



TREC Advisor

Texas Real Estate Commission * Volume 14, Number 4 * October 2003

New Forms Proposed at October Meeting

January 1, 2004
 PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)
**NOTICE PURSUANT TO
 THIRD PARTY FINANCING CONDITION ADDENDUM**
 To: Seller(s)
 In accordance with the Third Party Financing Condition Addendum attached to the Contract between _____ as Seller and _____ as Buyer dated _____ for the Property located at _____ Buyer notifies Seller that Buyer cannot obtain financing approval.
 Buyer _____ Date _____ Buyer _____ Date _____
 This form has been approved by the Texas Real Estate Commission for use with similarly approved or promulgated contract forms. Such approval, unless the form only, TREC forms are intended for use only in stated real estate business. No representation is made as to the legal validity or enforceability of any provision or any specific transaction. It is not suitable for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 1-800-256-8732 or (512) 499-6544 (http://www.trec.state.tx.us) TREC No. 42-0

At its October 13, 2003 meeting, the Texas Real Estate Commission proposed amendments to four TREC Contract forms based on the recommendations of the Broker Lawyer Committee. The proposed forms (click on form number for link to revised form) include TREC No. **11-5**, Addendum for “Back-up” Contract; TREC No. **36-3**, Addendum for Property Subject to Mandatory Membership in an Owners’ Association; TREC No. **40-1**, Third Party Financing Condition Addendum; and new TREC No. **42-0**, Notice Pursuant to Third Party Financing Condition Addendum.

TREC No. 11-5, Addendum for “Back-up” Contract, would be revised to clarify Paragraph B regarding the contingency date and paragraph E regarding the time for giving notice of termination. Under paragraph B if the first contract terminates, the effective date of the Back-Up Contract automatically changes to the date the buyer receives notice of termination of the first contract or the contingency date, whichever is earlier and is called the Amended Effective Date. The time for giving notice of termination in Paragraph E is clarified to conform to the changes in Paragraph B.

In **TREC No. 36-3, Addendum for Property Subject to Mandatory Membership in an Owners’ Association**, paragraph A.3. would be changed to delete the language which states that buyer waives the right of termination under the addendum if buyer does not require delivery of the subdivision information.

TREC No. 40-1, Third Party Financing Condition Addendum, would be revised to clarify that “every reasonable effort to obtain financing approval” includes but is not limited to furnishing all information and documents required by lender for approval. The sentence in the introductory paragraph regarding the date by which the buyer must obtain financing approval is revised for buyer to provide written notice to seller within a stated period of days after the effective date if buyer cannot obtain financing approval within the time period. If buyer gives notice within the time period, the contract will terminate and the earnest money will be refunded to buyer. If buyer does not give notice within the time period, the contract will not be subject to buyer financing approval as described in the addendum. The proposed revised form deletes the options in subparagraphs A.1. and A.2. as to whether the loan will or will not include private mortgage insurance (PMI). The second part of paragraph C of the addendum would be deleted to avoid a potential conflict between the language in the first part of paragraph C regarding the appraised value of the property.

TREC No. 42-0, Notice Pursuant to Third Party Financing Condition Addendum is a proposed new form. The form provides a notice to seller that the buyer is unable to obtain financing approval according to the terms of the Third Party Financing Addendum.

The proposed forms will be posted on the TREC web site through mid-December 2003 for notice and comment. Final action on the proposed forms may be taken at the February 2004 Commission meeting. Comments on the forms may be addressed to TREC General Counsel, P.O. Box 12188, Austin, TX 78711, or to general.counsel@trec.state.tx.us

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TEXAS REAL ESTATE
COMMISSION

Meeting Highlights

October 13, 2003

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:

Texas Real Estate Commission
P.O. Box 12188

Austin, Texas 78711-2188
(512) 459-6544 or (800) 250-TREC
<http://www.trec.state.tx.us>

The Texas Real Estate Commission held a regularly-scheduled meeting at the TREC headquarters in Austin on Monday, October 13, 2003.

