

AGENDA FOR TEXAS REAL ESTATE COMMISSION (TREC) MEETING

Conference Room 235, TREC Headquarters Office
1101 Camino La Costa, Austin, Texas

May 17, 2010, at 10:00 a.m.

CALL TO ORDER

1. Call to order and pledges of allegiance
2. Discussion and possible action to recognize past commissioners service
3. Discussion and possible action to recognize licensees with 50 years of licensure

MINUTES

4. Approval of minutes of February 8, 2010 Commission meeting
5. Discussion and possible action to excuse commissioner absence(s), if any

STAFF AND COMMITTEE REPORTS

6. Reports by administrator, general counsel, and division directors which may include reports of monthly activities and statistical data for communications, licensing, education, enforcement, information technology, staff services, recovery trust account and fund activity, and updates on new and ongoing agency activity; questions by commissioners to division directors regarding issues raised by the monthly activities reports; discussion of current topics raised by monthly reports; requests by commissioners for additional information or reports from staff; and introduction of new employees
7. Reports of, and discussion and possible action regarding:
 - a. Broker Responsibility Working Group
 - b. Education Working Group including Recommendations from 2009 Education Task Force
 - c. Texas Real Estate Inspector Advisory Committee
 - d. Broker Lawyer Committee

PUBLIC COMMENTS

8. General comments from visitors

EXECUTIVE SESSION

9. Executive session to discuss pending litigation pursuant to Texas Government Code §551.071 and if necessary, to receive legal advice from general counsel under Texas Government Code §551.071

ACTION ON MATTERS FROM EXECUTIVE SESSION

10. Discussion and possible action to authorize settlement of recovery fund claims or take other action on items considered in executive session

RULES FOR POSSIBLE ADOPTION

11. Discussion and possible action to adopt amendments to:
 - a. 22 TAC §534.1 Charges for copies of Public Information,
 - b. 22 TAC §534.4 Historically Underutilized Businesses Program,
 - c. 22 TAC §534.5 Bid Opening and Tabulation

Pursuant to the Americans with Disabilities Act, any requests for reasonable accommodation needed by persons wishing to attend this meeting should be submitted to Loretta DeHay at 512-465-3900.

12. Discussion and possible action to adopt amendments to:

- a. 22 TAC §539.41 Disclosures
- b. 22 TAC §539.51 "Employed by" Defined
- c. 22 TAC §539.61 Application and Licensing
- d. 22 TAC §539.71 Miscellaneous Forms
- e. 22 TAC §539.91 Annual Report Form RSC 6-3
- f. 22 TAC §539.137 Mid-year Report

RULES FOR POSSIBLE PROPOSAL

13. Discussion and possible action to propose amendments to:

- a. 22 TAC Chapter 531, Canons of Professional Ethics and Conduct for Real Estate Licensees
- b. 22 TAC Chapter 533, Practice and Procedure
- c. 22 TAC Chapter 537, Professional Agreements and Standard Contracts
- d. 22 TAC Chapter 541, Rules Relating to the Provisions of the Texas Occupations Code, Chapter 53
- e. 22 TAC §535.51, General Requirements
- f. 22 TAC §535.101, Fees
- g. 22 TAC §535.208, Application for a License
- h. 22 TAC §535.210, Fees

RULE REVIEW

14. Discussion regarding comments on the review of:

- a. 22 TAC Chapter 531, Canons of Professional Ethics and Conduct for Real Estate Licensees
- b. 22 TAC Chapter 533, Practice and Procedure
- c. 22 TAC Chapter 537, Professional Agreements and Standard Contracts
- d. 22 TAC Chapter 541, Rules Relating to the Provisions of the Texas Occupations Code, Chapter 53

15. Discussion and possible action to adopt the review of:

- a. 22 TAC Chapter 534, General Administration
- b. 22 TAC Chapter 539, Provisions of the Residential Service Company Act
- c. 22 TAC Chapter 543, Rules Relating to the Provisions of the Texas Timeshare Act

16. Discussion and possible action to propose the review of Chapter 535 regarding General Provisions

PENDING BUSINESS

17. Discussion and possible action regarding plan to identify savings in priority increments totaling 5% of the general revenue and general revenue-dedicated appropriations for the 2010-11 biennium, pursuant to the request dated January 15, 2010, from Texas Governor Rick Perry, Lieutenant Governor David Dewhurst, and Speaker of the House Joe Straus

18. Discussion and possible action regarding the Texas Real Estate Commission Strategic Plan for the fiscal years 2011-2015

NEW BUSINESS

19. Discussion and possible action to approve Memorandum of Understanding with the Texas Appraiser Licensing and Certification Board regarding administrative services provided by TREC staff
20. Discussion and possible action to request an Ethics Commission opinion regarding commissioners or staff teaching certain Mandatory Continuing Education courses
21. Discussion and possible action to approve annual audit plan
22. Discussion and possible action to appoint members to the Texas Real Estate Inspector Committee
23. Discussion and possible action to extend contract for examination services with PSI Services, LLC
24. Discussion and possible action to adopt changes to existing policy statements regarding:
 - a. Commissioner Travel Expenses and Per Diem Policy
 - b. MCE Exemption if Eligible Broker allows License to Expire for over 364 Days
25. Discussion of Chairman Eckstrum's appointment of new member(s) to disciplinary panel under Texas Occupations Code, §1101.662

CONTESTED CASES

26. Consideration and possible action regarding Proposals for Decision from State Office of Administrative Hearings
 - a. In the Matter of John B. Austin, SOAH Docket No. 329-10-1578.REC
 - b. In the Matter of Paul A. Garcia, SOAH Docket No. 329-10-2384.REC
 - c. In the Matter of Marcus M. Norton, SOAH Docket No. 329-10-4740.REC
 - d. In the Matter of Wyndee Lynn Rodriguez, SOAH Docket No. 329-10-1402.REC
 - e. In the Matter of Jim S. Hicks, SOAH Docket No. 329-10-6222.REC
27. Consideration and possible action regarding Motion for Rehearing in the Matter of
 - a. In the Matter of Stephen Melvin King, Jr., SOAH Hearing No. 10-108-09784
 - b. In the Matter of John Christopher Crawford, SOAH Hearing No. 10-114-093171

FUTURE MEETINGS

28. Discussion and possible action to schedule future meetings
29. Discussion and possible action regarding distribution of meeting materials to commissioners
30. Adjourn

Pursuant to the Americans with Disabilities Act, any requests for reasonable accommodation needed by persons wishing to attend this meeting should be submitted to Loretta DeHay at 512-465-3900.



Agenda Item 2: Discussion and possible action to recognize past commissioners service

SUMMARY Provides for the recognition of Mary Frances Burleson - Sachse, Elizabeth Leal - El Paso, and William H. Flores - Bryan/College Station who served as Commissioners from 2004 to 2009.

STAFF RECOMMENDATION Approve recognition and present certificates and plaques.

MOTION **MOVED,** that the Texas Real Estate Commission recognizes Mary Frances Burleson of Sachse, Elizabeth Leal of El Paso, and William H. Flores of Bryan/College Station, Texas who served as Commissioners from 2004 to 2009 for their service to the State of Texas.



RESOLUTION



WHEREAS, MARY FRANCES BURLESON of Sachse, Texas, was appointed Commissioner of the Texas Real Estate Commission (TREC) by Governor Rick Perry on March 8, 2004; and

WHEREAS, COMMISSIONER BURLESON has held a Texas real estate license in good standing since 1966, and served with great distinction as Vice-Chair of the Texas Real Estate Commission from February 2005 to February 2006; and

WHEREAS, Throughout her tenure as a Commissioner, COMMISSIONER BURLESON provided exemplary leadership in carrying out TREC's commitment to protecting consumers, assuring the availability of qualified and honest real estate business professionals, and fostering economic growth and opportunity in Texas; and

WHEREAS, During her term as a Commissioner, COMMISSIONER BURLESON established and oversaw the implementation of successful TREC programs in professional licensing, education, and enforcement of regulations to protect all who are involved with real estate transactions,

WHEREAS, With her knowledge and experience as an active real estate broker and entrepreneur, COMMISSIONER BURLESON selflessly offered her expertise, talent and integrity as a member of the Commission; and

NOW, THEREFORE, BE IT RESOLVED, That COMMISSIONER MARY FRANCES BURLESON is hereby recognized and honored by the Texas Real Estate Commission for her diligence and outstanding service as a member of the Commission; and

BE IT FURTHER RESOLVED, That COMMISSIONER BURLESON be commended for her ongoing dedication to improving and upholding TREC's high standards of excellence in serving and protecting the best interests of all Texans.

Adopted this Seventeenth Day of May, 2010, by the Texas Real Estate Commission

John D. Eckstrum, Chairman

Douglas E. Oldmixon, Administrator



RESOLUTION



WHEREAS, ELIZABETH LEAL of El Paso, Texas, was appointed Commissioner of the Texas Real Estate Commission (TREC) by Governor Rick Perry on March 8, 2004; and

WHEREAS, COMMISSIONER LEAL has held a Texas real estate license in good standing since 1977, and served with great distinction as Secretary of the Texas Real Estate Commission from February 2005 to February 2006 and Vice-Chair of the Commission from February 2006 to February 2007; and

WHEREAS, Throughout her tenure as a Commissioner, COMMISSIONER LEAL provided exemplary leadership in carrying out TREC's commitment to protecting consumers, assuring the availability of qualified and honest real estate business professionals, and fostering economic growth and opportunity in Texas; and

WHEREAS, During her term as a Commissioner, COMMISSIONER LEAL established and oversaw the implementation of successful TREC programs in professional licensing, education, and enforcement of regulations to protect all who are involved with real estate transactions,

WHEREAS, With her knowledge and experience as an active real estate broker and entrepreneur, COMMISSIONER LEAL selflessly offered her expertise, talent and integrity as a member of the Commission; and

NOW, THEREFORE, BE IT RESOLVED, That COMMISSIONER ELIZABETH LEAL is hereby recognized and honored by the Texas Real Estate Commission for her diligence and outstanding service as a member of the Commission; and

BE IT FURTHER RESOLVED, That COMMISSIONER LEAL be commended for her ongoing dedication to improving and upholding TREC's high standards of excellence in serving and protecting the best interests of all Texans.

Adopted this Seventeenth Day of May, 2010, by the Texas Real Estate Commission

John D. Eckstrum, Chairman

Douglas E. Oldmixon, Administrator



RESOLUTION



HEREAS, WILLIAM H. FLORES of Bryan, Texas, was appointed Commissioner of the Texas Real Estate Commission (TREC) by Governor Rick Perry on March 8, 2004; and

WHEREAS, COMMISSIONER FLORES served with great distinction as Secretary of the Texas Real Estate Commission from February 2006 to February 2007; and

WHEREAS, Throughout his tenure as a Commissioner, COMMISSIONER FLORES provided exemplary leadership in carrying out TREC's commitment to protecting consumers, assuring the availability of qualified and honest real estate business professionals, and fostering economic growth and opportunity in Texas; and

WHEREAS, During his term as a Commissioner, COMMISSIONER FLORES established and oversaw the implementation of successful TREC programs in professional licensing, education, and enforcement of regulations to protect all who are involved with real estate transactions,

NOW, THEREFORE, BE IT RESOLVED, That COMMISSIONER WILLIAM H. FLORES is hereby recognized and honored by the Texas Real Estate Commission for his diligence and outstanding service as a member of the Commission; and

BE IT FURTHER RESOLVED, That COMMISSIONER FLORES be commended for his ongoing dedication to improving and upholding TREC's high standards of excellence in serving and protecting the best interests of all Texans.

Adopted this Seventeenth Day of May, 2010, by the Texas Real Estate Commission

John D. Eckstrum, Chairman

Douglas E. Oldmixon, Administrator

**Agenda Item 3:**

Discussion and possible action to recognize licensees with 50 years of licensure

SUMMARY

In 1999, when the agency celebrated its 50th Anniversary, the Administrator developed a process to recognize those licensees who had first been licensed with the agency's inception in 1949. The recognition of these licensees was accomplished in conjunction with other events that the agency planned to commemorate the milestone anniversary. Since then, the tradition of honoring licensees who have held a TREC license for 50 consecutive years has continued. However, due to Sunset Review and other issues, no licensees have been honored since 2007. The list of honorees for 2010 includes all TREC licensees that have been continually licensed beginning in 1957, 1958, 1959 or 1960. You will note that there are 8 licensees on the list who were licensed prior to 1957; these individuals were inadvertently left off of previous year's lists. The 2010 list has yielded 167 honorees.

**STAFF
RECOMMENDATION**

Approve the recognition plan that has been described in the following memo and adopt the resolution.

MOTION

MOVED, that the Commission does hereby approve the recognition plan and adopt the resolution to honor TREC licensees who have been continually licensed for 50 or more years as presented by staff.

TEXAS



REAL ESTATE COMMISSION

APPRAISER LICENSING & CERTIFICATION BOARD

MEMORANDUM

TO: TREC Commissioners
FROM: Douglas E. Oldmixon
RE: 50 Year Recognition of TREC Licensees
DATE: May 17, 2010

In 1999, when the agency celebrated its 50th Anniversary, the Administrator developed a process to recognize those licensees who had first been licensed with the agency's inception in 1949. The recognition of these licensees was accomplished in conjunction with other events that the agency planned to commemorate the milestone anniversary. Since then, the tradition of honoring licensees who have held a TREC license for 50 consecutive years has continued. However, due to Sunset Review and other issues, no licensees have been honored since 2007. The list of honorees for 2010 includes all TREC licensees that have been continually licensed beginning in 1957, 1958, 1959 or 1960. You will note that there are 8 licensees on the list who were licensed prior to 1957, these individuals were inadvertently left off of previous year's lists. The 2010 list has yielded 167 honorees.

The list of honorees can be found as an attachment to this memo. Staff has vetted the list through the Standards & Enforcement Services Division and the Education & Licensing Services Division to ensure honorees have had not serious enforcement matters and have been licensed for fifty years with no break in service. The agency will send a letter to each honoree thanking them for their commitment to the real estate industry of Texas and in addition to a resolution suitable for framing (both attached). Also, a state-wide press release will be issued naming all honorees (also attached). Lastly, the agency will contact the legislature to be sure that Members know of these licensees' dedication and service to the citizens of Texas and our industry.

Next year, the agency will be back on track and will honor licensees who were first licensed in 1961. Staff requests that the Commission approve the recognition plan that has been described in this memo and adopt the resolution.

