEN(COLLIN) Effective Date: 4/9/2012

Violation(s)
1101.652(a)(01)

Agreed 6 year suspension of broker license fully probated for 6 years

Administrative Complaint

Respondent pled guilty to a felony offense.

Case#: **110805**
CATLETT, LISA ANN
(license # 587409) Real Estate Broker / Salesperson-I
HOUSTON(HARRIS) Effective Date: 4/1/2012

Violation(s)
1101.652(a)(01)
1101.652(a)(09)

Agreed 1 year suspension of salesperson license fully probated for 1 year; Agreed administrative penalty of \$1,000.00

Administrative Complaint
Respondent pled guilty to a felony offense. Respondent failed to notify the Commission within 30 days after entry of the plea.

Case#: **120441**
GORDON, NATHANIEL III
(license # 568206) Real Estate Broker / Salesperson-I
SPRING(HARRIS) Effective Date: 4/4/2012

Violation(s)
1101.652(a)(06)

Reprimand of salesperson license and suspension of salesperson license until receipt of the requested information and payment of the administrative penalty; Assessment of an administrative penalty of \$1,500.00

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.

Case#: **120543**
DEAIS, SARAH FAE
(license # 576613) Real Estate Broker / Salesperson-I
SAN ANTONIO(BEXAR) Effective Date: 4/4/2012

Violation(s)
1101.652(a)(01)
1101.652(a)(09)

4 year suspension of salesperson license; Assessment of an administrative penalty of \$1,500.00

Administrative Complaint
Respondent pled guilty to a felony offense. Respondent failed to notify the Commission within 30 days after entry of the plea.

Case#: **120415**

ZHU, JUSTIN (license # 571317) Real Estate Broker / Salesperson-I
SAN ANTONIO(BEXAR) Effective Date: 4/4/2012

Violation(s)
1101.652(a)(06)

Reprimand of salesperson license and suspension of salesperson license until receipt of the requested information and payment of the administrative penalty; Assessment of an administrative penalty of \$1,500.00

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.

Case#: **121078**

POPE, ABBEY RUTH

(license # 619226) Real Estate Broker / Salesperson-I
AMARILLO(RANDALL) Effective Date: 4/2/2012

Agreed 1 year probationary salesperson license issued

Applications

Commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1. Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. Code §541.1(c) and demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Tex. Occ. Code §1101.354(2).

March 2012

Case#: **101345**

KELLER WILLIS SAN ANTONIO INC

(license # 547594) Real Estate Company-O
SAN ANTONIO(BEXAR) Effective Date: 3/8/2012

Violation(s)
1101.652(b)(01)

Agreed reprimand of broker license; Agreed administrative penalty of \$1,000.00

Consumer Complaint

Respondent acted negligently or incompetently by failing to supervise the actions of a sponsored licensed salesperson handling a condominium transaction.

Case#: **101809**

MARTIN, LINDA G

(license # 454119) Real Estate Broker / Salesperson-I
RANGER(EASTLAND) Effective Date: 3/22/2012

Violation(s)
1101.652(a)(03)

Revocation of salesperson license; Assessment of an administrative penalty of \$5,000.00

Consumer Complaint

Respondent engaged in misrepresentation, dishonesty, or fraud when selling real property in the name of the license holder by executing a Warranty Deed for property that Respondent did not hold record title.

Case#: **101567**

BROWN, JAMES L SR

(license # 256272) Real Estate Broker / Salesperson-I

FORT WORTH(TARRANT) Effective Date: 3/22/2012

Violation(s)
1101.559(a)
1101.652(b)(01)
22 TAC 537.11(l)
22 TAC 537.11(m)

Agreed 1 year suspension of broker license or until completion of ordered courses, whichever occurs later; Completion of a thirty (30) hour agency law course and a thirty (30) hour contracts course due on or before March 22, 2013

Consumer Complaint

Respondent, for monetary gain drafting a note, deed and deed of trust, not being forms promulgated by the commission in a transaction; giving advice regarding the legal sufficiency of instruments utilized; failing to properly establish an intermediary relationship then giving advice during negotiations as well as failing to remain impartial; and acting negligently in document preparation, keeping the parties informed and insuring documents were filed at the county.

Case#: **101926**

WILBURN, BILL

(license # 589726) Real Estate Broker / Salesperson-I

SAN ANTONIO(BEXAR) Effective Date: 3/23/2012

Violation(s)
1101.652(b)(05)
1101.652(b)(23)

Reprimand of salesperson license; Assessment of an administrative penalty of \$4,800.00

Consumer Complaint

On Craigslist, Respondent advertised rental properties in a deceptive or misleading fashion and failed to identify himself as an agent. On Craigslist, Respondent advertised rental properties' prices and rebates that were no longer valid.

Case#: **101794**

CHARLES, GEORGE ATILLA

(license # 597183) Real Estate Broker / Salesperson-I

SAN ANTONIO(BEXAR) Effective Date: 3/23/2012

Violation(s)
1101.652(b)(01)
1101.652(b)(02)
1101.652(b)(05)
22 TAC 537.11(b)
22 TAC 537.11(f)

Revocation of salesperson license; Assessment of an administrative penalty of \$5,000.00

Consumer Complaint

Respondent wrote an all cash offer on behalf of the buyer but failed to include an option period so the buyer could cancel if the buyer wanted to. Respondent represented to the buyer that the buyer had the right to terminate the contract and the contract could be terminated when such was not the case. Respondent urged the buyer to cancel the contract for an invalid reason. Although the contract form indicated that compensation issues were to be dealt with in another document, Respondent wrote seller-broker compensation terms into paragraph 11 of the contract.

Case#: **110923**

COOK, RICHARD HUNTER

(license # 459227) Real Estate Broker / Salesperson-I

NACOGDOCHES(NACOGDOCHES) Effective Date: 3/7/2012

Violation(s)
1101.652(b)(02)
1101.652(b)(09)
1101.652(b)(10)

Revocation of broker license; Assessment of an administrative penalty of \$3,000.00

Consumer Complaint

Respondent engaged in conduct that was dishonest or in bad faith or that demonstrated untrustworthiness while acting as a broker or salesperson. Respondent failed within a reasonable time to properly account for or remit money that he received for his client/owner. Respondent failed to account for and return monies to client/owner that were deducted from the income checks for the payment of homeowner association dues that were not paid by Respondent. Respondent failed to remit the income generated from the collection of rent to his client/owner. Respondent commingled money that belonged to his client/owner with his own money.