Vice-chair James Austin presided and was acknowledged for being one of ten finalists for the National Association of Realtors' Good Neighbor Award recognizing his efforts as founder of the Renaissance Cultural Center and the Cowboys of Color rodeos and Museum.

Staff reports were presented concerning the number of current licensees, enforcement complaints and activity on the web site. For 36 consecutive months, the number of licensees has increased to a total of 121,662 on August 31, 2003.

The Commission proposed amendments to §§537.11, 537.22, 537.43, 537.47 and proposed new §537.49 concerning Professional Agreements and Standard Contract forms. These amendments would adopt by reference three revised forms and one new form. The revised forms are TREC No. 11-5, for use as addendum to be attached to promulgated forms of contracts which are second or "back-up" contracts; TREC No. 36-3 for use as an addendum to be added to forms in the sale of property subject to mandatory membership in an owners' association; TREC No. 40-1 for use as an addendum when there is a condition for third party financing; and new TREC No. 42-0 for use as a notice that buyer cannot obtain financing pursuant to the Third Party Financing Addendum. (see page 1).

The Commission adopted amendments to nineteen rules. The amendments changed the title of Chapter 535 to General Provisions, updated the cites to the relevant statutory provisions in all the rules and adopted by reference four revised or corrected application forms, a revised instructor application form, two new renewal application forms and two MCE forms. A \$20 fee for preparing a license history certification and \$25 for the filing of a core or continuing education instructor application were adopted. Amendments to Chapter 541 changed cites to relevant statutory provisions of Chapter 53, Texas Occupations Code. All rules and forms have an effective date of January 1, 2004.

The Commission heard comments regarding a letter from the Texas Association of Realtors requesting that the commission consider amending §535.2(b) to define the term "negotiate." A lengthy and lively discussion took place with several speakers expressing their positions. The Commission voted to instruct staff to meet with interested parties and report back with alternatives at the December 1st meeting.

Amy Jones and Jim Darwin of the Texas Veteran's Land Board made a presentation concerning the board's mission and its relationship with TREC licensees. She stressed that the new limit on Texas Veteran home loans was recently increased to \$240,000.

The Commission asked the staff to report on what steps needed to be taken to implement the recommendations approved from the list of submitted by the Education Task Force.

The Commission voted to pay two Inspection Recovery Fund claims, one for \$2,200 and another for \$7,500.

A motion for rehearing and motion to modify suspension in the matter of Debra Ann Porter were denied.

Dates were set for the next two meetings of the Commission for December 1, 2003 in Austin and February 9, 2004 in Houston.

Certification Required for Lead Inspections

TREC licensed real estate inspectors are reminded that before conducting a lead inspection, certification must first be obtained from the Texas Department of Health under the state's Environmental Lead Program.

Disciplinary action could be taken against a TREC licensed inspector for violating section 1102.302 (2) of the Texas Occupations Code if the inspector performed a lead inspection without proper certification from the Texas Department of Health.

The Department of Health has assessed administrative penalties against several individuals for performing lead inspections without having certification to do so in violation of department rules. Administrative penalties may be assessed for up to \$5000 per violation per day for performing unlicensed lead inspections. For information regarding certification for lead inspections, contact the Texas Department of Health Environmental Lead Branch at 512- 834-6612 or 1-888-778-9440.



Helping Texas Veterans Find Their Way Home

By Land Commissioner Jerry Patterson

Texas veterans have more benefits available to them than ever before. Yet, unfortunately, too many veterans remain unaware of these benefits.

Realtors, mortgage lenders and builders can play an important role in informing these veterans about programs offered by the Texas Veterans Land Board (TVLB) without compromising the bottom line.

Helping 1.7 million Texas veterans is good for them and can be good for business. But only those professionals who understand what the Texas Veterans Land Board has to offer will benefit.

The Texas Veterans Land Board has more than quadrupled the amount Texas veterans may borrow to buy land. We've also streamlined the closing process, eliminated qualifying fees and expanded the eligibility requirements for our benefits.