Attachments: 2010 Honoree List
Letter to Honoree
Honoree Resolution
Press Release

Lic #	Sal	First	Middle	Last	Suffix	Permanent Address	City	Zip	Year	LicenseType	License Status
1337	Mr.	Daniel	Guy	Cutbirth		2145 Avenue F	Wichita Falls	76309	1953	Broker	Inactive
26647	Mr.	Jack	G.	Fisk		County Road 387 P.O. Box 1565	Campo	77437	1955	Broker	Active
78318	Ms.	Dorothy	B.	Rolater		6900 N Preston Road	Frisco	75034	1955	Broker	Active
76493	Mr.	David	M.	Lewis		952 Echo Lane Suite 315	Houston	77024	1955	Broker	Active
77221	Mr.	Robert	Milton	Dawson		11805 MeadowGlen Lane Apt. 1351	Houston	77082	1955	Broker	Active
77863	Mr.	Wilber	Viner	Isham		P.O. Box 280	Premont	78375	1955	Broker	Active
76286	Mr.	John	William	Cuiper	Jr.	5934 Del Starr Drive	Corpus Christi	78413	1956	Broker	Active
82102	Mr.	Antonio	Garcia	Rivas		710 N. Arroyo P.O. Box 205	Los Fresnos	78566	1956	Broker	Active
82531	Ms.	Betty	Jeanne	Arnold		1104 NW 9th P.O. Box 1895	Andrews	79714	1957	Broker	Active
82484	Mr.	Shirley	Paul	O'Farrell		P.O. Box 1639	Angelton	77515	1957	Broker	Active
83300	Ms.	Evelyn	V.	Malone		2303 James Bowie Drive	Baytown	77521	1957	Broker	Active
57147	Mr.	Jimmie	P.	Cokinos		1430 Futura Street	Beaumont	77706	1957	Broker	Active
83151	Mr.	Jesse	A.	Baker		175 Skyland Drive	Boerne	78006	1957	Broker	Active
84643	Mr.	William	W.	Bell		P.O. Box 1726	Brownwood	76804	1957	Broker	Active
70687	Mr.	Arno	C.	Schwethelm		P.O. Box 248	Comfort	78013	1957	Broker	Active
50928	Mr.	Ruth	Currin	Jaubert		5719 Encore Drive	Dallas	75240	1957	Broker	Active
83544	Mr.	David	Weldon	Tindle		1551 Stemmons Avenue	Dallas	75208	1957	Broker	Active
31903	Mr.	Dorsey	Raymond	Boyd		2615 N Locust Street	Denton	76209	1957	Broker	Active
69347	Mr.	Tony		Apodaca		P.O. Box 291150	El Paso	79929	1957	Broker	Active
85399	Mr.	Edwin	W.	Neumann		4827 Crockett Blvd	Galveston	77551	1957	Broker	Active
85486	Mr.	Albert	Scruggs	Love		P.O. Box 325	Hondo	78861	1957	Broker	Active
82615	Ms.	Marcelline	V.	Williams		8014 Colgate Street	Houston	77061	1957	Broker	Active
84492	Ms.	Fontaine	C.	Weems		1603 West Clay Street	Houston	77019	1957	Broker	Active
85499	Mr.	Thomas	G.	Bousquet		9225 Katy Frwy No. 103	Houston	77024	1957	Broker	Active
83805	Ms.	Elizabeth	C.	McCoy		P.O. Box 5533	Kingwood	77325	1957	Broker	Active
85094	Mr.	William	Carl	Glaw		102 Burgundy Lane	League City	77573	1957	Broker	Active
84580	Mr.	Edward	Ward	Jones		315 N. Jackson Avenue	Livingston	77351	1957	Broker	Active
64313	Ms.	Gerda	Mae	Pool		5019 27th Street	Lubbock	79407	1957	Broker	Active
85125	Mr.	Billy	Joe	Evans		4212 88th Place	Lubbock	79423	1957	Broker	Active
83140	Mr.	Martin	C.	Meissner		724 W Louisiana Avenue	Midland	79701	1957	Broker	Active
83964	Ms.	Peggy	Arnold	Parvin		1505 N. Edwards Street	Midland	79701	1957	Sales	Inactive
63941	Mr.	James	Merrill	Patton		1518 Eastland Circle	Sachse	75048	1957	Broker	Active
83823	Mr.	John	L.	Hendry		402 E Ramsey Road	San Antonio	78216	1957	Broker	Inactive
85817	Ms.	Laverne	Matilda	Pick		3601 Grizzly Bear Trail	Temple	76502	1957	Sales	Active
82933	Mr.	Orville		McKenzie		1633 Christine Road	Witchita Falls	76302	1957	Broker	Active
85803	Mr.	Y F		Snodgrass		1205 1st Street	Abernathy	79311	1958	Broker	Active
87816	Mr.	Robert	L.	Buford		4602 Crestway Drive	Austin	78731	1958	Broker	Active
87012	Mr.	Sam	O.	Smith		5680 North Circuit Drive	Beaumont	77706	1958	Broker	Active

87690	Mr.	Robert	Luke	McDonald		611 Runnells Street	Big Spring	79720	1958	Broker	Active
87633	Mr.	Donald	W.	Johnson		P.O. Box 921	Brownwood	76804	1958	Broker	Active
87645	Ms.	Peggy	N.	Holder		943 Glen Oaks Blvd	Dallas	78232	1958	Broker	Active
88597	Mr.	Ted	Martin	Akin		25 Highland Park Village Ste. 100505	Dallas	75205	1958	Broker	Active
90888	Mr.	Danny	Victor	Matise		P.O. Box 12248	Dallas	75225	1958	Broker	Active
86808	Mr.	J.	Robert	Melanson		401 N Mechanic Street	El Campo	77437	1958	Broker	Active
86827	Mr.	Travis	W.	Carrington		110 CR 4011	Etoile	75944	1958	Broker	Active
86750	Mr.	William	L.	Minelli		4936 Terrace Trail	Fort Worth	76114	1958	Broker	Active
89489	Mr.	Bobby	Hershel	Dalton		4900 Westridge Avenue No. 10 P.O. Box 121127	Fort Worth	76121	1958	Broker	Active
89276	Mr.	Frank	A.	Tompkins	II	121 Camp Drive	Georgetown	78633	1958	Broker	Active
70957	Mr.	Grover	C.	Gibbs		P.O. Box 1919	Glen Rose	76043	1958	Broker	Active
36974	Mr.	Roice	Max	Ballenger		P.O. Box 577	Henderson	75653	1958	Broker	Inactive
89360	Mr.	Robert	Lee	Creel		610 Cindarella P.O. Box 803	Highlands	77562	1958	Broker	Active
33954	Mr.	Robert	Edward	Tresch		5110 San Felipe Street #77W	Houston	77056	1958	Broker	Inactive
80251	Mr.	James	C.	Shindler		3000 Richmond Avenue #440	Houston	77002	1958	Broker	Active
85591	Mr.	Jerry	Sam	Dominy		855 Uvalde Road	Houston	77015	1958	Broker	Inactive
86277	Mr.	William	N.	Carl	Jr.	69 E Broad Oaks Drive	Houston	77056	1958	Broker	Active
88554	Mr.	Robert	Chris	Chuoque		16403 Shady Elms Drive	Houston	77059	1958	Broker	Active
89113	Mr.	Robert	Steward	Lewis		15835 Pinyon Creek Drive	Houston	77095	1958	Broker	Active
89345	Mr.	Bernard		Perlmutter		5555 Del Monte Drive Ste. 1901	Houston	77056	1958	Broker	Active
89007	Mr.	Robert		Haynes		113 Country Club Court	Laredo	78041	1958	Broker	Active
87056	Mr.	Jack	Warren	McQueen		2741 81st Street	Lubbock	79423	1958	Broker	Active
88337	Mr.	Roy	Andrew	Middleton		3403 73rd Street	Lubbock	79423	1958	Broker	Active
87817	Mr.	Robert	C.	Dickens		322 Columbine Street	Meadowlakes	78654	1958	Broker	Active
87543	Mr.	Willie	M.	Butler		P.O. Box 1015	Morton	79346	1958	Broker	Active
86830	Ms.	Valera	M.	Gatewood		518 W 5th Street P.O. Box 550	Pecos	79772	1958	Broker	Active
86263	Mr.	Joseph	W.	Richard		2704 Glacier Drive	Port Arthur	77640	1958	Broker	Active
76778	Mr.	Milton	Ray	Currey		619 Francine Drive	Rockdale	76567	1958	Broker	Active
88620	Ms.	Thelma		McMurtrey		2010 Putter Drive	San Angelo	76904	1958	Broker	Active
86671	Mr.	Alfred	William	Rohde		85 NE Loop 410 Suite 100	San Antonio	78216	1958	Broker	Active
86677	Mr.	Albert		Jones		303 Country Wood Drive	San Antonio	78216	1958	Broker	Active
85608	Ms.	Hazel	Joyce	Klutts		P.O. Box 757	Smithville	78957	1958	Broker	Active
85597	Mr.	Frank	Eugene	Green		10284 N US Hwy 281	Stephenville	76401	1958	Broker	Active
86765	Mr.	Ben	Taylor	Fitzgerald		121 West 9th	Tyler	75701	1958	Broker	Active
86126	Mr.	Roy	Norman	Davis		1206 S Border Avenue #626	Weslaco	78596	1958	Broker	Active
92912	Mr.	Eugene	J.	Scott		1820 Bell Street	Amarillo	79106	1959	Broker	Active
89817	Mr.	William	O.	Doctorman		2602 Great Oaks Parkway	Austin	78756	1959	Broker	Active
93549	Mr.	Lawrence	T.	Barnett		P.O. Box 9813	Austin	78766	1959	Broker	Active
92766	Mr.	Henry	Earl	Uffen		1703 Travis Street	Columbus	78934	1959	Broker	Active

89806	Mr.	John	H.	Singleton		1401 FM 637	Corsicana	75109	1959	Broker	Active
90216	Ms.	Doris	Jeanette	Plunk		9137 Locarno Drive	Dallas	75243	1959	Broker	Active
90300	Mr.	Morton		Rachofsky		5511 Stonegate Road	Dallas	75209	1959	Broker	Active
92709	Mr.	Ralph	Fentress	Black		P. O. Box 140490	Dallas	75214	1959	Broker	Active
90825	Mr.	Lloyd	Burrel	Harris		1525 Camino Alto Road	El Paso	79902	1959	Broker	Active
93633	Mr.	Frank	H.	Mena		3106 Montana Avenue	El Paso	79903	1959	Broker	Active
90261	Ms.	Janie	James	Grayson		2450 Evans Avenue	Fort Worth	76104	1959	Broker	Active
93359	Mr.	Gary	Dorsey	Greene		13450 FM 3005 Road	Galveston	77554	1959	Broker	Active
91621	Mr.	Earle	Vaughn	Almy		P.O. Box 129	Granbury	76048	1959	Broker	Active
92013	Ms.	Jewell	M.	Sweet		409 NW 4th Street	Grand Prairie	75050	1959	Broker	Active
91127	Mr.	Donald		Farmer		P.O. Box 8650	Horseshoe Bay	78657	1959	Broker	Active
68519	Mr.	Horace	James	Tollett		2200 Willowick Road #5J	Houston	77027	1959	Broker	Active
89714	Mr.	Robert	Eugene	Reed		2302 Avalon Place	Houston	77019	1959	Broker	Active
90039	Mr.	Rodney	George	Bolin		4944 Post Oak Timber	Houston	77056	1959	Broker	Active
90091	Mr.	Gerard		Robins		9301 Southwest Freeway Ste. 250	Houston	77074	1959	Broker	Active
90138	Mr.	Sidney	Bertram	Aron		5206 Queensloch Drive	Houston	77096	1959	Sales	Active
90188	Mr.	Donald		McGregor		13322 Alchester Lane	Houston	77079	1959	Broker	Active
92260	Mr.	Herbert	H.	Peebles		5005 Woodway Drive Ste. 210	Houston	77056	1959	Broker	Active
92643	Mr.	Charles	Owen	Benton		P.O. Box 924584	Houston	77292	1959	Broker	Active
92790	Mr.	James	P.	Woodson		4295 San Felipe Ste. 220	Houston	77027	1959	Broker	Active
93650	Mr.	Vernon	D.	Laywell		306 E. Fair Harbor Lane	Houston	77079	1959	Broker	Active
90683	Ms.	Wanda		Hunter		108 E Cash Street	Iowa Park	76367	1959	Broker	Active
91301	Mr.	Willie	Lee	Yeary		300 S. Wheeler	Jasper	75951	1959	Broker	Active
91424	Ms.	Patricia	Lousie	Althaus		101 Pitchfork Drive	Johnson City	78636	1959	Broker	Active
93063	Mr.	William	C.	Coleman		18367 Hickory Circle	Kemp	75143	1959	Broker	Active
93209	Mr.	Gus	Fred	Lindemann		821 E Travis P.O. Box 237	LaGrange	78945	1959	Broker	Active
89858	Mr.	Willis	Ray	Allen		207 North Spring Street, P.O. Box 749	Lampasas	76550	1959	Broker	Active
89853	Mr.	Kenneth	Paul	Flagg		3403 73rd Street #4	Lubbock	79423	1959	Broker	Active
93225	Mr.	Willard	F.	Brownlee		4520 8th Street	Lubbock	79416	1959	Broker	Active
50124	Mr.	Claude		McClennahan		320 Columbine Street	Marble Falls	78654	1959	Broker	Active
93132	Mr.	Charles	A.	Cass		133 High Cotton Pkwy	Merkel	79536	1959	Broker	Active
89998	Mr.	Horace	W.	Savant		815 Orian Drive	Mesquite	75181	1959	Broker	Active
92760	Ms.	Rachel	Luker	Lofton		1118 Atlanta Avenue	Nederland	77627	1959	Broker	Active
93153	Mr.	Curtis	Waybe	Bremer		267 Landa Street	New Braunfels	78130	1959	Broker	Active
91681	Mr.	Roy	E.	Hranicky		P.O. Box 567	Orange Grove	78372	1959	Broker	Active
92556	Mr.	Cecil	Dean	Ghormley		2902 Burke Road	Pasadena	77502	1959	Broker	Active
89747	Mr.	Spencer	B.	Garsee		3303 Medical Triangle Street	Port Arthur	77642	1959	Broker	Inactive
93651	Mr.	Henry	Edward	Nemec		6515 FM Road 1464 P.O. Box 11	Richmond	77406	1959	Broker	Active
92223	Mr.	David	R.	Hawkins		P.O. Box 901	Rockwall	75087	1959	Broker	Active