Case#: **120326**

GARDNER, JEFFREY WAYNE

(license # 6564) Inspector-I

ADDISON(DALLAS) Effective Date:

Violation(s)
1102.101
1102.102
1102.103

Ordered to cease and desist all unlicensed real estate inspection activities in Texas; Assessment of an administrative penalty of \$10,000.00

Consumer Complaint

Respondent's real estate inspector license expired in February 2006. In May 2009 and October 2011, Respondent, without being duly licensed as an apprentice inspector, a real estate inspector, or a professional inspector, conducted real estate inspections on properties for two separate clients. Respondent prepared and completed Texas Real Estate Commission promulgated inspection reports for the inspection of the properties in May 2009 and October 2011 and provided the inspection reports to the clients in exchange for a fee.

Case#: **120735**

JONES, WILLIAM PERRY

(license # 397738) Real Estate Broker / Salesperson-I

DALLAS(DALLAS) Effective Date: 3/7/2012

Violation(s)
1101.655

Revocation of broker license

Administrative Complaint

Respondent failed to repay the Commission a payment of \$15,986.89 made from the Real Estate Recovery Trust Account.

Case#: **120735**

J & B COMMERCIAL LLC

(license # 568245) Real Estate Company-O

DALLAS(DALLAS) Effective Date: 3/7/2012

Violation(s)
1101.655

Revocation of broker license

Administrative Complaint

Respondent failed to repay the Commission a payment of \$15,986.89 made from the Real Estate Recovery Trust Account.

Case#: **120442**

LITTLE, ALTON STUART

(license # 600645) Real Estate Broker / Salesperson-I

AUSTIN(TRAVIS) Effective Date: 3/15/2012

Violation(s)
1101.652(a)(01)

Agreed 5 year suspension of salesperson license fully probated for 5 years

Administrative Complaint

Respondent pled guilty to a felony offence.

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: New AQB Requirements (Page 1) From the Chairman (Page 2) Explaining the TALCB Complaint Process (Page 3) TALCB Rule Actions (Page 4) TALCB Enforcement Matters (Page 7)

Reminder: Deadlines Looming Under the New AQB Requirements

The Appraiser Qualifications Board has adopted changes to the *Real Property Appraiser Qualification Criteria* that will take effect January 1, 2015. Under the new criteria:

- education and experience will have to be completed prior to taking the *National Uniform Licensing and Certification Examinations*
- applicants for the Certified Residential and Certified General classifications will have to possess a Bachelor's degree or higher from an accredited college or university
- applicants for the Licensed Residential classification will have to have successfully completed 30 semester hours of college-level education from an accredited college, junior college, community college, or university, or have an Associate's degree or higher from an accredited college, junior college, community college, or university
- all candidates will be required to undergo a background check

- revisions to the Trainee Appraiser classification that will include a requirement to take a course oriented to the requirements and responsibilities of Trainee Appraisers and supervisory Appraisers
- new Supervisory Appraiser requirements

While these changes do not take effect until 2015, it is important to be aware of the more **immediate** implications of these changes. Because the requirements for a residential certification include 24 months of experience and the requirements for a general certification include 30 months of experience, a person who may later wish to upgrade to a residential certification under the current requirements must **obtain a license** (not merely submit an application) no later than December 31, 2014, and a person who may later wish to upgrade to a general certification under the current requirements must **obtain a license no later than June 30, 2012**.

Important Dates to Remember

TALCB Board Meeting—August 17

As the process of auditing applications and processing experience can take several weeks or longer, the Board advises appraisers to be mindful of these deadlines and to take appropriate action as soon as possible. For more information about these changes, please refer to the Appraisal Foundation's website, www.appraisalfoundation.org.

The Board met on May 18th and it was a very busy meeting. Commissioner Douglas Oldmixon reported on the events since the last quarterly meeting, gave us a detailed update on registrations by AMCs (Appraisal Management Company) and introduced the members of the ASC (Appraisal Subcommittee) review team who were completing their 3 day audit visit of the Board's operations. We also received an initial report from the Finance/Budget Committee on the proposed FY13 Budget and an interim report from the Uniform & Equal Studies Working Group. Three major issues were considered in depth.

First, the Board considered the 5 year Strategic Plan draft that resulted from an intensive survey of license holders and the public during March on issues of concern that have long-range implications for the Board. After significant discussion, several recommended items were added to the plan and the draft as amended was approved. The Plan will be available on the agency's website this month and I hope you take the chance to read it. It contains some important initiatives in the area of technology, enforcement policy and refinement of AMC rules as federal rules and market developments come more realistically into play. The role and regulation of AMCs is an important area for very close monitoring.

Next, the Board did a very thorough job of reviewing the unusually large number of disciplinary matters on the agenda. Through these discussions, it became evident that a more detailed explanation and review of existing enforcement policies would be very helpful to Board members and to staff to more

expeditiously carry out their responsibilities. Working closely with the Enforcement Committee, staff was directed to begin this review process, and the committee will report and offer recommendations at

the next meeting. Both the committee members and the staff bring extensive experience and welcome ideas to the goal of improving this process.

Lastly, the ASC, the Board's federal oversight agency, delivered its preliminary report based on the review the team had just completed. Neal Fenchietti, team leader, began with sincere gratitude and praise for the cooperation and work ethic of the Board's staff. In all areas save one, the Board was found to be in compliance or in substantial compliance. The one area that still needs work is reducing the total time to resolution on complaint cases to under one year, in conformance with ASC standards. However, in all areas, the ASC noted improvements over shortcomings from the prior report of 2010.

So, all things considered, the Board and its staff did very well in carrying out our mission of consumer protection and effective industry regulation. We appreciate the industry's support for what we do and promise to continue to find ways to be more efficient and more effective.