We've raised the loan amount available to veterans to buy a home from \$45,000 to \$240,000. This larger loan amount means most Texas veterans won't need a second source of funding to buy a home, nor must they go through two closings to enjoy the low interest rates. The real estate business community, including brokers, builders and title insurers, also benefit because Texas Veterans Land Board loans of more than \$45,000 are originated by nearly 600 participating mortgage lenders statewide.

We have also eliminated the "once-in-a-lifetime" rule for veterans loans. Now Texas veterans – who have proven to be excellent credit risks – can apply for a new home loan each time they've satisfactorily repaid any prior Texas Veterans Land Board home loan. They can also take out a home improvement loan on their principal residence at the same time, as well as finance a land purchase through our land program.

The interest rates for Texas Veterans Land Board home loans have been significantly lowered as well, allowing Texas veterans to save about \$1,000 per year on their note payments. While our rates are adjusted weekly to reflect the market and are subject to change, they're always lower than comparable VA/FHA rates. And the same low interest rate is also available for our home improvement loans. That's an unprecedented savings to hundreds of veterans each year.

Texas veterans have responded enthusiastically to our increased home loan limit, lower interest rates and other program changes. More than one-half of the value of all Texas Veterans Land Board home loans have been funded since January 1999. To put it another way, of the more than \$2.3 billion in home loans funded since the program began in 1983, more than \$1.2 billion were funded in just the last three years.

To make our home loan program even more user-friendly, we've adopted a simple base rate method for determining our interest rates. Each week we publish the base rate for a 30-year Texas Veterans Land Board, for which various discounts may apply to lower the base rate even further.

Significant discounts are available to veterans who qualify for our Troops to Teachers, Veterans with Disabilities or Greenbuilding programs.

Troops to Teachers is a response to the statewide shortage of public school teachers. Veterans who agree to become or remain public school teachers, and those whose spouses are currently teachers are eligible for an additional reduction of one-half percent on TVLB home loan rates. As of 2002, some 814 loans worth more than \$100 million have been funded for current and future Texas public school teachers.

In our Greenbuilding Program, a veteran can lower the interest rate on a loan by up to 30 basis points by using energy-efficient building or remodeling materials. In addition to lower energy bills, veterans enjoy smaller monthly payments, making it possible for more

(Continued on page 4)

(Continued from page 3)

veterans to afford homes. Because of this Greenbuilding program, many builders design homes using the Texas Veterans Land Board Greenbuilding Checklist of Features to qualify a new home and attract more veteran homebuyers.

Texas veterans who served prior to 1977 are eligible for a Service Era Discount. And any veteran who opts for a Veterans Land Board home loan with a term of 15 years or less gets a further discount.

Also, Texas veterans with service-connected disabilities of 10 percent or more can cut their interest rates on home loans by one-half percent if service-connected disabilities are verified and all eligibility requirements are met. A Texas Veterans Land Board home improvement loan can also be used to make modifications necessary for a veteran's special needs.

We strive to ensure that a veteran pays only prevailing market (or lower) fees for our benefits and services. We recently reduced several fees, and eliminated a \$25 fee for determining eligibility for TVLB programs and a \$375 administrative fee charged for land contracts. Now anyone working with a veteran to qualify for a TVLB loan can pre-screen the veteran's eligibility with a free online questionnaire available at our Web site, texasveterans.com. And once you submit the paperwork, we will make all attempts to respond by fax within one or two days with an official "Notice of Eligibility." Almost all of our program forms are now available online to avoid delays in postal mail.

In the past two years we have made careful changes to expand and serve a larger group of deserving beneficiaries. Previously, a veteran must have died in the line of duty or have been missing in action for a surviving spouse to qualify. Now, unmarried surviving spouses of veterans who die as a result of any service-connected cause also qualify for participation in TVLB loan programs.