93236	Mr.	B J		Wimberly		401 South Parkway Street	San Angelo	76901	1959	Broker	Active
93696	Mr.	Ralph	L.	Armstrong		1 Somerville Court	San Antonio	78257	1959	Broker	Active
91316	Mr.	Joseph	B.	Dilworth		400 FM Rd 534	Sandia	78383	1959	Broker	Active
91936	Mr.	Leo	Edward	Foshee		P.O. Box 3305	Victoria	77903	1959	Broker	Active
79833	Mr.	David	Elmer	Toney		113 E Bernard Street P.O. Box 488	West Columbia	77486	1959	Broker	Active
97729	Mr.	Kenneth	James	Brown		1618 S Western Street	Amarillo	79106	1960	Broker	Active
95601	Mr.	Benny	S.	McMahan		7182 Las Ventanas Drive	Austin	78731	1960	Broker	Inactive
93944	Ms.	Dorothy	M.	Darden		P.O. Box 518	Bandera	78003	1960	Broker	Active
94575	Mr.	William	M.	Bell		3322 6th Street	Bay City	77414	1960	Broker	Active
95202	Mr.	William	B.	Bloys		P.O. Box 707	Brady	76825	1960	Broker	Active
96877	Mr.	Gary	Everett	Caywood		902 Sunny Lane	Cedar Park	78613	1960	Broker	Active
93428	Mr.	C M		Hudson		P.O. Box 373	Claude	79019	1960	Broker	Active
93870	Mr.	Thomas	J.	Morey		1075 Griffin Street West	Dallas	75215	1960	Broker	Active
94012	Mr.	Joseph	L.	Cottrell		1075 Griffin Street West	Dallas	75215	1960	Broker	Active
96691	Mr.	James	P.	Christon		6105 Averill Way	Dallas	75225	1960	Broker	Active
97138	Ms.	Jill	Worley	Sherer		3704 Shenandoah Street	Dallas	75205	1960	Broker	Active
97252	Mr.	Edward	C.	Hamilton		7333 Pleasant View Drive	Dallas	75231	1960	Broker	Active
97016	Ms.	Jane	E.	Angel		1332 Mosslake Drive	DeSoto	75115	1960	Sales	Active
96210	Ms.	Luis	O.	Telles		8533 Dyer Street	El Paso	79904	1960	Broker	Active
94592	Mr.	Claude	Eugene	Neal		P.O. Box 671	Fairfield	75840	1960	Broker	Active
93955	Mr.	John	Howard	Maddux		2120 Rigmar Blvd Ste. 14	Fort Worth	76116	1960	Broker	Active
95057	Mr.	Grady	Lee	Shropshire		901 University Drive	Fort Worth	76107	1960	Broker	Active
96059	Mr.	Leonard	E.	Briscoe		2016 Evans Avenue	Fort Worth	76104	1960	Broker	Active
96274	Mr.	M.	Barton	Dunn		4000 Falcon Ridge Drive	Fort Worth	76137	1960	Broker	Active
94619	Ms.	Ruth	Virginia	Dearing		1199 Anderson Co Rd No 437	Frankston	75763	1960	Broker	Active
82133	Mr.	Freddie	Q.	Brabbin		2525 Robin Lane	Garland	75041	1960	Broker	Inactive
96327	Mr.	Billy	Eugene	Hardy		1215 Mayfield Avenue	Garland	75041	1960	Broker	Active
94145	Mr.	William	A.	Brown		225 E Plum P.O. Box 399	Grapeland	75844	1960	Broker	Active
96247	Mr.	C.	Wayland	Walker		4319 Wesley Street	Greenville	75401	1960	Broker	Active
96066	Ms.	Betty	Baker	James		1330 Post Oak Blvd Ste 1600	Houston	77056	1960	Broker	Active
96511	Mr.	Robert	Wallace	Pullen		2001 Kirby Drive #1115	Houston	77019	1960	Broker	Active
97224	Mr.	Robert	Lee	Fleming		2929 Buffalo Speedway #2304	Houston	77098	1960	Broker	Active
97232	Mr.	William	J.	Blythe		P.O. Box 572796	Houston	77257	1960	Broker	Active
97285	Ms.	Marguerite		Hillegeist		6782 Cutton Parkway	Houston	77069	1960	Broker	Active
97319	Mr.	Jerry	Max	Jordan		11211 Sageberry Drive	Houston	77089	1960	Broker	Active
97710	Mr.	George	Vernon	Yancey		850 Shawne Street	Houston	77034	1960	Broker	Active
96928	Mr.	Robin	Landon	Jones		405 Manor Drive	Kerrville	78028	1960	Broker	Active
95647	Mr.	Kenneth	L.	Kirkpatrick		P.O. Box 244	Killeen	76540	1960	Broker	Active
95270	Mr.	Charlie	Turner	Jones	Jr.	P.O. Box 239	Livingston	77351	1960	Broker	Active

96979	Mr.	Billy	John	York		4420 57th Street	Lubbock	79414	1960	Broker	Active
96015	Mr.	Jospeh	D.	Paschall		1021 W 7th Street	McGregor	76657	1960	Broker	Active
97363	Mr.	James	Busch	Pope		207 Lakeview Circle	Montgomery	77356	1960	Broker	Active
94986	Mr.	Pace		McDonald		324 E Palestine Avenue P.O. Box 2026	Palestine	75802	1960	Broker	Active
95355	Ms.	Pansy	Privitt	Johnson		1201 Rainbow Circle	Plano	75075	1960	Broker	Active
95986	Mr.	Willard	Dwayne	Moses		304 Tilford Avenue	Ralls	79357	1960	Broker	Active
96376	Mr.	Ben		Parks		216 Rockbrook Drive	Rockwall	75087	1960	Broker	Active
97443	Mr.	Donald		Starkweather		225 Albany Petroleum Center	San Antonio	78209	1960	Broker	Active
97903	Mr.	Burt	I.	Cohen		6411 Parkriver Crossing	Sugar Land	77479	1960	Broker	Active
95341	Mr.	William	H.	Proctor		2720 Blue Meadow Drive	Temple	76502	1960	Broker	Active
97013	Mr.	John	David	Warren		23101 Park Lane	Tomball	77377	1960	Broker	Active
95822	Mr.	Robert	Lee	Halbert		P.O. Box 848	Tyler	75710	1960	Broker	Active

TEXAS



REAL ESTATE COMMISSION

DOUGLAS E. OLDMIXON, ADMINISTRATOR

May 17, 2010

Xxx
Xxx
Xxx
Xxx

Dear Xxx:

First and foremost, thank you for your dedicated service to the real estate industry of Texas. The Texas Real Estate Commission is humbled by your fifty continued years of professional commitment to the citizens of this great state and pleased to honor you for this monumental achievement. As you may know, the 51st Texas Legislature created the Texas Real Estate Commission in 1949 and while the agency has grown and changed over the years, the initial focus of providing honest, capable, and trustworthy real estate service providers to consumers has not wavered.

In 1999, the agency began recognizing licensees who had been continually licensed with the state for the fifty years of the agency's existence. Eleven years later, the Commission still believes it is important and quite appropriate to recognize individuals like you who reach this milestone in your career. At today's Commission meeting, the Commissioners adopted a resolution in your name and it is enclosed with this letter. Please accept it as a small token of appreciation for your service.

Congratulations and best wishes for the future!

Sincerely,

Douglas E. Oldmixon
Administrator

enclosure



Whereas in 1949, the 51st Texas Legislature created the Texas Real Estate Commission as a licensing and regulatory agency and established its legal responsibility to serve the citizens of the great State of Texas; and

Whereas for the past sixty-one years the agency has successfully honored its commitment to protecting consumers, ensuring the availability of honest, capable, and trustworthy licensees; and

Whereas it is only appropriate that the Texas Real Estate Commission honor those individuals who have served the people of Texas as real estate professionals for fifty years; therefore be it

Resolved that the Texas Real Estate Commission on this seventeenth day of May in the year two thousand and ten, proudly congratulate and commend

<Name of Licensee>

for more than fifty years of service, having been continuously licensed since <initial year of licensure>.



John D. Eckstrum, Chairman

Douglas E. Oldmixon, Administrator



Agenda Item 4: Approval of minutes of February 8, 2010
Commission meeting

SUMMARY Provides for the approval of the minutes as
submitted to the Commission by staff.

STAFF Approve minutes for February 8, 2010
RECOMMENDATION Commission meeting.

MOTION **MOVED**, that the Commission approves the
minutes of the February 8, 2010 meeting of the
Commission as submitted.

MINUTES OF THE MEETING OF THE
TEXAS REAL ESTATE COMMISSION

February 8, 2010

Room 235, 1101 Camino La Costa
Austin, Texas

On Monday, February 8, 2010, at 10:10 a.m. there was a duly posted regular meeting of the Texas Real Estate Commission (the "Commission"). Chairman Eckstrum called the meeting to order. The Chairman asked Commissioner Wukasch to lead the attendees in the pledges of allegiance to the United States and Texas flags. Chairman John Eckstrum presided, and Patricia Holder recorded the minutes. The following commissioners, constituting a quorum, were in attendance:

John Eckstrum, Chairman

Adrian Arriaga

Chris Day

Jaime Hensley

Joanne Justice

Tom C. Mesa

Avis Wukasch

Staff present included Karen Alexander, Devon Bijansky, Lorie DeAnda, Loretta DeHay, Kerri Galvin, Gwen Jackson, Douglas Oldmixon and Tom Watson.

Chairman Eckstrum moved to agenda item four, discussion and possible action to excuse commissioner absence(s), if any. Upon motion of Mr. Mesa, duly seconded by Mr. Arriaga, the absences of Commissioners Troy Alley and Dona Scurry were excused.

Mr. Eckstrum moved to agenda item three, approval of minutes of the December 14, 2009, Commission meeting. The Chairman asked if there were any corrections, additions or deletions to the minutes as read, hearing none, the Commission approved the minutes by unanimous consent.

The Chairman moved to agenda item two, election of officers. Upon motion of Joanne Justice, duly seconded by Mr. Mesa, the Commission elected Avis Wukasch as vice-chair. Upon motion of Avis Wukasch, duly seconded by Mr. Day, the Commission elected Joanne Justice as secretary.

Chairman Eckstrum moved to agenda item five, reports by the Administrator and Division Directors which may include reports of monthly activities and statistical data for licensing, education, enforcement, technology usage, recovery trust account and fund activity, and updates on new and ongoing agency activity; questions by Commissioners to Division Directors regarding issues raised by the monthly activities reports; discussion of

current topics raised by monthly reports; requests by the Commission for additional information or reports from staff; and introduction of new employees.

Douglas Oldmixon, Administrator, reported that since the December meeting the agency had hired three new staff members. All staff job descriptions were updated by December 31, 2009 and a new performance review and schedule were put in place. Eleven employees received recognition at the holiday party for longevity of five years or more in multiples of five. The agency received recognition for the highest percentage of participation among agencies of the same size in the State Employee Charitable Campaign for 2009. The Standards and Enforcement Division was restructured into regional teams and a new team concerning Standards and Alternative Dispute Resolutions was established. An Enforcement Conference was held with all field investigators in attendance. Mr. Oldmixon presented further information concerning actions taken during the time since the last meeting of the Commission.

Ms. DeAnda, Director of Reception and Communication Services presented a report concerning the number of walk-ins, phone calls and e-mails during the month of December. There was discussion concerning the wait time on phone calls received by the commission. Ms. DeAnda stated that the fingerprinting regulations had caused an increase in the number of calls received, but that the number seemed to be leveling out. There was also discussion concerning the number of calls received before eight a.m. and after 5 p.m.

Ms. Jackson, Director of Education and Licensing Services, introduced two new employees, Kristy Dubec and Sandra Teneyuque, both of whom will be working in the Licensing Department. Ms. Jackson stated that there was a 7.83% increase in the number of applications received and 5.94% increase in licenses issued from original applications for the month of December. She stated that Education and Licensing Services had met or exceeded all its performance measures for the first quarter.

Ms. Galvin, Director of Standards and Enforcement Services, introduced a new attorney in her division, Mary Winston. Ms. Galvin reported that the division was down to 757 open cases. She stated that she expected to level out at around 750 which is a manageable level for the division. Ms. Galvin reported that the division was still working on the backlog of cases and that this did affect the measures. She summarized a recent joint action between TREC and the Attorney General's Office against an unlicensed residential service company. Although the agency prevailed in the suit, the company's assets had been seized by New York State Attorney General and the company filed bankruptcy, so recovery of the claim was doubtful. There was discussion concerning the number of cases open over 750 days and some of the reasons behind this backlog. There was further discussion concerning the way the performance measures are written and what the targets are. Mr. Arriaga asked for an updated report showing age ranges for the case.

Mr. Watson, Director of Information and Technology Services, reported on the I1 report. There was discussion concerning a hardware failure that had impacted the online transactions over the first weekend in

February. There was discussion concerning the “back-up” procedures and the preventative measures that ITS is taking to prevent such a problem from occurring again. There was discussion concerning the transition to the VERSA System which is scheduled to be completed September 1, 2010. Mr. Watson reported on the penetration tests performed by the Department of Information Resources (DIR). Although DIR made recommendations, Mr. Watson had not yet had the opportunity to study them and determine if implementation was feasible. There was discussion concerning the number of SAE renewals on the I1 report.

Ms. Alexander, Director of Staff and Support Services, reported concerning the Internal Audit Risk Assessment on March 8 & 9, 2010 and stated that the internal auditors would be presenting their audit plan at the May meeting. Mr. Oldmixon explained that the State Auditor’s audit which had been postponed dealt with the computer system and Human Resources and was not a financial audit. Ms. Alexander stated that a security would be maturing on February 15. There was discussion concerning the two recovery funds and estimated payments concerning them. There was discussion concerning the investment of securities including the employees designated to perform this function and the financial institutions involved.

Chairman Eckstrum moved to agenda item six, general comments from visitors. No comments were offered.

The Chairman moved to agenda item seven, executive session to discuss pending litigation pursuant to Texas Government Code §551.071 and if necessary, to receive legal advice from general counsel on posted agenda items under Texas Government Code, §§551.071. The executive session began at 11:08 a.m. The meeting returned to open session at 11:37 a.m.

The Chairman moved to agenda item nine, discussion and possible action regarding the schedule of rule review for 2010. Ms. DeHay presented the agenda item for discussion and possible action. At the December meeting of the Commission staff submitted a rule review schedule for the upcoming year. It was approved. Staff has amended the schedule to allow the review of all rules during 2010. Staff is seeking approval for the revised review schedule. Upon motion of Ms. Wukasch, duly seconded by Mr. Mesa, the Commission approved the revised rule review schedule submitted by staff with the allowance for staff to change a date if a Commission meeting changes.

Mr. Eckstrum moved to agenda item ten, discussion and possible action to propose the review of (a) 22 TAC Chapter 531, Canons of Professional Ethics and Conduct for Real Estate Licensees; (b) 22 TAC Chapter 533, Practice and Procedure; (c) 22 TAC Chapter 537, Professional Agreements and Standard Contracts and (d) 22 TAC Chapter 541, Rules Relating to the Provisions of the Texas Occupations Code, Chapter 53. Ms. DeHay presented the agenda item for discussion and possible action. Upon motion of Ms. Justice, duly seconded by Ms. Wukasch, the Commission approved the review of Chapter 531, Canons of Professional Ethics and Conduct for Real Estate Licensees; Chapter 533, Practice and Procedure; Chapter 537, Professional Agreements

and Standard Contracts and Chapter 541, Rules Relating to the Provisions of the Texas Occupations Code, Chapter 53, as submitted by staff.

Chairman Eckstrum moved to agenda item eleven, discussion regarding comments on the review of: (a) 22 TAC Chapter 534, General Administration; (b) 22 TAC Chapter 539, Provisions of the Residential Service Company Act and (c) 22 TAC Chapter 543, Rules Relating to the Provisions of the Texas Timeshare Act. Ms. DeHay stated that staff had not received any comments at this time.