Luis De La Garza, Jr.

Complaint Process**I. OVERVIEW**

It's difficult enough when someone receives a complaint against their professional license. Pile on top of that stress the unique processes and terminology that come with the legal process for complaint matters, and it can feel overwhelming. This article is intended to give readers a brief overview of the complaint process and a better understanding of how the Texas Appraiser Licensing and Certification Board and its staff ensure the public is protected and appraisers are producing quality work product that complies with minimum standards set out in the Uniform Standards of Professional Appraisal Practice ("USPAP") and state law. This process is overseen by senior management, the 9-member Board, and the Appraisal Subcommittee ("ASC"), which is the federal agency which ensures state appraiser regulatory boards are meeting their regulatory obligations under federal law.

To keep things simple, think of the complaint process in two stages with three potential outcomes. The first step, is the complaint investigation stage. The second step is the complaint resolution stage. At the end of this two-part process, one of three outcomes is possible: (1) a complaint could be dismissed; (2) a complaint could be resolved by some sort of agreed discipline; or, (3) a complaint could go through the hearing process when an agreement cannot be reached.

II. THE COMPLAINT INVESTIGATION STAGE

When a complaint is received, the appraiser is sent a letter notifying them of the complaint and asking them to provide their report and work file, along with a written response, and answer a questionnaire form. This response from the appraiser gives the Board's staff the basic information necessary to evaluate the complaint. Early on in this process the investigator will triage the case based on a rating system that corresponds to the investigator's initial assessment of the likely severity of the complaint (i.e. no violations or serious violations).

Most complaint matters are handled by staff members who work full time at the Board. Certain cases may be referred to a Peer Investigative Committee ("PIC"), charged by the Board to review complaints. These committees are comprised of volunteer reviewers who coordinate with the Board's staff to assist them in handling case overload. Each PIC panel is chaired by an appraiser member of the Board and the PIC members are all AQB certified USPAP instructors who bring a wealth of experience and variety of backgrounds to bear on the particular assignments they choose to assist on.

The staff investigators who work at the Board are all state certified appraisers with varying backgrounds in residential or commercial appraisal work including, FHA and VA experience, condemnation, refinances and relocation appraisal work. Investigators generally cover certain geographic areas in which they have developed experience and familiarity. This is complemented by an array of online data sources such as local MLS or commercial database services, public deed records search engines (Courthouse Direct etc.), county tax records, various cost publication sources such as Marshall and Swift, and communications with local real estate agents, appraisers and builders. A case manager (who is also an appraiser and investigator) coordinates case assignments. Regular, weekly meetings ensure consistency, thoroughness and regularized processing of investigations.

Think of the investigator's process in three steps. First, the investigator will read. Read the complaint, read the response made by the appraiser, and read the appraisal report at issue. Second, the investigator will review. Review the complaint, review the appraiser's response, and review the

report. Finally, the investigator will research. Research the facts by talking to witnesses or obtaining documents, research the data available to the appraiser at the time, and research any harm stemming from the appraisal. During the investigation process the investigator will write some form of an investigative report, depending on the nature of the complaint matter being investigated.

Once the investigator has completed their investigation, they converse with the attorney assigned to the case to determine the appropriate resolution of the complaint. This is based in large part on a penalty matrix that the Board has adopted by rule. The Board's penalty matrix accounts for the nature and extent of any violations uncovered and whether the appraiser has previously been disciplined.

III. THE COMPLAINT RESOLUTION STAGE

Dismissals

The complaint resolution stage has three potential outcomes. A complaint investigation that reveals violations or minor ones will be dismissed. Cases in which there are minor violations may receive a non-disciplinary warning letter pointing out issues that should be corrected.

More serious cases which may warrant more than a mere dismissal or warning letter might get resolved by means of a contingent dismissal agreement. Under a contingent dismissal agreement, the Board's staff agrees to refrain from pursuing what might otherwise be legitimate violations if the appraiser agrees to take certain actions within a specified timeframe. This typically involves the appraiser agreeing to take certain classes or participate in one-on-one mentoring with an AQB ("Appraiser Qualifications Board") certified USPAP instructor within a specific timeframe. Through this informal resolution option, if the agreed upon actions are completed within the timeframe, the

complaint is dismissed without the appraiser having disciplinary action on their record.

Agreed Resolutions

Agreed resolutions are a means of resolving a complaint matter that has violations which warrant some form of disciplinary action. The range of the discipline imposed depends on the nature and extents of the violations revealed from the investigation, and would be based upon the Board's penalty matrix.

Frequently referred to as "Agreed Final Orders" ("AFO's"), these written documents will recite the factual findings stemming from the investigation and specific violations of applicable USPAP, Board rules or statutory provisions. The AFO will also outline the legal conclusions reached based on the investigative findings. The AFO will clearly identify the specific disciplinary sanctions the appraiser has agreed to complete. A synopsis of the agreed final order is published on the "disciplinary actions" section of the Board's website and must be reported to the ASC, which maintains the National Registry. Sanctions range from a public reprimand, to administrative penalties, remedial education, mandatory mentorship, sitting for the licensure or certification examination again, and a period of suspension or revocation of the license or certification. In some cases where the conduct uncovered is so serious that it warrants revocation of the appraiser's credential, the appraiser may be given the option to voluntarily surrender their license in lieu of an AFO which makes specific factual findings about the validity of the complaint.

This process of reaching a negotiated agreement often takes place during or shortly after an "informal conference" is held between the appraiser, and the Board's staff. At this meeting, the Board's staff inquires about different aspects of the appraisal, and tries to get a better understanding of the

appraiser's methods and techniques used when the appraisal work at issue was being conducted.

Some appraisers choose to attend these meetings on their own, while others choose to hire an attorney to attend with them.

The Hearing Process: Resolving Disputed Complaint Matters

When a complaint warrants disciplinary sanctions, and the Board's staff and the appraiser cannot reach an agreement on either the violations or the appropriate sanction, the case will be taken to the State Office of Administrative Hearings ("SOAH") for a hearing before an administrative judge. The "contested case hearing" process is nearly identical to what may come to mind when you think of a trial. The Board's staff prepares disciplinary charges which outline the violations alleged to have been committed and the type of disciplinary sanctions being sought. Those charges are filed with SOAH and served on the appraiser. Some appraisers choose to represent themselves at SOAH, while others choose to hire an attorney. The entire contested case hearing process is governed by procedural rules, evidentiary rules and substantive rules of law.