Also, Texas veterans on military duty and stationed out-of-state are now eligible for VLB loan benefits. If a veteran otherwise qualifies, but currently serves at a military base outside the state, such a veteran can obtain a TVLB home or land loan before returning to Texas. Prior rules required physical residency in Texas at the time of application for loans.

We are committed to increasing the availability of Texas Veterans Land Board programs by cooperating with private industry professionals who share our commitment to serve our veterans. If you are a mortgage lender, builder, developer, real estate broker, or other industry professional who shares our commitment to serving Texas' veterans, we welcome your cooperation.

To find out more, visit our Web site at texasveterans.com. While you're there, register to receive regular program updates via e-mail. If you are looking for current interest rates, click on "General Information." You'll be able to get interest rates and more detailed information on all our loan programs. Or, just call our statewide toll-free Veterans Hotline at (800) 252-VETS. One of our specialists will be glad to help you register to receive information by mail or fax. We look forward to working with you to serve Texas' 1.7 million veterans.

For assistance, please contact the Texas Veterans Land Board toll free at
1-800-252-VETS (8387)

texasveterans.com

Texas Veterans Land Board 1700 N. Congress Avenue Austin, Texas 78701-1496
Mailing Address P.O. Box 12873 Austin, Texas 78711-2873



Enforcement Questions and Answers

(these and other questions and answers may be found on TREC's web site at http://www.trec.state.tx.us/questions/faq-enf_recent.asp)

- Q.** If a potential buyer has an inspection performed on the property he is considering purchasing, and based upon the findings in the inspection report, he decides not to purchase the property, should the buyer's agent share the report with subsequent potential buyers?
- A.** The report and its contents are the property of the first potential buyer, who purchased the service. Nevertheless, the buyer's agent has a legal obligation under the Texas Real Estate License Act to disclose any defects of which the agent is aware to potential purchasers to whom the buyer's agent may subsequently show the property. He must divulge any information about the property that would be a significant factor to the buyer in making a decision to purchase the property. The agent is under no legal obligation to show a copy of the inspection report, since technically, the report does not belong to the agent. It is strongly advisable for the potential purchaser to hire his own inspector.
- Q.** May a licensed salesperson work for more than one broker selling real estate?
- A.** No. An agent may only conduct activity for which a license is required under the broker by whom he is sponsored.
- Q.** I am a licensed agent, and I conduct most of my business from my home, because my broker (sponsor) is located across town. I receive business mail at my home, but clients never come to my home; I always meet them at the property location. Does my broker need a branch office license?
- A.** No. As long as you are not meeting with clients and customers to transact business from your home, TREC does not require a branch office license.
- Q.** May an individual become a licensed real estate salesperson and a home inspector? If so, may the person serve as both the agent and inspector for a client in a real estate transaction?
- A.** Yes, an individual may hold a real estate salesperson or broker license at the same time he is a licensed home inspector. However, an individual is prohibited from acting as the salesperson or broker and inspector in the same transaction.
- Q.** Is a real estate agent required by law to be present when an inspection is performed on property for which the agent represents the buyer? The seller?
- A.** No. There is no provision in Texas law that requires an agent to be present at an inspection when representing either the buyer or the seller.
- Q.** How long are licensees required to retain records of past real estate transactions?
- A.** The Texas Real Estate License Act does not require brokers and salespersons to retain most records. However, there are a couple of situations of which licensees should be aware. First, the Statute of Limitations for filing a complaint against a licensee is four years from the date of the incident about which someone is complaining. If the Commission receives a complaint within the four year period, we may request documentation from the licensee regarding the transaction in question. Second, the Rules of the Texas Real Estate Commission require a licensee who maintains a trust account to retain documentary records of each deposit or withdrawal from the trust account for a period of four years. Generally speaking, it is to the advantage of the licensee to have the records available for access to the Commission.
- Real estate schools are required to: 1) maintain records of each student enrolled in any course for a minimum of 5 years; 2) maintain the full class file and student enrollment agreements for at least 12 months following completion of the class; and 3) maintain financial records, including financial statement and balance sheets for review by the Commission.
- Q.** May an agent sign the "Seller's Receipt" in a contract acknowledging receipt of the option money for the seller?
- A.** Yes, if, and only if, the broker or agent signs his or her own name to show receipt of the option money on behalf of the seller as the seller's agent.
- Q.** I sometimes make telephone cold calls. Lately, some of the individuals with whom I've spoken told me that they are on a "no call" list. Please explain.
- A.** Recently, the Federal Trade Commission created the National Do Not Call Registry in order to give consumers a choice regarding whether or not they want to receive telemarketing calls. The Registry is due to be enforced effective October 1, 2003. People may register with the FTC and learn how to obtain