The Chairman moved to agenda item twelve, discussion and possible action to propose amendments to (a) 22 TAC § 534.1, Charges for Copies of Public Information; (b) 22 TAC § 534.4, Historically Underutilized Businesses Program and (c) 22 TAC § 534.5, Bid Opening and Tabulation. Ms. DeHay presented the agenda items for discussion and possible action. The proposed amendments update the references to the rules promulgated by other state agencies that are adopted by reference by the commission. Upon motion of Mr. Arriaga, duly seconded by Ms. Justice, the Commission authorized staff to submit the amendments to §534.1, concerning Charges for Copies of Public Information, §534.4, concerning Historically Underutilized Businesses Program, and §534.5, Bid Opening and Tabulation in substantially the form presented at this meeting, with technical, non-substantive corrections as staff may deem necessary or advisable for publication in the *Texas Register* and for comment.

Mr. Eckstrum moved to agenda item thirteen, discussion and possible action to propose amendments to: (a) 22 TAC §539.4, Disclosures; (b) 22 TAC §539.51, Employee Defined; (c) 22 TAC §539.61, Application and Licensing; (d) 22 TAC §539.71, Miscellaneous Forms; (e) 22 TAC §539.91, Annual Report Form RSC 6-2 and (f) 22 TAC §539.137, Semiannual Report.

Ms. DeHay presented agenda item thirteen (a) for discussion and possible action. This agenda item proposes an amended title for 22 TAC Chapter 539, new Subchapter E, concerning Disclosures, and new §539.4 concerning Disclosures. The new rule would require a licensed residential service company to include a disclosure in its residential service contracts if the company pays persons other than a residential service company employee for the sale, advertising, inspection or processing of a residential service contract. After discussion, upon motion of Ms. Wukasch, duly seconded by Ms. Justice, the Commission authorized staff to submit the amended title, new Subchapter and new rule in substantially the form presented at the meeting, with technical, non-substantive corrections staff deems necessary or advisable for publication in the *Texas Register* and for comment.

Ms. DeHay presented agenda item thirteen (b) for discussion and possible action. This agenda item proposes amendments to Chapter 539, Subchapter F, §539.51 concerning “Employed by” Defined. The proposed amendment corrects typographical errors in the existing rule to better reflect the statutory reference.

Upon motion of Mr. Arriaga, duly seconded by Mr. Mesa, the Commission authorized staff to submit the amendments to Chapter 539, Subchapter F, §539.51 concerning “Employed by” Defined, in substantially the form presented at the meeting, with technical, non-substantive corrections staff deems necessary or advisable for publication in the *Texas Register* and for comment.

Ms. DeHay presented agenda item thirteen (c) for discussion and possible action. This agenda item proposes amendments to Subchapter G, §539.61 concerning Application and Licensing. The amended rule adopts by reference a revised application form. The revised form is streamlined and changed to provide consistency with other TREC forms.

Upon motion of Ms. Hensley, duly seconded by Mr. Arriaga, the Commission authorized staff to submit the amendments to Chapter 539, Subchapter G, §539.61 concerning Application and Licensing and the revised form adopted by reference, in substantially the form presented at the meeting, with technical, non-substantive corrections staff deems necessary or advisable for publication in the *Texas Register* and for comment.

Ms. DeHay presented agenda item thirteen (d) for discussion and possible action. This agenda item proposes amendments to Subchapter H., §539.71 concerning Miscellaneous Forms. The amended rule adopts by reference a revised Residential Service Company Bond form and Application to approve Evidence of Coverage/Schedule of Charges form. The forms are revised to maintain consistency with other TREC forms.

Upon motion of Ms. Justice, duly seconded by Mr. Mesa, the Commission authorized staff to submit the amendments to Chapter 539, Subchapter H., §539.71 concerning Miscellaneous Forms and the two revised forms adopted by reference, in substantially the form presented at the meeting, with technical, non-substantive corrections staff deems necessary or advisable for publication in the *Texas Register* and for comment.

Ms. DeHay presented agenda item thirteen (e) for discussion and possible action. This agenda item proposes amendments to Subchapter J, §539.91 concerning Annual Report. The proposed rule adopts by reference a revised annual report form. The revised form is streamlined and changed to provide consistency with other TREC forms. Among other things, the form is changed to detail payments to real estate brokers, insurance agents, mobile home dealers or non-RSC employees for selling, advertising, inspection, or processing of residential service contracts.

Upon motion of Mr. Arriaga, duly seconded by Ms. Wukasz, the Commission authorized staff to submit the amendments to Chapter 539, Subchapter J, §539.91 concerning Annual Report and the revised form adopted by reference, in substantially the form presented at the meeting, with technical, non-substantive corrections staff deems necessary or advisable for publication in the *Texas Register* and for comment.

Ms. DeHay presented agenda item thirteen (f) for discussion and possible action. This agenda item proposes amendments to Subchapter N, §539.137 concerning Mid-year Report. The proposed rule adopts by reference a revised and renamed mid-year report form. The revised form is streamlined and changed to provide consistency with other TREC forms. Among other things, the form is changed to detail payments to real estate brokers, insurance agents, mobile home dealers or non-RSC employees for selling, advertising, inspection, or processing of residential service contracts.

Upon motion of Ms. Hensley, duly seconded by Mr. Mesa, the Commission authorized staff to submit the amendments to Chapter 539, Subchapter N, §539.137 concerning Mid-year Report and the revised form adopted by reference, in substantially the form presented at the meeting, with technical, non-substantive corrections staff deems necessary or advisable for publication in the *Texas Register* and for comment.

Chairman Eckstrum moved to agenda item fourteen, discussion and possible action to adopt amendments to: (a) 22 TAC §535.61, Examinations; (b) 22 TAC §535.62, Accreditation of Schools and Approval of Courses and Instructors and (c) 22 TAC §535.64, Payment of Annual Fee, Audits, Investigations and Enforcement Actions. Ms. DeHay presented the agenda items for discussion and possible action.

The amendment to §535.61 as adopted establishes a pre-license examination pass rate for brokers at 75% and for salespersons at 70%. The difference between the rule as originally proposed and the rule as adopted is the 75% pass rate applies to the broker examinations and the 70% pass rate applies to salesperson examinations. The amendments to §535.62 and §535.64 define how TREC-approved proprietary schools' passage rates are calculated and published by the commission and implement the statutory requirement that schools demonstrate a 55% examination passage rate to renew their accreditation. In response to comments to previously proposed amendments to these rules, the amendments allow schools that offer correspondence courses in association with accredited colleges or universities to issue certificates of completion in the name of the TREC-approved school and to count the examination passage rates of students in those courses toward the school's overall passage rates. The amendments further state that correspondence courses offered in association with accredited colleges or universities, like correspondence courses offered by accredited colleges and universities, do not require commission approval because all such courses must comply with the college or university's curriculum accreditation standards. Six comments had been received.

Ms. Justice, duly seconded by Ms. Wukasch, moved to authorize staff to submit the amendments to §535.61, §535.62 and §535.64 in substantially the form presented at this meeting, with technical, non-substantive corrections as staff may deem necessary or advisable, in the *Texas Register* for adoption with an

effective date of September 1, 2010. Mr. Arriaga requested an explanation of the changes staff was suggesting to 22 TAC § 535.61. Mr. Oldmixon explained the research that TREC had received concerning the proposed increase effect on the pass rate for brokers. There was further discussion concerning the pass rates and cut scores and the difference between the two.

Mr. Arriaga asked to amend the motion to postpone action on the agenda item for six months. The Chairman asked the maker of the motion to amend to allow further comments on the original motion. Rick Knowles, Capital Real Estate School, spoke concerning the certificate based programs that were referred to under §535.62 and requested clarification how this affects certificate based programs and degree based programs. Mr. Oldmixon addressed his concerns. There was further discussion concerning marketing companies versus approved schools. Mr. Knowles stated that he was in favor of the amendments as revised.

Richard Whitsett, Show and Tell Inspections, stated concerns as a home inspector training school that did not offer pre-licensing education, but did offer pre-licensing experience, as to how the 55% accreditation rule would affect his school.

After discussion, Mr. Arriaga moved to sever 22 TAC § 535.61, Examination, from the original motion so that it could be voted on separately from §535.62 and §535.64. The motion failed for lack of a second.

The Chairman called the question on the original motion. The Commission authorized staff to submit the amendments to §535.61, §535.62 and §535.64 in substantially the form presented at the meeting, with technical, non-substantive corrections as staff may deem necessary or advisable, in the *Texas Register* for adoption with an effective date of September 1, 2010. Mr. Arriaga voted against the motion.

Mr. Eckstrum moved to agenda item fifteen, discussion and possible action to adopt new §535.93, Late Renewal Applications. Ms. DeHay presented the agenda item for discussion and possible action to adopt. The rule allows a licensee whose license has been expired for not more than a year to renew the license by paying an increased fee depending on how long the license has been expired. New §535.93 permits a person with an expired salesperson or broker license to retroactively renew the previous license if the application to renew was filed less than one year from the expiration of the previous license. The new rule requires the commission to renew the license in an active status except as provided by the section. In order to retroactively renew a salesperson's license on active status, a salesperson applicant must provide certification of sponsorship for the period from the day after the license expired to the day the license issued, and for the period beginning on the day after the renewal license is issued, and otherwise comply with the section. If Mandatory Continuing Education (MCE) requirements are not met prior to the previous license expiration date, an applicant who wishes to renew the license on active status must pay a \$200 MCE deferral fee and complete the MCE not later than the 60th day after the expiration of the previous license. If the application to renew is filed more than 60 days but less than one year after the previous license expired and MCE requirements were not met before the

license expired, the applicant must pay a \$200 MCE deferral fee, a \$250 late reporting fee, complete the MCE, and if a salesperson, provide certification of sponsorship for the period in which the license was expired to the day the license issued, and for the period beginning on the day after the renewal license is issued. No comments were received.

Upon motion of Ms. Justice, duly seconded by Mr. Arriaga, the Commission authorized staff to submit new §535.93 concerning Late Renewal Applications, in substantially the form presented at this meeting, with technical, non-substantive corrections as staff may deem necessary or advisable in the *Texas Register* for adoption with an effective date of September 1, 2010.

Chairman Eckstrum moved to agenda item sixteen, discussion and possible action to adopt amendments to §535.208, Application for Licensure as an Inspector. Ms. Bijansky presented the agenda item for discussion and possible action. This agenda item adopts an amendment to §535.208, Application for a License, without changes to the proposed text as published in the January 1, 2010 issue of the *Texas Register* (35 TexReg 27). The amendment better implements the statutory requirement that applicants for inspector licenses who fail the examination three times must wait six months before reapplying. Prior to this amendment, applicants were able to circumvent the six-month wait requirement by filing a new application after the second failure, so that a third failure would be registered in the agency's licensing database as occurring under a different application. The amendment will prevent applicants from filing a new application while another application is pending.

Upon motion of Mr. Arriaga, duly seconded by Ms. Wukasch, the Commission authorized staff to submit the amendments to §535.208, Application for a License, in substantially the form presented at this meeting, with technical, non-substantive corrections as staff may deem necessary or advisable, to the *Texas Register* for adoption with an effective date of September 1, 2010. Henry Santamaria, Champions School of Real Estate, spoke against the motion, suggesting that additional education be required, and asked that the item be tabled until this rule was under rule review. Ms. Jackson, Education and Licensing Services, spoke concerning the current procedure when an inspector applicant fails the test three times and calls the Commission. Richard Whitsett spoke concerning the cost of courses for inspectors. Rebecca Ray, Kaplan University, spoke against adopting the rule as written and suggested tabling further action until the agenda item was examined under rule review.

Mr. Oldmixon asked for clarification on the effective date, which should have been 20 days from filing instead of September 1, 2010. Also, Mr. Oldmixon pointed out that the requirement to wait six months after failing the inspector test was statutory and could not be changed without Legislative action. Fred Buck, inspector, spoke in favor of the amendment. The Chairman called the question. The motion passed by unanimous vote.

Mr. Oldmixon again asked for clarification on the effective date. Upon motion of Mr. Arriaga, duly seconded by Mr. Mesa, the Commission authorized staff to submit the amendments to §535.208, Application for a License, in substantially the form presented at this meeting, with technical, non-substantive corrections as staff may deem necessary or advisable, to the *Texas Register* for adoption.

The Chairman moved to agenda item seventeen, discussion regarding appointments to the Broker Responsibility Committee and agenda item eighteen, discussion regarding appointments to the Education Committee.

Chairman Eckstrum appointed the following members to the Broker Responsibility Work Group: Robert Doggett; Cameron Hill; Suzanne Jackson Corbin; Tom Branch; Ana Ochoa; Dan Odom; Barbara Tarin; George Stephens; Beth Thomas; Bill Jones; John Horton; Judy McKee; Helen Perry and Avis Wukasch as Commission Liaison.

Mr. Eckstrum appointed the following members to the Education Work Group: Louise Hull; Rick Albers; Dave Dalzell; Debbie Watson; Susan Jones; Rebecca Ray; Rita Santamaria; Rick Knowles; Deb Waldman; David Rosow; Pat Strong; Denise Whisenant; Brenda Webb; Bill Evans; Rene Figliozzi; Alvin Collins; Bill Gottfried and Joanne Justice as Commission Liaison.

The Chairman moved to agenda item nineteen, discussion and possible action regarding self-executing clauses in agreed orders. Ms. DeHay explained the concept of self-executing clauses. A self-executing clause is a condition in an agreed order that would automatically implement the original penalty, such as a suspension or revocation, if the respondent/licensee failed to timely comply with certain specified terms and conditions, such as payment of a fee or completion of agreed education. The staff of Standards and Enforcement Services had begun using this tool and staff was now asking the endorsement of the Commission. She stated that the self-executing clause provided for more efficiency and in every case the licensee agrees to it by signing the agreed order. Upon motion of Ms. Wukasch, duly seconded by Ms. Justice, the Commission endorsed the use of language in agreed orders that provides for automatic disciplinary action, such as, suspension or revocation for failing to comply with specific objectives or terms of the order, such as payment of an administrative penalty or completion of additional education by a specified deadline. The Commission also endorses the use of automatic disciplinary actions in agreed orders for failing to comply with specific objective terms or conditions as contained within the language provided.

Chairman Eckstrum moved to agenda item twenty, discussion and possible action to approve a plan to identify savings in priority increments totaling 5% of the general revenue and general revenue-dedicated appropriations for the 2010-11 biennium, pursuant to the request dated January 15, 2010, from Texas Governor Rick Perry, Lieutenant Governor David Dewhurst, and Speaker of the House Joe Straus. Ms. Alexander

presented the agenda item for discussion and possible action. Ms. Alexander referred to an exhibit which had been distributed before the meeting containing an updated schedule of proposed savings dated February 8, 2010 which would minimize impact to services provided by the Texas Real Estate Commission. She stated that part of the money the reductions are based on are funds that are strictly pass through and are held by TREC for Texas Online, DPS and the FBI. Upon motion of Ms. Justice, duly seconded by Ms. Arriaga, the Commission authorized staff on behalf of the Commission to submit to the required entities the 5% budget reduction plan in essentially the form presented at this meeting which identifies savings in priority increments totaling 5% of the general revenue and general revenue-dedicated appropriations for the 2010-2011 biennium, pursuant to the request dated January 15, 2010, from Texas Governor Rick Perry. Staff is hereby authorized to amend the plan with approval of the Chair. There was discussion concerning the impact the reductions would have on the industry.