SOAH assigns an administrative law judge ("ALJ"), who is a lawyer to serve as both the fact finder and judge. The ALJ makes ultimate factual findings and legal conclusions, and also rules on any legal issues that are in dispute. During the contested case hearing process, a hearing date is selected, and the parties will often exchange documentary evidence or hold depositions prior to the hearing.

The hearing, which occurs in Austin, may only take a few hours for smaller matters, or may take several days if the matter is more significant. Both sides have the opportunity to present their case to the ALJ by calling witnesses to testify under oath, and to introduce documentary evidence and

photographs. At the end of the hearing, the ALJ then has 60 days to make a written decision ("proposal for decision"), which is submitted to the Board for final approval. The judge's proposal for decision will outline the facts of the case, and make findings about whether any violations occurred, and if so, what the appropriate disciplinary action should be for those violations. Prior to the Board taking action on the SOAH judge's proposal for decision, the parties have the opportunity to point out any errors to the ALJ by filing "exceptions" or replies with SOAH.

At a scheduled Board meeting the Board will decide whether to accept, reject or modify the SOAH ALJ's proposal for decision, including the appropriate disciplinary sanction. The Board does this by entering a "final order" and notifying the appraiser of their action. Prior to doing so, the Board listens to oral argument made by the Board's staff, the appraiser (or the appraiser's lawyer) about the propriety of the SOAH proposal for decision.

After going through the entire disciplinary process, if an appraiser is not happy with the outcome, they may pursue further appeals by properly filing a motion for rehearing and explain to the Board why they believe the Board's final order was wrong. If the Board does not change its decision or the appraiser is still unhappy, the appraiser then has 30 days to file a lawsuit in Travis County District Court to complain to a District Court judge about the final order issued by the Board.

ADOPTED RULES

22 TAC §153.9, Applications : Amendments were adopted on an emergency basis to establish the criteria to be used by spouses of active duty military to demonstrate alternative competency to obtain a license or certificate and allow the Commissioner to issue such licenses by endorsement , in accordance with Tex. Occ. Code §55.004, effective June, 17, 2011.

22 TAC §153.5, Fees : Amendments were adopted to delete a reference to payment of fees with currency, as the agency can no longer accept cash, and delete provisions regarding National Registry fees that are duplicative of Section 1103.156, Texas Occupations Code.

22 TAC §159.161, Appraiser Panel : In order to prevent AMC's from circumventing regulatory, fee and consumer protection provisions of the Act, an amendment was adopted to clarify that an appraisal management company (AMC) may not make an assignment to an appraiser who is not on the AMC's appraiser panel, unless the appraiser is an employee of the AMC.

PROPOSED RULES

Proposed rules will be up for adoption at the August 17, 2012 meeting of the Board

22 TAC §153.9, Applications : Amendments were proposed to establish the criteria to be used by spouses of active duty military to demonstrate alternative competency to obtain a license or certificate and allow the Commissioner to issue such licenses by endorsement, in accordance with Tex. Occ. Code §55.004, effective June, 17, 2011.

22 TAC §159.156, Business Records: In order to clarify prohibited acts under the Appraisal Management Company Registration and Regulation Act (the Act) regarding agreements with appraisers, to ensure that the regulatory

structure for fees and consumer protection established by this Board is not circumvented and to ensure that AMC's that are business entities retain adequate documentation to demonstrate authority and ownership the Board proposed two amendments to this section. The first prohibits an AMC from requiring an appraiser to keep the appraiser's business relationship with an AMC or any assignment received from the AMC confidential. The second requires all AMC's that are business entities to keep business ownership and authority documentation and to promptly provide it to the Board upon request.

NEW/REVISED FORMS – all effective May 18, 2012

Supplemental Military Spouse Application (New) – this form was created to accompany an application for a license or certificate when a spouse of an active duty military wants consideration for licensure pursuant to the amendments to Board Rule §153.9.

Application For Registration As An Appraisal Management Company (Revised) – this form was revised to include a requirement that AMC's that are business entities need to provide a Certificate of Good Standing, to clarify that the scope of information required to be reported regarding prior civil suits is limited to the prior four years and the areas listed under Board Rule §159.20(15), to remove the email and fax number line items for In-State Service of Process Agents, and to make non-substantive corrections to the certification.

Appraisal Management Company (AMC) Owner/Primary Contact Background History (Revised) - this form was revised to clarify that the scope of information required to be reported regarding prior civil suits is limited to the prior

four years and the areas listed under Board Rule §159.20(15), and to make non-substantive corrections to the certification.

Appraisal Management Company (AMC) Change of AMC/Appraiser/Designated In-State Agent Information (Revised) - this form was revised to eliminate confusion so that this form would not be used to change a primary contact person, to provide a place for an AMC to notify the Board regarding the termination of an appraiser contact person, to provide a place for an AMC that is not domiciled in Texas to notify

the Board regarding the designation or termination of an In-State agent for service of process and to add a certification and signature block.

Appraisal Management Company (AMC) Change of Owner/Primary Contact Person (New) - this form was created to provide a paper alternative to online processing for AMCs to report changes to ownership or their primary contact person to the Board.

TALCB Enforcement Matters

Action taken at May 2012 Meeting of the Board

For a full detailed list of all enforcement action please go to www.talcb.texas.gov.

EASTON, RUSSELL DON, Lic. # TX-1324214-R, Dallas *Complaint No.:* 10-010: Allegations Respondent produced appraisal reports that contained violations of the Uniform Standards of Professional Appraisal Practice. *Summary of Violations Found:* For more information [click here](#) *Action taken:* (1) Certification suspended, effective twenty days after the date Russell D. Easton is notified of the Final Order until January 31, 2013; For more information [click here](#).