more information by telephone or email at <http://www.donotcall.gov>. One of the major exceptions to the FTC rule is that calls are permissible to persons with a prior business relationship with the caller. If you choose to ignore the new FTC rule, a recipient of a telemarketing call whose name is registered in the Registry may file a complaint against you which could result in an investigation of you or your company's telemarketing activities.

Texas also has a Texas No-Call List law. It is administered by the Public Utility Commission of Texas. The PUC conducts investigations of complaints, and they notify each licensing agency about its licensees who have violated the no call laws of Texas. You may contact the PUC at <http://www.texasnocall.com>

- Q.** May I advertise a 1% cash back at closing to the seller if the seller lists his property with me?
- A.** You may advertise such an offer, but there are certain requirements that you must follow. You are allowed to rebate a portion of your fee or commission to a principal in a transaction. If you are offering a rebate to a party that you do not represent, you must obtain the consent of the party whom you do represent. Furthermore, if you advertise a rebate to a buyer or tenant, you must disclose in the advertisement that payment of the rebate is subject to the consent of the party you represent.
- Q.** Does Texas require a license for a person to act as a real estate assistant? If not, what can an assistant legally do without violating the law?
- A.** No, Texas does not require an assistant to be licensed. However, the Commission has authority to take administrative action against a broker and an assistant if the assistant performs any acts that require a real estate salesperson or broker license. The Commission may assess an administrative penalty against an unlicensed person not to exceed \$1,000 per violation. Each day a violation continues may be considered a separate violation. Also, unlicensed activity by any person can result in Class A misdemeanor criminal charges being filed against the unlicensed person. For detailed information, see, "Information for Brokers and Salespersons Regarding Use of Unlicensed Assistants in Real Estate Transactions", accessible on our website via the **Topics of Special Interest** page under the "Forms, Laws and Publications" tab.
- Q.** An apartment locator has submitted an invoice to my apartment complex owner for payment of commissions earned for referring people to our complex who subsequently leased an apartment. We discovered that the space on the rental application where the potential lessee/renter fills in a name of the party who referred them to us was altered to reflect the locator's name. Obviously, the locator did not alter the document, nor did the applicant, but we believe the locator conspired with someone who works for the complex to make the alterations. This has occurred on a number of our application forms. Would this be a violation of the Texas Real Estate License Act?
- A.** Assuming that your information can be verified, this is clearly a violation of the Texas Real Estate License Act in that the locator is demonstrating conduct that is dishonest, untrustworthy or in bad faith. Additionally, this could be a violation of criminal statutes including forgery and theft by deception. You could file a complaint against the locator with the Commission and/or report this activity to your local law enforcement authorities.
- Q.** I am a licensed real estate salesperson. I have formed a corporation with an unlicensed person. We plan to buy and sell real estate. Must my partner disclose that I am a licensed agent when she is negotiating a transaction?
- A.** Yes. Even though your partner is not licensed, we strongly recommend that she disclose your license status to all potential buyers in any of her transactions. We assume that since you probably own more than 10% of the company, you are legally required to disclose to all potential buyers or sellers that you are a licensee. The disclosure must be in writing either in the contract itself, or in writing prior to entering into a contract.