Mr. Eckstrum moved to agenda item twenty-one, discussion and possible action regarding the Texas Real Estate Commission Strategic Plan for fiscal years 2011-2015. After discussion, upon motion of Ms. Wukasch, duly seconded by Ms. Justice, the Commission approved the Strategic Plan concept and tentative schedule as submitted by staff.

Mr. Eckstrum moved to agenda item twenty-two, discussion and possible action to schedule future meetings. After discussion, the next meetings remain scheduled for May 17, 2010; August 9, 2010 and November 15, 2010. All meetings scheduled would begin at 10:00 a.m. The Chairman adjourned the meeting at 1:18 p.m.

Patricia Holder, Secretary for the Meeting

APPROVED this the 17th day of May, 2010.

John Eckstrum
Chairman

ATTEST:

Douglas E. Oldmixon
Administrator



Agenda Item 5:

Provides for excused absences for commission members not in attendance

SUMMARY

Provides for the approval of the minutes as submitted to the Commission by staff.

**STAFF
RECOMMENDATION**

Approve excused absence as presented.

MOTION

MOVED, that the absence(s) of _____

_____ for the May 17, 2010 Commission meeting is/are hereby excused.

**Agenda Item 6:**

Reports by administrator, general counsel, and division directors which may include reports of monthly activities and statistical data for communications, licensing, education, enforcement, information technology, staff services, recovery trust account and fund activity, and updates on new and ongoing agency activity; questions by commissioners to division directors regarding issues raised by the monthly activities reports; discussion of current topics raised by monthly reports; requests by commissioners for additional information or reports from staff; and introduction of new employees

SUMMARY

See above

**STAFF
RECOMMENDATION**

No action required.

MOTION



Staff Reports for March 2010

Texas Real Estate Commission

Monthly Staff Reports

Contents

Report	Report Description	Division	Director
C1	Customer Service Statistics	Reception and Communications Services	Lorie DeAnda
L1	Fiscal Year Comparison	Education and Licensing Services	Gwen Jackson
L2	Real Estate Licensee Status	Education and Licensing Services	Gwen Jackson
L3	Examination Statistics	Education and Licensing Services	Gwen Jackson
L4	Instructor Distribution	Education and Licensing Services	Gwen Jackson
E1	Case Status	Standards and Enforcement	Kerri Galvin
I1	Electronic Information Outlet Statistics	Information Technology Services	Tom Watson
S1	Agency Financial Statement	Staff and Support Services	Karen Alexander
S2	Real Estate Recovery Fund Investments - Current Securities	Staff and Support Services	Karen Alexander
S3	Real Estate Recovery Fund Payments and Repayments	Staff and Support Services	Karen Alexander
S4	Inspection Recovery Fund Status	Staff and Support Services	Karen Alexander

Reception and Communications Services

Customer Service Statistics

March 2010

		FY2010	FY2009
RCS Measures	Current Month	YTD Total	Prior YTD Total
Agency Incoming Calls (target - 400,000)	30,872	206,335	229,410

		FY2010	FY2009
Communications Incoming Calls	Monthly Total	YTD Total	Prior YTD Total
CO Lines	10,061	58,441	57,407
TREC 1-800	11,372	65,055	63,041
TALCB 1-877	274	1,965	1,961
Total	21,707	125,461	122,409

		FY2010	FY2009
Reception Walk Ins	Monthly Total	YTD Total	Prior YTD Total
Licensing	580	2,063	
Education	252	904	
Inspector	6	26	
Enforcement	16	71	
TALCB Licensing	12	52	
TALCB Enforcement	2	15	
Total	868	3,131	

		FY2010	FY2009
Communications E-Mail	Current Month	YTD Total	Prior YTD Total
E-mail Inquiries	1,481	5,098	5,709

Licensing Services Division

Fiscal Year Comparison

Fiscal Year 2010 - Year to Date

	This YTD 9/09 – 08/10		Last YTD 9/08 – 08/09		Change	
					Count	Percent
<i>Applications Received</i>						
Broker Original Applications Received	1540		1518		22	1.45%
Sales Original Applications Received	6446		5762		684	11.87%
<i>Total Original Applications</i>	7986		7280		706	9.70%
Broker Late Renewal Applications Received	846		874		-28	-3.20%
Sales Late Renewal Applications Received	4106		4267		-161	-3.77%
Total Late Renewal Applications Received	4952		5141		-189	-3.68%
<i>Licenses Issued from Applications</i>						
Broker Licenses from Original Applications	1467		1406		61	4.34%
Sales Licenses from Original Applications	5049		4581		468	10.22%
<i>Total Licenses from Original Applications</i>	6516		5987		529	8.84%
Broker Licenses from Late Renewal Applications	906		908		-2	-0.22%
Sales Licenses from Late Renewal Applications	4262		4277		-15	-0.35%
<i>Total Licenses from Late Renewal Applications</i>	5168		5185		-17	-0.33%
<i>Renewal Activity for Expirations</i>						
Broker Timely Renewals and Percentage	8,798	80.52%	7,897	78.26%	901	2.26%
Sales Timely (1 year) Renewals and Percentage	2,449	55.31%	5,906	52.28%	-3,457	3.03%
Sales Timely (2 year) Renewals and Percentage	19,840	68.56%	18,202	67.77%	1,638	0.79%
<i>Total Timely Renewals from Broker and Sales</i>	31,087	70.18%	32,005	66.34%	-918	3.84%

Licensing Services Division

Licensee and Registrant Status

March 2010

Real Estate Licensees

	Mar 09	Apr 09	May 09	Jun 09	Jul 09	Aug 09	Sep 09	Oct 09	Nov 09	Dec 09	Jan 10	Feb 10	Mar 10
Broker Licensees													
Individual (Active)	34,375	34,287	34,236	34,184	34,111	34,150	34,139	34,138	34,132	34,131	34,153	34,191	34,249
Corporation (Active)	4,069	4,063	4,061	4,073	4,031	4,024	4,018	4,025	4,030	3,996	4,022	4,017	4,012
LLC (Active)	2,549	2,594	2,625	2,639	2,684	2,708	2,729	2,762	2,791	2,787	2,866	2,911	2,946
Non-resident (Active)	503	498	495	494	492	493	495	492	490	488	484	487	485
Partnership (Active)	2	2	2	2	2	2	2	2	2	2	2	2	2
Total Active Status	41,498	41,444	41,419	41,392	41,320	41,377	41,383	41,419	41,445	41,404	41,527	41,608	41,694
Inactive Status	1,646	1,646	1,638	1,648	1,645	1,659	1,652	1,658	1,664	1,658	1,677	1,665	1,648
Total Brokers	43,144	43,090	43,057	43,040	42,965	43,036	43,035	43,077	43,109	43,062	43,204	43,273	43,342
Sales Licensees													
Active Status	75,797	75,637	75,329	74,323	74,244	74,462	74,656	75,000	74,806	74,020	73,587	73,586	74,173
Inactive Status	27,763	27,291	27,032	27,331	26,974	26,721	26,349	26,070	26,102	26,776	27,242	27,196	26,954
Total Sales	103,560	102,928	102,361	101,654	101,218	101,183	101,005	101,070	100,908	100,796	100,829	100,782	101,127
Total Active	117,295	117,081	116,748	115,715	115,564	115,839	116,039	116,419	116,251	115,424	115,114	115,194	115,867
Total Inactive	29,409	28,937	28,670	28,979	28,619	28,380	28,001	27,728	27,766	28,434	28,919	28,861	28,602
Total Brokers & Sales	146,704	146,018	145,418	144,694	144,183	144,219	144,040	144,147	144,017	143,858	144,033	144,055	144,469

Inspectors

	Mar 09	Apr 09	May 09	Jun 09	Jul 09	Aug 09	Sep 09	Oct 09	Nov 09	Dec 09	Jan 10	Feb 10	Mar 10
Inspector Licensees													
Professional Inspectors	3,462	3,374	3,361	3,323	3,314	3,311	3,311	3,312	3,309	3,329	3,324	3,320	3,323
Real Estate Inspectors	140	137	137	134	136	136	135	138	135	139	139	137	140
Apprentice Inspectors	85	87	88	88	86	86	86	84	84	81	77	82	81
Total Inspectors	3,687	3,598	3,586	3,545	3,536	3,533	3,532	3,534	3,528	3,549	3,540	3,539	3,544

Easement & Right-of-way Registrants

	Mar 09	Apr 09	May 09	Jun 09	Jul 09	Aug 09	Sep 09	Oct 09	Nov 09	Dec 09	Jan 10	Feb 10	Mar 10
ERW Registrants													
Businesses	39	36	37	39	39	39	38	38	37	36	37	39	41
Individuals	1,969	1,994	1,970	1,960	1,908	1,893	1,835	1,757	1,742	1,713	1,710	1,686	1,659
Total Registrants	2,008	2,030	2,007	1,999	1,947	1,932	1,873	1,795	1,779	1,749	1,747	1,725	1,700

Total Licensees and Registrants

	Mar 09	Apr 09	May 09	Jun 09	Jul 09	Aug 09	Sep 09	Oct 09	Nov 09	Dec 09	Jan 10	Feb 10	Mar 10
All Licensees & Registrants	152,399	151,646	151,011	150,238	149,666	149,684	149,445	149,476	149,324	149,156	149,320	149,319	149,713

Licensing Services Division

Examination Activity

March 2010

Monthly Results

	<u>Salesperson</u>	<u>Broker</u>	<u>R. E. Inspector</u>	<u>Prof. Inspector</u>
Examinations Passed	870	136	0	20
Examinations Failed	634	60	3	41
<i>Examinations Taken</i>	1,504	196	3	61
Applicants Examined	1,215	169	2	48
1st Time Passed	729	117	0	13
Examination Pass Rate	57.8%	69.4%	0.0%	32.8%
Applicant Pass Rate	71.6%	80.5%	0.0%	41.7%
1st Time Pass Rate	60.0%	69.2%	0.0%	27.1%

Year-to-Date Results

	<u>Salesperson</u>	<u>Broker</u>	<u>R. E. Inspector</u>	<u>Prof. Inspector</u>
Examinations Passed	5,269	919	5	125
Examinations Failed	4,084	426	10	224
<i>Examinations Taken</i>	9,353	1,345	15	349
Applicants Examined	6,158	992	12	218
1st Time Passed	3,853	695	4	74
Examination Pass Rate	56.3%	68.3%	33.3%	35.8%
Applicant Pass Rate	85.6%	92.6%	41.7%	57.3%
1st Time Pass Rate	62.6%	70.1%	33.3%	33.9%

Licensing Services Division

Instructor Distribution

March 2010

Approved Instructor Distribution

	Mar 09	Apr 09	May 09	June 09	July 09	Aug 09	Sep 09	Oct 09	Nov 09	Dec 09	Jan 10	Feb 10	Mar 10
MCE Electives Only	2,305	2,343	2,365	2,384	2,408	2,447	2,430	2,409	2,392	2,276	2,379	2,387	2,398
Core and MCE Electives	871	868	869	857	852	844	849	854	857	840	842	837	837
Core, MCE Electives and TREC MCE Legal	6	6	6	6	6	6	7	7	7	5	4	4	4
Core, MCE Electives and TREC MCE Ethics	3	3	3	3	3	3	3	3	3	3	3	3	3
Core, MCE Electives, TREC MCE Legal and Ethi	497	495	492	497	495	499	503	515	521	555	563	562	559
MCE Electives and TREC MCE Legal	1	1	1	1	1	1	1						
MCE Electives and TREC MCE Ethics	4	4	4	4	4	4	2	2	2	2	2	2	2
MCE Electives, TREC MCE Legal and Ethics	291	290	290	298	298	293	276	244	233	225	214	207	204
Total Approved Instructors	3,978	4,010	4,030	4,050	4,067	4,097	4,071	4,034	4,015	3,906	4,007	4,002	4,007

Enforcement Division Report

Case Status

MARCH 2010

	March 2010	YTD
Open at Beginning of the Month	605	-----
Opened During the Month	247	1,647
Closed During the Month	(236)	2,060
Open at End of Month	616	-----

	Sep-09	Oct-09	Nov-09	Dec-09	Jan-10	Feb-10	Mar-10	Apr-10	May-10	Jun-10	Jul-10	Aug-10
Opened During Month:	285	254	238	220	182	220	248					
Administrative	55	43	44	52	45	45	63					
Public Complaints	98	87	84	57	67	102	101					
Application Investigations	54	50	40	47	21	23	25					
Moral Character Determinations	23	22	22	25	25	26	33					
Non-Jurisdictional Complaints	55	52	48	39	24	24	25					
Closed During Month:	324	401	276	269	225	329	236					
Administrative	29	35	25	15	15	40	11					
Public Complaints	118	157	132	154	144	127	172					
Application Investigations	102	111	51	40	33	76	16					
Moral Character Determinations	10	41	18	17	7	57	8					
Non-Jurisdictional Complaints	65	57	50	43	26	29	29					
Open at End of Month	991	844	806	757	714	605	616					

Technology Services Division

Electronic Information Outlet Statistics

March 2010

World Wide Web	Current Month	FYTD Total	Prior FYTD Total
Total Pages Viewed	2,614,167	14,928,943	16,469,083

TREC E-Mail Notification List	Current Total
Current Subscribers	223,924

Online Transactions	Total	Online	Online Percent	FYTD Online Percent	Prior FYTD Percent
Applications (Performance Measure: 70)	1519	1213	79.9%	80.8%	79.8%
Broker Application	150	125	83.3%	84.4%	88.9%
Broker Late Renewal Application	156	89	57.1%	53.8%	52.3%
Salesperson Application	1192	996	83.6%	85.5%	85.4%
Corporate Application	21	3	14.3%	18.8%	27.4%
Renewals (Performance Measure 80%)	6676	5916	88.6%	88.5%	84.8%
Broker Renewals	1767	1545	87.4%	88.5%	88.9%
Salesperson SAE Renewal	488	357	73.2%	72.4%	79.2%
Salesperson MCE Renewal	3875	3645	94.1%	93.4%	91.7%
Corporate Renewals	211	190	90.0%	91.1%	91.6%
Limited Liability Company Renewals	148	140	94.6%	92.8%	86.8%
Professional Inspector Renewals	85	19	22.4%	25.2%	27.1%
Real Estate Inspector Renewals	7	2	28.6%	30.4%	21.7%
Apprentice Inspector Renewals	2	0	0.0%	0.0%	41.7%
Easement ROW Business Renewals	1	0	0.0%	6.7%	11.8%
Easement ROW Individual Renewals	92	18	19.6%	17.8%	18.6%

**Staff & Support Services Division
Agency Financial Statement**

March 2010

THRU 7TH MONTH OF FISCAL YEAR 2010

STRATEGIES	FY 2010 APPROPRIATION*	7/12 ANNUAL APPROPRIATION	SEVEN MONTHS EXPENDITURES AND A/P**	\$ VARIANCE OVER(-) OR UNDER	% VARIANCE OVER(-) OR UNDER	ENCUMBRANCES***
Licensing	\$ 2,651,163.00	\$ 1,546,511.75	\$ 1,358,092.02	\$ 188,419.73	12.18%	\$ 208,563.56
Enforcement	1,786,229.98	1,041,967.49	984,656.25	57,311.24	5.50%	54,350.12
Communication/Information	832,729.14	485,758.67	485,278.55	480.11	0.10%	12,536.91
Indirect Administration	1,780,743.13	1,038,766.83	895,897.22	142,869.61	13.75%	348,210.10
TOTAL	<u>\$ 7,050,865.25</u>	<u>\$ 4,113,004.73</u>	<u>\$ 3,723,924.04</u>	<u>\$ 389,080.69</u>	9.46%	<u>\$ 623,660.69</u>

* Total appropriations have been increased by \$25,673 for benefit replacement pay.