MERRILL, RICHARD ALLEN, Lic. # TX-1325278-R, Houston *Complaint No.:* 08-149: Allegations that the Respondent had produced an appraisal report that did not comply with the USPAP. *Summary of Violations Found:* For more information [click here](#) *Action taken:* (1) During a one (1) year review period, beginning on May 18th, 2012, the effective date of the order, Respondent shall submit to the Board, within seven (7) days of completion of six (6) months, an appraisal experience log on a form prescribed by the Board. For more information [click here](#)

KIRBY, WENDY ANNETTE, Lic. # TX-1334431-R *Complaint No.:* 09-228, 10-218, 10-219 & 10-237 : Allegations that the Respondent produced appraisal reports that did not comply with the USPAP. *Action Taken:* Certification of Wendy Annette Kirby is REVOKED, effective twenty days after the date Wendy Annette Kirby is notified of the Final Order. Assessed an administrative penalty of \$1500.

KELLEY, KRISTI, Lic. # TX-1334710-R *Complaint No.:* 11-370 : Allegations that the Respondent had produced an appraisal report that did not comply with the USPAP. *Action Taken:* Certification of Kristi Kelley REVOKED, effective twenty days after the date Kristi Kelley is notified of the Final Order. Assessed an administrative penalty of \$1,500. .

GARCIA, JASON R., Lic. # TX-1333463-R *Complaint No.:* 10-036 & 11-237: Allegations that the Respondent had produced an appraisal report that did not comply with the USPAP. *Action Taken:* Certification of Jason R. Garcia REVOKED, effective twenty days after the date Jason R. Garcia is notified of the Final Order. Assessed an administrative penalty of \$1500. .

STREET, LYLE DIXON, Lic. # TX-1335950-L, Houston *Complaint No.:* 11-180 : Respondent produced an appraisal report for the property that did not conform to Uniform Standards of Professional Appraisal Practice. *Action Taken:* Respondent shall not seek renewal of his license, nor apply to the Board for any authorization, license, certification or registration in the future.

- STEWART, JOHN, Lic. # TX-1322901-G, El Paso**
Complaint No.: 10-369 : The complaint alleged that Respondent's appraisals were deficient, in violation of the Uniform Standards of Professional Appraisal Practice and not completed properly. *Summary of Violations Found:* For more information [click here](#). *Action Taken:* Respondent shall: a. During a eighteen(18) month review period, beginning on May 18th, 2012, the effective date of the order, Respondent shall submit to the Board, within seven (7) days of completion of six (6) months, an appraisal experience log on a form prescribed by the Board. For more information [click here](#)
- SITTER, FRANKLIN SCOTT, Lic. # TX-1333183-R, Fort Worth**
Complaint No.: 10-319 : Respondent produced appraisal reports for the properties that did not conform to Uniform Standards of Professional Appraisal Practice. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a. Within twelve (12) months of the effective date of the order (Le. on or before May 18th, 2013), For more information [click here](#)
- REED, CYNTHIA BOYLES, Lic. # TX-1329195-R, Haslet**
Complaint No.: 10-168 : Respondent's appraisals were deficient, in violation of the Uniform Standards of Professional Appraisal Practice and not completed properly *Action Taken:* Respondent agrees that she shall: a. Attend and complete a minimum, fifteen (15) classroom-hour course in USPAP, within twelve (12) months of the effective date of the order; For more information [click here](#)
- GREAVES, KRISTI, Lic. # TX-1327068-G, Wharton**
Complaint No.: 09-265: Respondent had produced an appraisal report that did not comply with the USPAP. *Action Taken:* Respondent shall not seek renewal of her certification, nor apply to the Board for any authorization, license, certification or registration in the future. .
- KNIGHT, CHARLES E., Lic. # TX-1324138-R**
Complaint No.: 10-019,10-330 & 11-367 : Respondent had produced an appraisal report that did not comply with the USPAP *Action Taken:* Certification number TX-1324138-R hereto issued to CHARLES E. KNIGHT, to practice real property appraisal in the State of Texas, be permanently revoked without formal charges, notice of hearing, or a formal hearing.
- WALKER, VINCENT BERNARD, Lic. # TX-1333216-L, Dallas**
Complaint No.: 10-284 : Respondent produced an appraisal report for the property that did not conform to Uniform Standards of Professional Appraisal Practice *Action Taken:* Respondent shall not seek renewal of his license, nor apply to the Board for any authorization, license, certification or registration in the future.
- TAYLOR, BRENDA GAYLE, Lic. # TX-1321854-R, Arlington**
Complaint No.: 10-066 : Respondent's appraisals were deficient, in violation of the Uniform Standards of Professional Appraisal Practice and not completed properly. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a. Submit to a review period for a period of eighteen months (18), under the following conditions: i. For more information [click here](#)
- SELL, LORRI, Lic. # TX-1326948-R, North Richland Hills**
Complaint No.: 11-043 : Respondent's appraisals were deficient, in violation of the Uniform Standards of Professional Appraisal Practice and not completed properly. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* a. During a eighteen(18) month review period, beginning on May 18th, 2012, the effective date of the order, For more information [click here](#)
- PARK, RICHARD KEITH, Lic. # TX-1334160-L, Arlington**
Complaint No.: 11-055 : Respondent had produced appraisal reports that did not comply with the USPAP *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: (1) Attend and complete a minimum, 15 classroom-hour course in USPAP; (2) Attend and complete a minimum, 15 classroom-hour course in appraiser report writing; and (3) Attend and complete a minimum, 7 classroom-hour course in the cost approach.
- MORRIS, MICHAEL KEVIN, Lic. # TX-1322073-R, Springtown**
Complaint No.: 09-308 & 10-343: Respondent's appraisals were deficient, in violation of the Uniform Standards of Professional Appraisal Practice and not completed properly. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a. During a one (1) year review period, beginning on the effective date of the order, For more information [click here](#).
- MCCUISTION, JOHN DALE, Lic. # TX-1334118-R, Grand Prairie**
Complaint No.: 10-328 : Respondent produced an appraisal report that did not conform to Uniform Standards of Professional Appraisal Practice. *Action Taken:* Respondent shall not seek renewal of his certification, nor apply to the Board for any authorization, license, certification or registration in the future. .