**FOR YOUR OWN GOOD . . .
CHECK THE EXPIRATION DATE OF YOUR LICENSE**

It is your responsibility to assure that your license is renewed in a timely manner. Any education you might require must be completed before your license expiration date if you want to maintain an active real estate license.

Renewal forms are sent out as a courtesy to all licensees and also obtained on our website. The Texas Real Estate Commission is not responsible for U.S. Postal Service delivery or knowing where to find you if you have moved and not filed a change of address with our office. Failure to receive a renewal notice does not provide a valid excuse for not renewing your license.

TREC Gets Rated by Customers and Employees

The philosophy of the Texas Real Estate Commission is to ensure the availability of honest and capable real estate service providers in Texas. This is a public trust that the Commission accepts with the deepest sense of purpose and responsibility. To achieve its mission, the Commission emphasizes its core values of excellence, customer service, teamwork, and respect.

However, espousing the above values is not enough; the agency must monitor and report on the quality of actual work being done at the Commission. At TREC, there are two important methods through which we gauge our ongoing performance: Customer Service Surveys and the Survey of Organizational Excellence. Results from these two external and internal surveys are analyzed, evaluated, and incorporated into our program of continuous improvement.

TREC's customer survey is a brief questionnaire that is distributed with each license renewal, is available at our customer service window, and is accessible from our web site. Since March 2000, 15,224 surveys have been completed and returned.

Individuals are asked to rate TREC's performance in key customer service areas by providing a ranking of "excellent," "good," "fair," or "poor." According to TREC's most recent survey results, in 25 of the 28 categories on the survey, 90% of the respondents graded our services as "excellent" or "very good."

To view current results of TREC's customer survey, or to complete a survey online, please visit: www.trec.state.tx.us and click on the link entitled, "Customer Survey."

While the customer survey measures how our licensees and members of the public grade our performance, the Survey of Organizational Excellence (administered by the School of Social Work at the University of Texas) reflects how TREC's staff view the Commission.

The Survey assessment is a framework, which at its highest level, consists of five Workplace Dimensions: **Work Group, Accommodations, Organizational Features, Information, Personal**. Taken together, these five capture the total work environment. Each Workplace Dimension consists of several Survey Constructs. The Survey Constructs are designed to broadly profile organizational strengths and weaknesses so that interventions may be targeted appropriately. Survey Constructs are developed from a series of "primary questions." Scores for the constructs range from a low of 100 to a high of 500. Scores above 300 suggest that employees perceive the issue more positively than negatively, while scores below 300 are issues viewed more negatively by employees.

In each of the Workplace Dimensions except "accommodations," TREC scored significantly higher than the benchmark for similar size organizations, organizations with similar missions, and "all state agencies."

One of the benefits of continuing to participate in the survey is that over time we get to see how employees' views have changed as a result of implementing efforts suggested by previous survey results. Positive changes indicate that employees perceive the issue as adequately improved since the previous survey. Negative changes indicate that employees perceive that the issue has worsened since the previous survey.

Overall, TREC has improved across many areas compared to the last survey. The following areas are especially noteworthy because **TREC employees feel that these are the most significant improvements**. The numbers reflect the scores compared to the last survey in 2002.

Team Effectiveness (372 to 386)

Team Effectiveness captures staff perceptions of the effectiveness of their work group and the extent to which TREC's environment supports teamwork among staff.

Empowerment (390 to 393)

Empowerment measures the degree to which employees feel that they have some control over their jobs and the outcome of their efforts.

Availability of Information (399 to 404)

Availability of Information provides insight into whether staff knows where to get needed information in a timely manner.

Holographic (386 to 389)

Holographic refers to the degree to which all TREC actions "hang together" and are understood by all. It reflects staff perceptions of the consistency of decision-making and activity within the agency.

Goal Oriented (396 to 395)

Goal Oriented addresses TREC's ability to include its entire staff in focusing resources towards goal accomplishment.

TREC is proud to report these results. They demonstrate a consistency between external and internal perceptions of how well we conduct our business at the Commission.