In the Licensing strategy, FBI criminal history background check fees in the amount of \$402,479.00 have been collected and remitted to DPS. Also in the Licensing strategy, subscription fees in the amount of \$165,135 have been collected and remitted to the Texas Online vendor.

** Some expenditures are paid at the beginning of the fiscal year, such as computer and software maintenance, worker's compensation premium, etc.

*** Legislative provision requires the encumbrance of all contractual obligations through the end of the fiscal year. This includes items such as office rent, office equipment leases, or other contractual obligations. Encumbrances are not included in the "Seven Months Expenditures and A/P" column.

Staff & Support Services Division
Real Estate Recovery Trust Account No. 971 Investments
Current Securities

March 2010

Purchase Date	Par Value	Purchase Price	Beginning Market Value	Additions Changes	Ending Market Value	Accrued Interest	Description	Maturity Date
12/21/2004	200,000.00	221,250.00	205,125.00	(1,000.00)	204,125.00	1,437.50	U.S. T-Notes, 5.75%	08/15/2010
11/29/2005	100,000.00	99,750.00	102,531.25	(375.00)	102,156.25	1,947.92	U.S. T-Notes, 4.25%	10/15/2010
05/28/2009	200,000.00	201,470.30	200,937.50	(125.00)	200,812.50	437.50	U.S. T-Notes, 0.875%	12/31/2010
02/24/2006	100,000.00	102,000.00	104,468.75	(437.50)	104,031.25	625.00	U.S. T-Notes, 5.00%	02/15/2011
05/24/2005	300,000.00	318,421.88	319,875.00	(1,875.00)	318,000.00	1,875.00	U.S. T-Notes, 5.00%	08/15/2011
02/28/2007	100,000.00	99,750.00	106,718.75	(593.75)	106,125.00	1,500.00	U.S. T-Notes, 4.50%	11/30/2011
08/29/2007	200,000.00	205,370.92	215,937.50	(1,312.50)	214,625.00	1,218.75	U.S. T-Notes, 4.875%	02/15/2012
02/20/2009	200,000.00	222,000.00	217,062.50	(1,500.00)	215,562.50	3,166.67	U.S. T-Notes, 4.750%	05/31/2012
12/06/2007	100,000.00	104,750.00	108,218.75	(781.25)	107,437.50	546.88	U.S. T-Notes, 4.375%	08/15/2012
05/27/2008	100,000.00	101,062.50	105,968.75	(718.75)	105,250.00	1,125.00	U.S. T-Notes, 3.375%	11/30/2012
02/20/2009	200,000.00	219,250.00	215,125.00	(1,687.50)	213,437.50	968.75	U.S. T-Notes, 3.875%	02/15/2013
Totals	\$ 1,800,000.00	\$ 1,895,075.60	\$ 1,901,968.75	\$ (10,406.25)	\$ 1,891,562.50	\$ 14,848.97		

	Current Month	Cumulative Totals
Receipts:		
License's Remittances to Recovery Fund	\$ 18,840.00	\$ 6,135,920.08
Interest Realized	0.00	5,985,755.37
Repayments to Recovery Fund (Principal and Interest)	1,984.41	1,093,042.52
Administrative Penalties	2,283.33	702,369.97
Total Received	\$ 23,107.74	\$ 13,917,087.94
Disbursements:		
Investments Purchased (Offset by Matured Security)	\$ 0.00	1,895,075.60
Accrued Interest Purchased	0.00	0.00
Payments from Recovery Fund	73,847.53	11,279,312.53
Rider Disbursements	43.00	13,745.19
Total Disbursed	\$ 73,890.53	\$ 13,188,133.32
Totals	(50,782.79)	728,954.62
	(Current Month)	
Reserved for Investment		0.00
Reserved for Potential Payments Within 90 Days		(341,637.00)
Balance		\$ 387,317.62

Investment Position: The Fund is capable of meeting all known obligations.
Investment Compliance: The Investment Policy of the Commission has been followed.



Karen Alexander, Investment Officer



Barbara Kolb, Alternate Investment Officer

Staff & Support Services Division

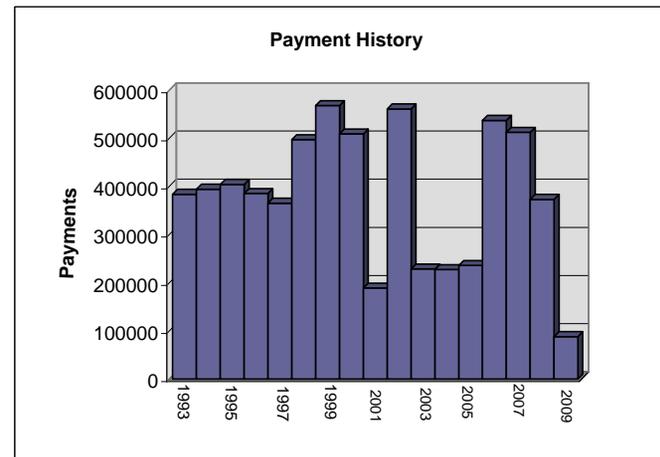
Real Estate Recovery Trust Account No. 971 Investments Payments and Repayments

March 2010

Month-Year	Payment Total	Repayment Total	Admin Penalties Total	Rider Disbursements	Payments FY2010-To-Date	Number of Payments
March 2009	25,516.81	765.00	5,416.67	0.00		
April 2009	15,784.52	765.00	12,000.00	0.00		
May 2009	0.00	190.00	3,808.33	86.40		
June 2009	12,065.74	766.37	7,808.33	18.70		
July 2009	0.00	18,420.82	8,016.66	20.00		
August 2009	0.00	999.82	5,550.00	0.00		
September 2009	50,000.00	3,387.69	10,846.66	0.00	50,000.00	1
October 2009	141,603.36	792.56	4,250.00	0.00	141,603.36	3
November 2009	0.00	897.20	200.00	38.00	0.00	0
December 2009	117,623.29	2,119.20	2,908.33	99.89	117,623.29	3
January 2010	50,000.00	1,582.18	1,582.18	0.00	50,000.00	1
February 2010	31,786.14	1,867.61	4,583.33	57.80	31,786.14	2
March 2010	73,847.53	1,984.41	2,283.33	43.00	73,847.53	5
	518,227.39	34,537.86	69,253.82	363.79	464,860.32	15

Payment History		
Fiscal Year	# of Payments	Total Payments
thru 1992	345	4,350,190.77
1993	33	384,067.85
1994	31	394,466.36
1995	29	404,449.31
1996	26	385,724.99
1997	20	365,445.94
1998	27	497,406.17
1999	21	568,326.88
2000	18	509,279.95
2001	11	189,405.09
2002	19	561,110.81
2003	11	228,924.68
2004	8	227,794.75
2005	8	236,012.61
2006	22	537,356.93
2007	14	512,774.82
2008	12	373,414.95
2009	5	88,299.35
Total	660	\$10,814,452.21

**Potential Payments*
Next 3 Months 341,637.00**



*Potential Payments: Payments could be made in the time periods indicated. Several time/work variables can affect the actual payment dates.

Staff & Support Services Division

Real Estate Inspection Recovery Fund No. 0988

March 2010

	Monthly Activity			Payment History		
	Beginning Balance	Current Month	Cumulative Totals	Fiscal Year	Number of Payments	Total Payments
Beginning Balance	\$ 606,582.15		\$ 606,582.15	thru 1992	2	\$ 4,309.26
Receipts:				1993	2	15,000.00
Licensees' Remittances to Recovery Fund		\$ 1,800.00		1994	5	31,473.40
Interest Realized		541.61		1995	4	25,668.83
Repayments		444.21		1996	2	7,500.00
Administrative Penalties		0.00		1997	1	7,500.00
Total Received in Current Month		<u>2,785.82</u>	\$ 2,785.82	1998	4	30,000.00
Disbursements:				1999	1	7,500.00
Payments from Recovery Fund	\$ 0.00			2000	6	45,000.00
Cash Transfer to General Revenue		0.00		2001	0	0.00
Rider Disbursements		0.00		2002	2	15,000.00
Total Disbursed in Current Month		<u>0.00</u>	\$ 0.00	2003	1	7,500.00
Total			\$ 609,367.97	2004	4	32,523.96
Reserved for Potential Payment within 90 Days			(14,266.00)	2005	5	28,567.39
Available Fund Balance			<u><u>595,101.97</u></u>	2006	5	49,837.11
				2007	1	12,500.00
				2008	0	0.00
				2009	1	12,500.00
				2010 YTD	1	5,000.00
				Total		\$ 337,379.95

Investment Position: The Fund is capable of meeting all known obligations.
Investment Compliance: The Investment Policy of the Commission has been followed.



Karen Alexander, Investment Officer



Barbara Kolb, Alternate Investment Officer

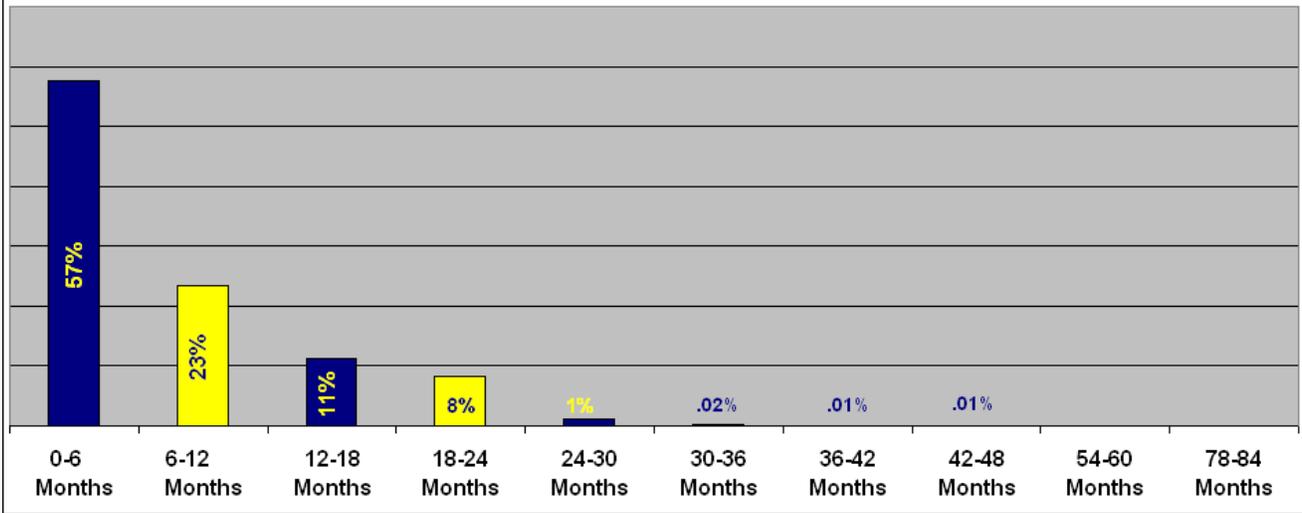
2009 RSC ACTIVITY REPORT

COMPANY	CONTRACTS IN FORCE	CONTRACT FEES RECEIVED	NUMBER OF SERVICE CALLS	TOTAL PAID FOR SERVICE CALLS	COST PER SERVICE CALL	COST/FEES RATIO
Affordable Home Protection	141	\$76,959.00	297	\$63,040.00	\$212.26	82%
Allied Home Warranty	14,685	\$6,263,516.00	24,578	\$2,577,494.00	\$104.87	41%
American Home Guardian	128	\$53,134.00	77	\$10,674.57	\$138.63	20%
AHS	255,549	\$124,016,058.00	573,973	\$67,858,252.00	\$118.23	55%
AMT	0	\$0.00	0	\$0.00	\$0.00	0%
BPG	10,867	\$4,987,542.00	20,749	\$3,182,484.00	\$153.38	64%
Broward Factory Service	6,909	\$2,633,479.67	13,309	\$1,889,784.66	\$141.99	72%
Dominion	0	\$0.00	0	\$0.00	\$0.00	0%
Everything Residential	766	\$425,507.00	1,082	\$417,546.93	\$385.90	98%
Federal Warranty	320	\$25,524.00	257	\$75,115.79	\$292.28	294%
Fidelity National Home Warranty	3,692	\$1,015,091.00	5,253	\$921,112.00	\$175.35	91%
First American Home Buyers	69,279	\$32,880,832.00	134,451	\$19,083,865.00	\$141.94	58%
Globe Home Warranty	22	\$8,260.00	5	\$367.00	\$73.40	4%
Home Buyers Resale	8,588	\$3,742,522.00	11,070	\$1,814,710.00	\$163.93	48%
Home Security	205	\$110,665.00	207	\$49,339.00	\$238.35	45%
Home Warranty of America	21,406	\$8,543,290.00	19,727	\$3,795,299.00	\$192.39	44%
HomeSure of America	30,984	\$9,921,604.00	19,055	\$3,781,940.00	\$198.47	38%
National Product Care	0	\$0.00	0	\$0.00	\$0.00	0%
Nations	5,875	\$2,781,998.00	11,979	\$1,806,698.00	\$150.82	65%
Nicor Energy Services Company	2,908	\$161,475.00	141	\$22,190.00	\$157.38	14%
Old Republic	51,266	\$21,686,448.00	63,981	\$12,784,878.00	\$199.82	59%
OneGuard	2,327	\$1,176,769.00	2,676	\$521,997.00	\$195.07	44%
Southwest Warranty	163	\$71,854.25	257	\$52,418.00	\$203.96	73%
TWG	1,632	\$494,585.00	985	\$243,915.00	\$247.63	49%
Warrantech	188	\$84,663.00	30	\$6,547.00	\$218.23	8%
Warranty Global	218	\$91,455.00	77	\$26,731.00	\$347.16	29%
TOTAL/AVERAGE	488,118	\$221,253,231	904,216	\$120,986,398	\$133.80	55%

2009 Annual Timeshare Report

Number of Timeshare Plans Registered on 1/1/09	343
Original Applications Completed and Plans Registered	10
Amendment Applications Completed and Registrations Amended	66
Renewal Applications Completed and Registrations Renewed	29
Number of Timeshare Plans Registered on 12/31/09	353

Open Case Age Report May 3, 2010





Agenda 7(a):

Reports of, and discussion and possible action regarding:

(a) Broker Responsibility Working Group

SUMMARY

See attached report

STAFF

RECOMMENDATION

MOTION

from the Commission to their sponsored salespersons. (Facsimile transmission or electronic mail of scanned documents is an acceptable way to do this).