- MARSHALL, TYNA THOMPSON, Lic. # TX-1324486-R, Fort Worth** *Complaint No.: 10-072* : Respondent's appraisals were deficient, in violation of the Uniform Standards of Professional Appraisal Practice and not completed properly. *Action Taken:* Respondent shall: a During a one (1) year review period, beginning on May 18th, 2012, the effective date of the order, For more information [click here](#)
- JONES, KENNETH EARL, Lic. # TX-1326662-R, Arlington** *Complaint No.: 11-055* : Respondent had produced appraisal reports that did not comply with the USPAP. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: 1) During a one (1) year review period, beginning on the effective date of this order, For more information [click here](#)
- JACKSON, CALEB COLE, Lic. # TX-1324707-R, Corsicana** *Complaint No.: 10-087* : Respondent's appraisal was deficient, in violation of the Uniform Standards of Professional Appraisal Practice and not completed properly. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* (a) Have his certification suspended for eighteen (18) months with this suspension being fully probated under the following conditions: For more information [click here](#)
- FELSKE, DOUGLAS, Lic. # TX-1322244-G, San Leon** *Complaint No.: 09-269* : Respondent's appraisals were deficient, in violation of the Uniform Standards of Professional Appraisal Practice and not completed properly. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a. During a one (1) year review period, beginning on the effective date of the order, For more information [click here](#)
- BROCK, JOEL EDWIN, Lic. # TX-1326506-R** *Complaint No.: 10-210, 10-211 & 10-212:* Respondent had produced an appraisal report that did not comply with the USPAP. *Action Taken:* Certification number TX-1326506-R hereto issued to JOEL EDWIN BROCK, to practice real property appraisal in the State of Texas, be permanently revoked without formal charges, notice of hearing, or a formal hearing.
- TAYLOR, DONNA SUZANNE, Lic. # TX-1336067-R** *Complaint No.: 09-267* : Respondent had produced an appraisal report that did not comply with the USPAP. *Action Taken:* Certification number TX-1336067-R hereto issued to DONNA SUZANNE TAYLOR, to practice real property appraisal in the State of Texas, be permanently revoked without formal charges, notice of hearing, or a formal hearing.
- SNOW, LISA C., Lic. # TX-1334055-L** *Complaint No.: 09-17809-164 & 10-136:* Respondent had produced an appraisal report that did not comply with the USPAP. *Action Taken:* Certification number TX-1334055-L hereto issued to LISA C. SNOW, to practice real property appraisal in the State of Texas, be permanently revoked without formal charges, notice of hearing, or a formal hearing.
- PALUMBO, DANIEL R., Lic. # TX-1327587-R** *Complaint No.: 09-281, 10-071, 10-076, 11-311 & 11-314:* Respondent had produced an appraisal report that did not comply with the USPAP. *Action Taken:* Certification number TX-1327587-R hereto issued to DANIEL R. PALUMBO, to practice real property appraisal in the State of Texas, be permanently revoked without formal charges, notice of hearing, or a formal hearing.
- LITTLE, WALTER BAYLUS, Lic. # TX-1326476-G** *Complaint No.: 12-045:* Respondent had produced an appraisal report that did not comply with the USPAP. *Action Taken:* Certification number TX-1326476-G hereto issued to WALTER BAYLUS LITTLE, to practice real property appraisal in the State of Texas, be permanently revoked without formal charges, notice of hearing, or a formal hearing.
- JORDAN, MARY ELIZABETH, Lic. # TX-1334474-R** *Complaint No.: 08-031, 11-027, 11-222 & 11-400* : Respondent had produced an appraisal report that did not comply with the USPAP. *Action Taken:* Certification number TX-1334474-R hereto issued to MARY ELIZABETH JORDAN, to practice real property appraisal in the State of Texas, be permanently revoked without formal charges, notice of hearing, or a formal hearing.
- HANSON, DAVID JAY, Lic. # TX-1323689-R** *Complaint No.: 10-359:* Respondent had produced an appraisal report that did not comply with the USPAP. *Action Taken:* Certification number TX-1323689-R hereto issued to David Jay Hanson, to practice real property appraisal in the State of Texas, be permanently revoked without formal charges, notice of hearing, or a formal hearing.
- FORMAN, JESSICA ELLEN, Lic. # TX-1335946-L** *Complaint No.: 10-118 & 10-202* : Respondent had produced an appraisal report that did not comply with the USPAP. *Action Taken:* License number TX-1335946-L hereto issued to JESSICA ELLEN FORMAN, to practice real property appraisal in the State of Texas, be permanently revoked without formal charges, notice of hearing, or a formal hearing.

ASKINS, DENNIS D., Lic. # TX-1337548-R
Complaint No.: 10-279, 11-395 & 12-193:
Respondent produced appraisal reports that contained various USPAP violations. *Action Taken:* Certification number TX-1337548-R hereto issued to DENNIS D. ASKINS, to practice real property appraisal in the State of Texas, has been voluntarily relinquished and the Board accepts such relinquishments without formal charges, notice of hearing, or a formal hearing. If DENNIS D. ASKINS desires to reinstate his certification, then he may do so in accordance with the procedures set forth in Chapter 1103 of the Texas Occupation Code.

SMITH, KENNETH J., Lic. # TX-1337793-L, Sugar Land
Complaint No.: 10-048 : Allegations that the Respondent produced appraisal reports that contained violations of the Uniform Standards of Professional Appraisal Practice. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: 1) Within 6 months of the effective date of the order, For more information [click here](#)

SAMSON, STEPHANIE, Lic. # TX-1338404-R, Argyle
Complaint No.: 11-045 & 11-136:
Respondent's Appraisal Reports did not comply with USPAP. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a) Complete 5 hours of mentorship with a Board approved mentor within thirty (30) days of the effective date of the Order and submit a completed mentorship affidavit to the Board (the "Mentorship"); b) Attend and complete a minimum, 15 classroom-hour course in USPAP; c) Attend and complete a minimum, 7 classroom-hour course in Staying out of Trouble; d) Attend and complete a minimum, 14 classroom-hour course in Residential Appraiser Site Valuation and Cost Approach; and e) Attend and complete a minimum, 14 classroom-hour course in Residential Report Writing and Case Studies.