TREC Email Notification List

The TREC Email Notification List enables subscribers to receive automated notification of new and changing information from the Texas Real Estate Commission (TREC).

Typical items that will be posted include TREC Commission meeting agendas, notification of public meetings, proposed rule changes, new rules and new forms.

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Disciplinary Actions

August 2003-September 2003

Mahan, Michael Lewis

(Rio Bravo); license# 5149

Revocation of professional inspector license, effective August 1, 2003; failing within a reasonable time to make good a check issued to the Commission and to pay the processing fee, in violation of 22 TAC Section 535.224(d)(1) and 534.2(b) of The Rules of the Texas Real Estate Commission

Samad, Iqbal

(Sugar Land); license# 440198

Agreed 60-day suspension of salesperson license, effective August 5, 2003, partially probated for 6 months, effective September 4, 2003; making a material misrepresentation or failing to disclose to a purchaser any latent structural defect or any other defect known to the licensee, in violation of Section 15(a)(6)(A) of The Real Estate License Act; acting negligently or incompetently in overseeing agreed repairs on a property, in violation of Section 15(a)(6)(W) of The Real Estate License Act

Gaidosek, Ruby Lee

(Magnolia); license# 475050

Agreed reprimand of salesperson license, entered August 6, 2003; failing within a reasonable time to make good a check issued to the Commission and to pay the processing fee, in violation of Section 15(a)(4) of The Real Estate License Act Davenport,

Saundra Ruffin

(Brady); license# 176730

Agreed reprimand of broker license, entered August 12, 2003; Agreed administrative penalty of \$250.00, entered August 12, 2003; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Collins, Timothy Rhoads

(Houston); license# 383184

Agreed reprimand of salesperson license, entered August 14, 2003; Agreed administrative penalty of \$250.00, entered August 14, 2003 failing to pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Moran, Michael Jr.

(Houston); license# 2317

Agreed fully probated 30-day suspension of professional inspector license, effective August 15, 2003 failing to report a condition of real property that was in need of repair, in violation of Section 23(l)(3) of The Real Estate License Act

Hamadani, Sherry Shahrzad

(Houston); license# 466766

Agreed reprimand of salesperson license, entered August 20, 2003; Agreed administrative penalty of \$250.00, entered August 20, 2003 failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Mahaffey, Barbara Goldwater

(Houston); license# 192627

Agreed reprimand of broker license, entered August 21, 2003; Agreed administrative penalty of \$500.00, entered August 21, 2003; altering an amendment to a contract, without the consent of one of the parties and after execution of the amendment by the parties, thereby acting negligently or incompetently, in violation of Section 15(a)(6)(W) of The Real Estate License Act

Ahern, James Lyon, Jr.

(Cotulla); license# 485782

Agreed reprimand of salesperson license, entered August 26, 2003; Agreed administrative penalty of \$500.00, entered August 26, 2003; engaging in real estate brokerage activities when his license was expired, in violation of §1(b) and §15(a)(5) of The Real Estate License Act; failing to include a designation as broker or agent in an advertisement, in violation of Section 15(a)(6)(P) of The Real Estate License Act; holding himself out as a person responsible for the operation of a real estate brokerage although he was licensed only as a real estate salesperson, in violation of 22 TAC Section 535.154(e) of the Rules of the Texas Real Estate Commission

Moore, Denise Marie

(Sugar Land); license# 447171

Agreed reprimand of salesperson license, entered August 27, 2003; Agreed administrative penalty of \$250.00, entered August 27, 2003; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Hickey, Mary Lyon

(Austin); license# 286791

Agreed reprimand of broker license, entered August 29, 2003; Agreed administrative penalty of \$250.00, entered August 29, 2003; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Amsden, Connie M.