8. The Rules should be amended to provide that a broker must have and maintain on a current basis written policies and procedures to ensure that:
 - a. Each salesperson working under their sponsorship is advised of the scope of their authorized activities subject to the Act including without limitation to competency definition in the Rules. Competency is defined in the rules, the group decided to delete the specific reference to subject matter, property type and geographic area. Unless such scope is limited or revoked in writing, all acts by a sponsored salesperson that are within such scope are presumed to be "authorized acts" for which the broker is liable. If a broker knowingly permits a sponsored salesperson to conduct activities beyond those specified in such policies and procedures, those too will be deemed to be authorized acts for which the broker is liable.
 - b. Each sponsored salesperson maintains their license in active status at all times while they are engaging in activities subject to the Act.
 - c. All compensation paid to any sponsored salesperson for acts or services subject to the Act is paid by, through, or with the *written* documented approval of the sponsoring broker. (§535.3 of the Rules). Since the rule requiring the written policy requires that the sponsoring broker provide written approval, §535.3 would be amended accordingly.
 - d. Each sponsored salesperson is provided on a timely basis, prior to their effective date, notice of all changes in the Act, Commission adopted rules, and Commission promulgated forms.
 - e. In addition to completing statutory minimum continuing education requirements, each sponsored salesperson receives such additional educational instruction the sponsoring broker may deem necessary to obtain and maintain on a current basis competency in the scope of the sponsored salesperson's practice subject to the Act.
 - f. That each sponsored salesperson complies with the Commission's advertising rules. As part of this policy, the advertising rules would be amended as described below in item number 9.
 - g. All trust accounts, *including but not limited to property management trust accounts* and other funds received from consumers are handled by the broker under appropriate controls.
 - h. The rules will be modified so that a broker must not only maintain this policy but maintain the records for a minimum of 4 years from the date of the closing or termination of the contract. The rule would have an exception for records destroyed by an "Act of God" such as a natural disaster or fire not intentionally caused by the licensee. The following records, at a minimum, are maintained and are in a format that can readily be made available to the Commission:
 - i. Disclosures

- ii. Commission Agreements, for example, listing agreement, buyer representation agreement, etc...
 - iii. Work files
 - iv. Contracts and related addenda
 - v. Receipts and disbursements of commissions and other compensation for services subject to the Act
 - vi. Property management contracts
 - vii. Documents required by USPAP for appraisals
 - viii. Sponsor agreements between broker and agent
9. All advertising by the broker and its sponsored salespersons complies with applicable legal and regulatory requirements. Currently §535.154(h) requires road signs to contain language that clearly and conspicuously identifies as a real estate broker or agent the person publishing the advertisement. The commission deems the language to be clear and conspicuous if it is in at least the same size of type or print as the largest telephone number in the advertisement. Section 535.154(e) requires advertisements concerning a broker's listings to include information identifying the advertiser as a real estate broker. The advertisement may include the name of the salesperson, but there is no "clear and conspicuous" or other size requirement in the rule. The group recommends that the Rules should be amended using a similar requirement in subsection (e) as is currently in subsection (h).
10. The Rules should be amended to clarify that nothing herein requires a broker to have an employer/employee relationship with a sponsored salesperson. The purpose of the recommendations regarding supervision and oversight should in no way dictate or create an employer/employee relationship where there is none, AND is not meant to change independent contractor status with the IRS.
11. The TREC rules and, if necessary, the Act should be amended to provide that any LLC or corporation owned by a salesperson and used for the purpose of collecting commissions for the salesperson would be required to have a corporate or LLC broker's license.

The Broker Responsibility Working Group recommends the following items to the Education Working Group:

1. That all MCE and Broker Responsibility classes conclude with a proficiency (exit) test.
2. That the Education Working Group look at strengthening the qualifications and requirements for all instructors.
3. The rules for online classes should clearly state that a person cannot test out of the course early.
4. Suggested items for the Broker Responsibility Class

- a. policy section
- b. training, how to
- c. best practices
- d. risk management
- e. people management
- f. agency/intermediary

Texas Real Estate Commission
Recommendations from the 2009 Education Task Force

The Education Task Force has met on three occasions and offers the following recommendation to the Texas Real Estate Commission:

The task force felt there was one issue of particular concern that is in need of immediate attention. This issue is particularly time-sensitive due to training and approval of instructors this year. Seeking a higher level of competence, the Education Task Force recommends that:

- 1) Instructors for the mandatory legal and ethics MCE courses be approved under requirements equal to the requirements for Core instructors of Principals, Law of Agency and Law of Contracts. These instructors must take the Train the Trainer course before being approved to teach the mandated TREC courses.
(Implemented by rule change.)

(The following item has also been implemented by TREC staff)

- 2) That the link for the evaluation of courses and instructors be more prominently displayed on the TREC website.

Additionally, the Education Task Force offers to the Commission the following recommendations:

- 1) That licensees be required to take at least 6 hours of MCE annually (towards the 2-year 15-hour MCE requirement) with an automatic fine for non-compliance.
- 2) That staff research ways in which brokers who are exempt from the requirement to take MCE be required to take an update course or, in the alternative,
- 3) That **all** brokers be required to take an additional 3 hour course, directed at brokerage, over and above the 15 hours mandated to be taken by all licensees every two years. This course would be written in alternate years to the required legal and ethics courses. This would require brokers to have a total of 18 hours of continuing education every two years.
- 4) That the required paper ADM (Alternate Delivery Method) form be eliminated. All submissions should be submitted electronically to TREC.
- 5) That mandated MCE courses provided in an online format should be certified through a distance-learning center approved by TREC.
- 6) That for electronic-delivery or distance-learning, required or elective, MCE courses, students should be required to show mastery of the material through a module test or final exam.

In addition to these specific recommendations, the task force offers a few general comments that may need to be addressed in the future.

Several members of the task force expressed concern about verification of the identity of students taking MCE courses. There was a general feeling that there is a need to reinforce the penalties that are associated with the falsification of documentation relating to online and distance-learning MCE courses in particular. While the existence of this practice is not verified, the task force believes that it would be relatively simple for a licensee to have another individual take their MCE courses in these formats as well as in a live classroom setting. The task force reached the conclusion that the best approach to this possibility would be strong reminders of the penalties that could be applied to both participants in such a scheme.

The task force discussed the rules that might be applied to interactive learning in the future. New technologies will allow for web conferencing, video conferencing, webinars, and virtual classrooms. The group felt that it would be impossible to draft rules for all the scenarios that may emerge but wishes the Commission to be aware that these possibilities appear to be on the horizon and will need to be addressed.

The Education Task Force congratulates the Commission on the progress that has been made, with limited resources, in the area of technology. Our database currently contains email addresses for the majority of our licensees. As we approach the future, the task force encourages the use of “push” technology to positively impact the continued education of the individuals who make up the real estate industry.

As the task force worked on the above-mentioned issues, it became clear that some of our recommendations naturally dovetailed with issues being addressed by another task force, the Broker Responsibility Task Force. These overlapping issues were sent from our task force to theirs via the attached document entitled Suggestions for Broker Responsibility.

We, the members of the Education Task Force, thank you for placing your confidence in us. We enjoyed the opportunity to serve in this capacity. There is no bigger issue that has the potential to impact the real estate consumers of Texas than the subject of real estate education. The consumer is well-served when educated licensees serve them.



Agenda Item 7(b):

Reports of, and discussion and possible action regarding:

- (b) Education Working Group including Recommendations from 2009 Education Task Force

SUMMARY

See attached report

**STAFF
RECOMMENDATION**

MOTION

Texas Real Estate Commission
2010 Education Working Group Report

The Education Working Group recommends the following items to the Texas Real Estate Commission (TREC or the Commission). This report incorporates by reference the Education Task Force recommendations from 2009, the report of which is attached to this report.

1. The Commission should request that the legislature change Texas Occupations Code Chapter 1101 so that licensees who are subject to MCE be required to complete a minimum number of MCE hours annually, regardless of the licensee's renewal period.
2. The Commission should establish by rule if possible or request that the legislature change Texas Occupations Code Chapter 1101 such that:
 - a. for brokers who are currently exempt from MCE requirements, the exemption ends if the broker allows their license to expire;
 - b. for brokers who are currently exempt from MCE requirements, the exemption ends if the broker allows the license to go inactive; or
 - c. the Commission should request that the legislature change Texas Occupations Code Chapter 1101 to repeal the MCE exemption in its entirety.
3. The Commission should establish by rule if possible or request that the legislature change Texas Occupations Code Chapter 1101 so that all brokers, and any salespersons who have been delegated by their sponsoring brokers the responsibility of oversight or management of a group, team or office, be required to take an additional 3 hour real estate brokerage course as a condition of renewal of their license. The purpose of the recommendation is to provide brokers with training that would assist them in sponsoring salespersons.
4. The Commission should seek legislative authority to establish a permanent standing "Education Curriculum Standards Committee" to look at what real estate licensees need to know today and what they need to know in the future to complete real estate transactions that satisfy the needs of consumers. Suggestions were made that such a committee could review new course material and provide oversight of quality control for instructors. It was also suggested that colleges and universities be invited to attend and participate with the Education Curriculum Standards Committee. (The Committee could take up items 4, 5, and 6 from the 2009 Education Task Force Recommendations.)
5. The Commission should request that the legislature change Texas Occupations Code Chapter 1101 so that to move from salesperson to broker status, a minimum standard must be set forth by TREC to show competency. Although the working group does not specifically recommend either, two examples of minimum

standards of competency that were discussed include improving the quality of education or requiring an experience log with a minimum number of transactions.



Agenda Item 7(c):

Reports of, and discussion and possible action regarding:

(c) Texas Inspector Advisory Committee

SUMMARY

Will be presented at meeting

**STAFF
RECOMMENDATION**

MOTION



Agenda Item 7(d):

Reports of, and discussion and possible action regarding:

(d) Broker Lawyer Committee

SUMMARY

Will be presented at meeting

**STAFF
RECOMMENDATION**

MOTION



Agenda Item 8: General comments from visitors

SUMMARY Discussion only

STAFF No action required.
RECOMMENDATION

MOTION



Agenda Item 9:

Executive session to discuss pending litigation pursuant to Texas Government Code §551.071 and if necessary, to receive legal advice from general counsel under Texas Government Code §551.071

Agenda Item 10:

Discussion and possible action to authorize settlement of recovery fund claims or take other action on items considered in executive session

SUMMARY

Will be presented at meeting

STAFF

RECOMMENDATION

MOTION

**Agenda Item 11:**

Discussion and possible action to adopt amendments to:

- (a) 22 TAC §534.1 Charges for copies of Public Information,
- (b) 22 TAC §534.4 Historically Underutilized Businesses Program,
- (c) 22 TAC §534.5 Bid Opening and Tabulation

SUMMARY

Adopts the amendments to §534.1 concerning Charges for Copies of Public Information, §534.4 concerning Historically Underutilized Businesses Program, and §534.5 concerning Bid Opening and Tabulation without changes to the proposed text.

The proposed amendments update the references to the rules promulgated by other state agencies that are adopted by reference by the commission.

No comments were received on the rules as proposed.

STAFF

Adoption of amendments as proposed.

RECOMMENDATION**MOTION**

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to §534.1, concerning Charges for Copies of Public Information, §534.4, concerning Historically Underutilized Businesses Program, and §534.5, Bid Opening and Tabulation as presented at this meeting for adoption, with any non-substantive changes as staff may deem necessary or advisable.

(IF CHANGES ADD)

with the changes that have been approved by the Commission for adoption.

Agenda Item 11
Chapter 534, General Administration
§534.1, §534.4, and §534.5

The Texas Real Estate Commission (TREC) adopts amendments to §534.1 concerning Charges for Copies of Public Information, §534.4 concerning Historically Underutilized Businesses Program, and §534.5 concerning Bid Opening and Tabulation without changes to the proposed text as published in the February 26, 2010 issue of the *Texas Register* (35 TexReg 15634) and will not be republished. The proposed amendments update the references to the rules promulgated by other state agencies that are adopted by reference by the commission.

No comments were received on the rules as proposed. The reasoned justification for the amendments is administrative compliance with statutory rulemaking requirements.

§534.1. Charges for Copies of Public Information.

(a) Charge for copies of public information provided by the commission shall be based upon the current charges established by the Office of the Attorney General ~~[Services Commission]~~; provided, however, that the commission shall charge its actual costs if the actual costs of providing copies exceed the established charges, and an exemption has been granted by the Office of the Attorney General ~~[Services Commission]~~.

(b) (No change.)

§534.4. Historically Underutilized Businesses Program.

In accordance with Texas Government Code §2161.003, the commission adopts by reference the rules of the Comptroller of Public Accounts in 34 TAC Part 1, Chapter 20, Subchapter B, [Pursuant to Chapter 2161, §2161.003, Texas Government Code, the commission adopts by reference the rules of the Texas Building and Procurement Commission in 1 TAC §§111.11 – 111.28,] relating to the Historically Underutilized Business Program. The Comptroller of Public Accounts rules are located at the Office of the Secretary of State's internet website: www.sos.state.tx.us/tac/index.html.

§534.5. Bid Opening and Tabulation

(a) The commission adopts by reference the rules of the Texas Comptroller of Public Accounts in 34 TAC §§20.35 ~~[Building and Procurement Commission in 1 TAC §113.5(b)]~~ relating to bid submission, bid opening, and tabulation.

(b) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on May 17, 2010.

**Agenda Item 12(a):**

Discussion and possible action to adopt amendments to:

- a) 22 TAC §539.41 Disclosures

SUMMARY

Adopts a new title for 22 TAC Chapter 539, new Subchapter E, concerning Disclosures, and new §539.41 concerning Disclosures without changes to the proposed text.

This rule requires a licensed residential service company to include a disclosure in its residential service contracts if the company pays persons other than a residential service company employee for the sale, advertising, inspection or processing of a residential service contract.

No comments were received on the rule as proposed.

**STAFF
RECOMMENDATION**

Adoption of amendments as proposed.

MOTION

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to 22 TAC §539.41, concerning Disclosures as presented at this meeting for adoption, with any non-substantive changes as staff may deem necessary or advisable.

(IF CHANGES ADD)
with the changes that have been approved by the Commission for adoption.