O'STEEN, MATTHEW, Lic. # TX-1334786-R, Dallas
Complaint No.: 11-371 : Respondent produced an appraisal report that contained various USPAP violations. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a. Have his certification suspended for eighteen (18) months with this suspension being fully probated under the following terms and conditions: See <http://www.talcb.state.tx.us/ComplaintsConsumer/DiscipActions.asp> May report for details

MUNN, GENE LACOSTE, JR., Lic. # TX-1320299-G
Complaint No.: 12-028 : *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: 1) Have his certification revoked with that revocation being fully probated for a period of twenty-four months (24) under the following condition: See <http://www.talcb.state.tx.us/ComplaintsConsumer/DiscipActions.asp> May report for details

MALLETT, BRAD, Lic. # TX-1333864-L, San Antonio
Complaint No.: 10-026: Respondent produced an appraisal report that contained various deficiencies that constitute gross negligence. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* a. Have his certification suspended for eighteen (18) months, beginning on Friday, May 18th, 2012, with this suspension being fully probated under the following terms and conditions: See <http://www.talcb.state.tx.us/ComplaintsConsumer/DiscipActions.asp> May report for details

MALIK, ZEESHAN, Lic. # TX-1334127-T, Houston
Complaint No.: 11-026 : Respondent produced appraisal reports that contained various USPAP violations. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a. Have his authorization suspended for eighteen (18) months, beginning on Friday, May 18th, 2012, with this suspension being fully probated under the following terms and conditions: For more information [click here](#)

LANTRIP, DOROTHY W., Lic. # TX-1325735-G, McKinney
Complaint No.: 11-204 & 11-231: Respondent produced an appraisal report that did not conform to Uniform Standards of Professional Appraisal Practice. *Action Taken:* Respondent will not seek renewal of her certification, nor apply to the Board for any authorization, license, certification or registration in the future.

LAIL, DONALD, Lic. # TX-1320942-R, Alvarado
Complaint No.: 11-169 : Respondent had produced an appraisal report that contained various misrepresentations, omissions and USPAP violations. *Summary of Violations Found:* (For more information [click here](#) *Action Taken:* a. Have his certification revoked for twenty-four (24) months, beginning on Friday, May 18th, 2012, with this revocation being fully probated under the following terms and conditions: For more information [click here](#)

- JAKEWAY, TOM KENTON, Lic. # TX-1322282-R, Lavin** *Complaint No.:* 10-224 :Respondent had produced an appraisal report that contained various USPAP violations. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a. Have his certification suspended for eighteen (18) months with this suspension being fully probated under the following terms and conditions: For more information [click here](#)
- HEINEN, SCOTT, Lic. # TX-1335493-R, Jamaica Beach** *Complaint No.:* 11-100 :Respondent had produced an appraisal report that contained various USPAP violations. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a. Have his certification suspended for twenty-four (24) months with this suspension being partially probated under the following terms and conditions: For more information [click here](#)
- GARZA, RICHARD CARLOS, Lic. # TX-1323812-G, Mission** *Complaint No.:* 09-303 :Respondent produced an appraisal report that did not comply with USPAP. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a) Attend and complete a minimum, 15 classroom-hour course in USPAP; b) Attend and complete a minimum, 15 classroom-hour course in sales comparison approach; and c) Attend and complete an MLS training course offered by the Respondent's local Board of Realtors.
- FOLTZ, JOHN, JR., Lic. # TX-1337719-R, Frisco** *Complaint No.:* 11-202 & 11-371: Respondent had produced appraisal reports that contained various USPAP violations. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a. Have his certification suspended for eighteen (18) months, beginning on Friday, May 18th, 2012, with this suspension being fully probated under the following terms and conditions: For more information [click here](#).
- EDDLETON, MICHAEL, Lic. # TX-1333774-R, Austin** *Complaint No.:* 09-062 & 10-231 :Respondent's Appraisal Reports did not comply with USPAP. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a) Attend and complete a minimum, 15 classroom-hour course in USPAP; b) Attend and complete a minimum, 7 classroom-hour course in Staying out of Trouble, or, in the alternative, complete 5 hours of mentorship with a Board approved mentor, and submit an affidavit of mentorship as proof of completion; and c) Independently of (b) infra, complete 5 hours of mentorship with a Board approved mentor, and submit an affidavit of mentorship as proof of completion.
- ECHOLS, THOMAS MATTHEW, Lic. # TX-1325330-R**, *Complaint No.:* 11-360 :Respondent failed to comply with the conditions of the Agreed Final Order. *Action Taken:* Respondent shall not seek renewal of his certification, nor apply to the Board for any authorization, license, certification or registration in the future.
- CONDIKE, MARY LOU, Lic. # TX-1329736-G, Granbury** *Complaint No.:* 10-322: Respondent produced appraisal reports for the properties that did not conform to Uniform Standards of Professional Appraisal Practice. *Action Taken:* Respondent shall not seek renewal of her certification, nor apply to the Board for any authorization, license, certification or registration in the future.
- COLE, ROBERT MICHAEL, Lic. # TX-1336230-L, Garland** *Complaint No.:* 10-274 :Respondent's appraisal was deficient, in violation of the Uniform Standards of Professional Appraisal Practice ("USPAP") and not completed properly. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a. Within six (6) months of the effective date of the order, For more information [click here](#).
- CHILDRESS, FRANK EDWARD, Lic. # TX-1336204-R, Montgomery** *Complaint No.:* 10-107 & 10-285 :Respondent had produced inflated appraisal reports. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a. Have his certification revoked for twenty-four (24) months, beginning on Friday, May 18th, 2012, with this suspension being fully probated under the following terms and conditions: For more information [click here](#)
- BURGOS, VICTOR MANUEL, Lic. # TX-1335184-R, Keller** *Complaint No.:* 10-117: The complaint alleged that Respondent's appraisals were deficient, in violation of the Uniform Standards of Professional Appraisal Practice ("USPAP") and not completed properly. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Respondent shall: a. During a one (1) year review period, beginning on the effective date of the order, For more information [click here](#)
- ALLEN, WILLIS RAY, Lic. # TX-1323841-R, Harker Heights** *Complaint No.:* 11-338 : Allegations the Respondent produced an appraisal report that did not comply with USPAP. *Summary of Violations Found:* For more information [click here](#) *Action Taken:* Agreed order. Respondent will not seek renewal of her certification, nor apply to the Board for any authorization, license, certification or registration in the future.