(Ingleside); license# 454559

Agreed reprimand of salesperson license, entered August 29, 2003; Agreed administrative penalty of \$250.00, entered August 29, 2003; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Gayle, Cindy

(Goliad); license# 246663

Agreed 90-day fully probated suspension of broker license; effective September 1, 2003; failing to disclose her status as a licensee when selling property of a limited liability company of which she was more than a 10% owner, five instances of violation of 22 TAC Section 535.144; falsely representing to the buyers that a road in a subdivision would be turned over for county maintenance, four instances of violations of Section 15(a)(3) of The Real Estate License Act

Calendar of Events

Commission

Meetings:

December 1, 2003

(Austin)

February 9, 2003

(Houston)

Broker-Lawyer

Committee Meetings:

January (TBA)

(Austin)

Inspector Committee

Meetings:

December 12, 2003

(Austin)

Web site:

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

Phone

(800) 250-TREC (8732)

or

(512) 459-6544

Middleton, Richard H. Jr.

(Dallas); license# 373404

Agreed reprimand of broker license; entered September 4, 2003; Agreed administrative penalty of \$250 entered September 4, 2003; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

King, Peggy Irene

(Fort Worth); license# 272110

Agreed reprimand of broker license; entered September 17, 2003; Agreed administrative penalty of \$250 entered September 17, 2003; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Conrad, Douglas John

(Austin); license# 459672

Reprimand of salesperson license; entered September 18, 2003; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Fox, Cary Owen

(Conroe); license# 261631

Revocation of broker license; effective September 18, 2003; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Patterson, James Carnell

(Houston); license# 366462

Revocation of salesperson license; effective September 18, 2003; violating the terms and conditions of a probationary order by failing to repay the Real Estate Recovery Fund in accordance with the agreed repayment schedule

Hinton, Tammy S.

(Houston); license# 471597

Revocation of salesperson license; effective September 18, 2003; failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Farmer, John Calvin, Jr.

(Houston); license# 97746

Revocation of broker license; effective September 18, 2003; failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate broker license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Randolph, Arlice Joanne

(Crockett); license# 468691 Agreed reprimand of salesperson license; effective September 23, 2003; Agreed administrative penalty of \$250 entered September 23, 2003 failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission Eagle, James Madison

(Dallas); license# 389944 Agreed reprimand of salesperson license; entered September 23, 2003; Agreed administrative penalty of \$250 entered September 23, 2003 failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Smith, Peggy K.

(Lubbock); license# 128786

Revocation of salesperson license; effective September 25, 2003 failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Fethke, Susan McLemore

(Katy); license# 486171

Revocation of salesperson license; effective September 25, 2003 failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission

Vann, Larry Edward

(Dallas); license# 459681

Revocation of broker license; effective September 29, 2003 failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Rhima, Bassiony

(Arlington); license# 314272

Revocation of broker license; effective September 29, 2003; failing to complete mandatory continuing education hours and pay the \$200 fee within the 60-day period provided by 22 TAC Section 535.92(f) of the Rules of the Texas Real Estate Commission

Jackel, Troy S.

(San Antonio); license# 470624

Revocation of salesperson license; effective September 29, 2003; failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license, in violation of 22 TAC Section 535.91(a) of the Rules of the Texas Real Estate Commission



**You must still renew
your license even if you
choose to be inactive.**

THE INTERCHANGE

Your resource for referral fee issue resolution

- Go to <http://realestatecoalition.org/interchange.shtml>
- Use The Interchange e-mail to send a brief, factual message about your issue
- You will receive an e-mail confirmation about your message
- Your issue will be swiftly brought to the attention of the appropriate Coalition contact
- Your reply should arrive within 15 business days or sooner (or you will be notified of any need for additional reply time)

The Coalition serves only as a conduit of information to members. Resolution via The Interchange is not an offer to mediate or otherwise intervene in any disputes. By utilizing this forum, the user agrees to indemnify and hold harmless ERC, the Coalition, and its members, employees, contractors, and affiliates from any liability whatsoever arising out of the use of The Interchange, or out of the underlying dispute or attempts to resolve it, including, but not limited to attempts at settlement, filing of claims and litigation, and any and all expenses arising therefrom.

ERC's

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www.realestatecoalition.org