Inspector Insight



Inside this Issue: From the Chairman (Page 1) TREIC Approves New Inspector Exam (Page 2) Public Member Vacancy (Page 3)

From the Chairman...

Texas markets continue to show improved sales activity. If you don't currently read them, check out the Market Reports produced by the Texas A&M Real Estate Center (<http://recenter.tamu.edu/mreports/>). They are a great resource for tons of details about market activity and even forecasting. Real estate license holders provide the resources for operations of the Center and all Texans benefit from the data.

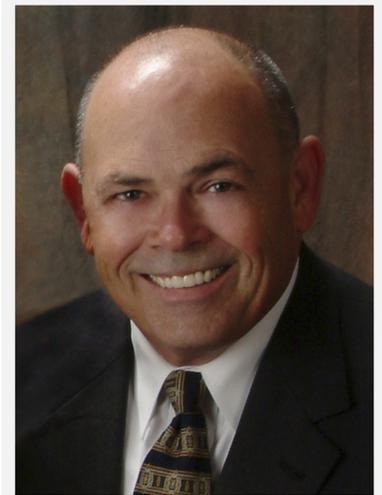
The Strategic Planning process has resulted in a new 2013-17 plan for the agency and the issues related to Inspectors have been addressed in it. Several issues that were approved for consideration in the last legislative session, but were not successfully sponsored, are now recommended to be reintroduced for consideration in the next session. This includes fingerprinting and a review of the Recovery Fund law.

The Committee has reached a major milestone in reviewing and updating the Standards of Practice (SoP) to clarify the scope of work, as well as suggesting corresponding changes to the standard report form. Final details will be reviewed at our next meeting and then look for these recommendations to be proposed to the Commission for action at its August meeting. The

proposed text will be posted on the agency website soon so that interested parties and users can get a sneak preview and offer feedback ahead of the required general public comment period connected to rule-making.

The Commission approved the Committee's recommendation for adoption of the National Home Inspector Exam (NHIE) to better prepare inspectors for the field and aid with some limited reciprocity concerns. New licensing exams will be ready for implementation on September 1, 2012. PSI, LLC will administer the exam, one part for national topics and one part for Texas specific matters.

Our next meeting will be on June 18th at 9 AM in the Committee Room on the 4th Floor at the 1700 North Congress in Austin. We hope you can make time to participate, or at least follow our progress with interest. We would love to hear from you with additional ideas for improvement.



Brad Phillips

As of September 1, 2012, all new applicants for a Real Estate Inspector license will be required to take a new exam for licensure. The new exam is composed of two-parts, a National Home Inspector Examination (NHIE) and a Texas State specific exam. The Frequently Asked Questions below should help answer any general question you have about this new exam.

How many questions will be represented on the new exam for the National/State sections?

There will be 200 multiple-choice questions on the national portion of the exam. While the number of state exam questions has yet to be determined, there will be fewer state questions on the new exam than are on the current exam.

Has the final decision been made regarding the cost of the exam?

Yes. The examination fee is \$230. This fee covers both the national and state sections of the exam.

If someone fails the exam, will he or she have to retake the whole exam?

If an applicant fails one section of the exam but passes the other section (for example, fails the state section but passes the national section), he or she will not be required to retake the entire exam. Instead, the applicant is required to retake only the section of the exam that received a failing score.

What will the fee be for an applicant to retake the exam?

The fee for retaking the national section of the exam is \$230. The fee for retaking the state section of the exam is \$61. The fee for retaking the entire exam is \$230.

What are the core materials of study for the National section and State section of the exam?

Information about the core materials for the state section of the exam, including a link to the Candidate Information Brochure, can be found on the TREC website at http://www.trec.state.tx.us/education/inspector_reference.asp. Information about the core materials for the national section of the exam can be found on the NHIE website at the following link <http://www.homeinspectionexam.org/references.php>.

If an applicant has submitted an application before September 1, 2012, but has not yet taken the exam before that date, will the applicant take the current state exam or the new national/state exam?

As of September 1, 2012, all applicants who have not yet taken the exam must take the new exam, regardless of when their application was submitted.

Based on the current National Home Inspector Examination Content Outline, will all areas of the National Exam be covered by the Texas version of the exam?

Yes. Please note, there is no Texas Version of the NHIE. It is the same exam irrespective of where it is taken. The Texas section only will be different and specifically related to standards for inspectors in Texas.

Public Member Vacancy on Texas Real Estate Inspector Committee

The Texas Real Estate Commission invites applications for appointment to an open public member seat on the Inspector Committee.

The committee's purpose is to make recommendations to the Commission regarding a variety of inspection-related matters toward the goal of ensuring a high degree of service to and protection of the public in dealing with inspectors. The committee consists of six professional inspectors and three public members. The open public member appointment expires on February 1, 2015. Following the Commission's model, public members may not hold occupational licenses in the real estate field (appraiser, real estate broker/salesperson, mortgage broker, etc.).

The committee is permitted to meet by teleconference, although it is anticipated that some travel to Austin will be necessary. Limited

funds may be available for travel reimbursement, but members are not compensated for their time. All committee meetings must comply with the Open Meetings Act.

Individuals wishing to be considered for appointment should send a letter and resume to Chairman Avis Wukasch at the Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, by fax to 512-936-3788, or by e-mail to administrator@trec.texas.gov. Applications must be received at TREC no later than Friday, July 20, 2012.

Important Dates to Remember

TREIC Committee Meeting - June 18



Want to see what's on the agenda for the next TREIC meeting?

All of the meeting agendas and minutes are posted on the TREC website here: www.trec.state.tx.us/newsandpublic/meetings.asp#inspector