Agenda 12(a)
Subchapter E. Disclosures
§539.41

The Texas Real Estate Commission (TREC) adopts a new title for 22 TAC Chapter 539, new Subchapter E, concerning Disclosures, and new §539.41 concerning Disclosures without changes to the proposed text as published in the February 26, 2010 issue of the *Texas Register* (35 TexReg 1565) and will not be republished. The rule requires a licensed residential service company to include a disclosure in its residential service contracts if the company pays persons other than a residential service company employee for the sale, advertising, inspection or processing of a residential service contract.

No comments were received on the rule as proposed. The reasoned justification for the rule is enhanced consumer protection for purchasers of residential service contracts.

CHAPTER 539. RULES RELATING TO [PROVISIONS OF] THE RESIDENTIAL SERVICE COMPANY ACT

Subchapter E. Disclosures

§539.41 Disclosures. A residential service company that pays persons not employed by the company for the sale, advertising, inspection, or processing of a residential service contract under Texas Occupations Code §1303.304 may not offer to sell a residential service contract unless the contract contains the following statement in at least 10-point bold type:

NOTICE: THIS COMPANY PAYS PERSONS NOT EMPLOYED BY THE COMPANY FOR THE SALE, ADVERTISING, INSPECTION, OR PROCESSING OF A RESIDENTIAL SERVICE CONTRACT UNDER TEXAS OCCUPATIONS CODE §1303.304.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**Agenda Item 12(b):**

Discussion and possible action to adopt amendments to:

- b) 22 TAC §539.51 “Employed by”
Defined

SUMMARY

Adopts the amendments to Chapter 539, Subchapter F, §539.51 concerning “Employed by” Defined without changes to the proposed text. The amendments correct typographical errors in the existing rule to better reflect the statutory reference.

No comments were received on the amendments to the rule as proposed.

**STAFF
RECOMMENDATION**

Adoption of amendments as proposed.

MOTION

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to 22 TAC §539.51, concerning “Employed by” Defined as presented at this meeting for adoption, with any non-substantive changes as staff may deem necessary or advisable.

(IF CHANGES ADD)

with the changes that have been approved by the Commission for adoption.

Agenda Item 12(b)
Subchapter F. Authorized Personnel.
§539.51.

The Texas Real Estate Commission (TREC) adopts amendments to Chapter 539, Subchapter F, §539.51 concerning “Employed by” Defined without changes to the proposed text as published in the February 26, 2010 issue of the *Texas Register* (35 TexReg 1565). The amendments correct typographical errors in the existing rule to better reflect the statutory reference.

No comments were received on the amendments to the rule as proposed. The reasoned justification for the amendments is enhanced consumer protection for purchasers of residential service contracts.

For the purposes of Texas Occupations Code, Chapter 1303, **§1303.101(b)** [~~§1303.004~~], **a person is “employed by a residential service company” [“employee”] if the [means—any] person is** other than a licensed real estate salesperson, real estate broker, mobile home dealer, or insurance agent **and is** authorized by a licensed **residential**-service company to sell, offer to sell, arrange or solicit the sale of, or receive applications for residential service contracts subject to the following conditions.

(1) The residential service company must have the right to direct and control the employee's performance.

(2) The residential service company must accept responsibility for representations made by the employee within the scope of the employee's employment.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on May 17, 2010.

**Agenda Item 12(c):**

Discussion and possible action to adopt amendments to:

- c) 22 TAC §539.61 Application and Licensing

SUMMARY

Adopts the amendments to Subchapter G, §539.61 concerning Application and Licensing with changes to the form adopted by reference as published.

The amended rule adopts by reference a revised application form. The revised form is streamlined and changed to provide consistency with other TREC forms. The change to the form as adopted from that which was originally proposed is the adopted form may be utilized as a fillable PDF electronic document.

No comments were received on the amendments to the rule as proposed.

**STAFF
RECOMMENDATION**

Adoption of amendments and the form as presented.

MOTION

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to Subchapter G, §539.61 concerning Application and Licensing with changes to the form adopted by reference as presented at this meeting, with any non-substantive changes as staff may deem necessary or advisable for adoption.

(IF CHANGES ADD)

with the changes that have been approved by the Commission for adoption.

Agenda Item 12(c)
Subchapter G. Application for License
§539.61.

The Texas Real Estate Commission (TREC) adopts amendments to Subchapter G, §539.61 concerning Application and Licensing with changes to the form adopted by reference as published in the February 26, 2010 issue of the *Texas Register* (35 TexReg 1566). The amended rule adopts by reference a revised application form. The revised form is streamlined and changed to provide consistency with other TREC forms. The change to the form as adopted from that which was originally proposed is the adopted form may be utilized as a fillable PDF electronic document.

The revisions to the form as adopted do not change the nature or scope so much that they could be deemed a different form. The form as adopted does not affect individuals other than those contemplated by the form as proposed. The form as adopted does not impose more onerous requirements than the proposed version and does not materially alter the issues raised in the proposed forms. Changes in the form adopted by reference reflect non-substantive variations from the proposed form to clarify their intent and improve style and readability to better reflect the statutory reference.

No comments were received on the amendments to the rule as proposed. The reasoned justification for the amendments is enhanced consumer protection for purchasers of residential service contracts.

§539.61. Application and Licensing

(a) The Texas Real Estate Commission adopts by reference Application Form RSC **1-2 [4]** approved by the commission [~~in 1994~~]. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, www.trec.state.tx.us.

(b) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on May 17, 2010.

MAILING ADDRESS:
TEXAS REAL ESTATE COMMISSION
P.O. Box 12188
Austin, Texas 78711-2188
www.trec.state.tx.us



OFFICE ADDRESS:
TEXAS REAL ESTATE COMMISSION
1101 Camino La Costa
Austin, Texas 78752
Telephone: (512) 459-6544 or
1-800-250-TREC (8732)

APPLICATION FOR RESIDENTIAL SERVICE COMPANY LICENSURE

GENERAL INFORMATION

The attached forms may be used by persons applying for a residential service company license.

FEE

A \$3,500 filing fee is required as part of the application; the fee is not returnable if an application is disapproved or abandoned. Each evidence of coverage and schedule of charges the residential service company wishes to offer must be separately approved by the Commission. Separate filing fees are required for an applicant's Schedule of Charges and for each different Evidence of Coverage a licensee may wish to offer. Please complete and submit TREC Form No. RSC 3-2, Application to Approve Evidence of Coverage/ Schedule of Charges, along with the required fee.

INFORMATION REQUESTED

Applicant should determine that all requested information is provided. Failure to provide requested information will delay consideration of the application. Use separate sheets where necessary to provide complete responses.

SURETY BOND

An applicant for a residential service company license must file with the Commission a surety bond issued by an admitted carrier in this State, using Residential Service Company Bond, TREC Form No. RSC 2-4, or other security accepted by the Commission in the amount of \$25,000.

NOTE: The information submitted in connection with this application is generally subject to public disclosure pursuant to Government Code, Chapter 552, the Public Information Act (PIA). The PIA excepts from disclosure proprietary under certain conditions. Please identify each page containing such by clearly marking it confidential or proprietary. Note that marking documents as proprietary or confidential does not automatically mean that they will be withheld if requested; marked information be submitted to the Office of the Attorney General for determination of its status.

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.**
- (2) Under Sections 552.021 and 552.023 of the Government Code, the individual is entitled to receive and review the information.**
- (3) Under Section 559.004 of the Government Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect**



Texas Real Estate Commission
P.O. Box 12188
Austin, Texas 78711-2188
www.trec.state.tx.us

APPLICATION FOR:
RESIDENTIAL SERVICE COMPANY LICENSE

FEE	REGISTER NUMBER	REVENUE CODE	AMOUNT	LICENSE NUMBER
RSC Application		29	\$3,500	

DO NOT WRITE ABOVE THIS LINE

NOTE: ALL INFORMATION MUST BE TYPED OR PRINTED IN INK

1. Name and address (principal office) of applicant:

Name _____

Address _____

City _____ State _____ Zip _____ Telephone _____

E-mail Address _____ Fax Number _____

Name of Contact _____ Telephone _____

E-mail Address _____ Fax Number _____

2. Type of organization of applicant: (check one)

- Sole Proprietor Corporation Limited Liability Company Partnership or Joint Venture
- Other (Specify) _____

- a) If a corporation or LLC, state of formation: _____
- b) If a foreign corporation or LLC, attach copy of entity's certificate of authority to do business in Texas, along with the copies of all documents submitted to and from the Secretary of State of Texas.
- c) Attach copies of organizational documents such as Articles of Incorporation, Articles of Organization, Articles of Association, Partnership or Management Agreement, or Trust Agreement, including all amendments.
- d) Attach copies of bylaws, rules or other documents prescribing regulations for internal affairs of applicant.

3. Attach a list of names, addresses, and official positions of corporate officers, partners, or principals responsible for affairs of applicant. (Include Board of Directors, Board of Trustees, Executive Committee, Partners, Officers.)

4. Attach a certified financial statement and management letter prepared by an independent public accountant within the preceding six (6) months, as well as a statement of stockholders equity and statement of cash flows, if applicable.

5. Attach a statement describing applicant's proposed marketing methods, sources of working capital and sources of funding.

6. Attach a statement describing applicant's sources of working capital and all sources of funding.

This document is available on the TREC website at www.trec.state.tx.us

7. Business name to be used, if different from that above. Attach Certificate of Assumed Name, if any:

8. Attach Power of Attorney, if applicant is not domiciled in Texas, appointing the Administrator of the Texas Real Estate Commission as the true and lawful attorney of the applicant for receipt of legal services of process in any legal action brought against applicant in Texas.

9. Has applicant ever been licensed or authorized to do business as a residential service company or home warranty company in any other state? Yes No

(If "yes", provide requested information below or on a separate sheet as necessary.)

YEAR	STATE	ISSUING AGENCY	LICENSE OR REGISTRATION NUMBER	EXACT NAME IN WHICH LICENSE WAS ISSUED
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

10. Has any other state ever revoked, cancelled or withdrawn applicant's authority to do business in that state? Yes No

If "yes", provide relevant documentation.

11. Does the applicant have a procedure established to respond to consumer complaints? Yes No
(Please describe or explain on a separate sheet.)

CERTIFICATION

I certify that all information reflected in or attached to this application is true and correct to the best of my knowledge.

Certification must be provided by individual applicant, by principal officer of corporation, manager of LLC or by each partner or member of partnership or association.

Printed Name: _____

Signed: _____

Title: _____

Attest: _____

Title: _____

STATE OF _____

COUNTY OF _____

Before me, the undersigned authority, personally appeared: _____

known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

WITNESS MY HAND AND SEAL OF OFFICE, this the _____ day of _____

Notary Public in and for
_____ County, _____

This page should be completed by the principal officer of a Corporation, the partners in a Partnership or members of an Association.

1. Name: _____			
2. Title: _____			
3. Residence Address:			
Street Address _____			
City _____		State _____	Zip _____
4. Social Security No _____		5. Driver's License (State & No.) _____	6. Date of Birth _____
7. Business or occupation for the past five years:			
FROM	TO	CITY AND STATE	NATURE OF BUSINESS
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
8. Experience in the residential service company business (If none, so indicate):			
FROM	TO	CITY AND STATE	NATURE OF BUSINESS
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

FOR EVERY "YES" ANSWER TO QUESTIONS 9 THROUGH 14, SUBMIT A FULL EXPLANATION ON A SEPARATE SHEET OF PAPER.

9. Have you ever been convicted of a criminal offense? (Include all felonies and misdemeanors other than minor traffic tickets.)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
10. Have you ever been placed on probation or community supervision (also known as deferred adjudication)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
11. Are there any criminal actions or civil suits pending against you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
12. Are there any unpaid judgments outstanding against you? If so, where? State _____ County _____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
13. Have you ever had an application for any type of professional or occupational license disapproved?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
14. Have you ever had any type of professional or occupational license suspended, cancelled or revoked?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

CERTIFICATION

I, _____, the person named above, do hereby certify that the information reflected above is accurate to the best of my knowledge.

Signature: _____

Printed Name: _____

**Agenda Item 12(d):**

Discussion and possible action to adopt amendments to:

d) 22 TAC §539.71 Miscellaneous Forms

SUMMARY

Adopts the amendments to Subchapter H, §539.71 concerning Miscellaneous Forms with changes to the forms adopted by reference.

The amended rule adopts by reference a revised Residential Service Company Bond form and Application to approve Evidence of Coverage/Schedule of Charges form. The forms are revised to maintain consistency with other TREC forms. The changes to the forms as adopted from those that were originally proposed are the adopted forms may be utilized as a fillable PDF electronic document.

No comments were received on the amendments to the rule as proposed.

STAFF**RECOMMENDATION**

Adoption of amendments as presented.

MOTION

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to Subchapter H, §539.71 concerning Miscellaneous Forms with changes to the forms adopted by reference as presented at this meeting, with any non-substantive changes as staff may deem necessary or advisable for adoption.

(IF CHANGES ADD)

with the changes that have been approved by the Commission for adoption.

Agenda Item 12(d)
Subchapter H. Miscellaneous Forms
§539.71

The Texas Real Estate Commission (TREC) adopts amendments to Subchapter H, §539.71 concerning Miscellaneous Forms with changes to the forms adopted by reference as published in the February 26, 2010 issue of the *Texas Register* (35 TexReg 1566). The amended rule adopts by reference a revised Residential Service Company Bond form and Application to approve Evidence of Coverage/Schedule of Charges form. The forms are revised to maintain consistency with other TREC forms. The changes to the forms as adopted from those that were originally proposed are the adopted forms may be utilized as fillable PDF electronic documents.

The revisions to the forms as adopted do not change the nature or scope so much that they could be deemed different forms. The forms as adopted do not affect individuals other than those contemplated by the forms as proposed. The forms as adopted do not impose more onerous requirements than the proposed versions and do not materially alter the issues raised in the proposed forms. Changes in the forms adopted by reference reflect non-substantive variations from the proposed rules and forms to clarify their intent and improve style and readability.

No comments were received on the amendments to the rule as proposed. The reasoned justification for the amendments is enhanced consumer protection for purchasers of residential service contracts.

§539.71. Miscellaneous Forms. The Texas Real Estate Commission adopts by reference the following forms approved by the commission. These forms are published and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, www.trec.state.tx.us.

(1) Residential Service Company Bond, Form RSC 2-~~4~~; and

(2) Application to Approve Evidence of Coverage/Schedule of Charges, Form RSC 3-~~2~~.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on February 8, 2010.



Texas Real Estate Commission
P.O. Box 12188
Austin, Texas 78711-2188
 Web Site: <http://www.trec.state.tx.us>

STATE OF TEXAS

RESIDENTIAL SERVICE COMPANY BOND

KNOW ALL PERSONS BY THESE PRESENTS:

BOND NO. _____

That we, _____, of the County of _____, State of _____, as Principal, and _____, an insurance carrier duly admitted to do business in the State of Texas, as Surety, are held and firmly bound unto the Texas Real Estate Commission, Obligee, in the penal sum of _____ THOUSAND (\$_____,000) DOLLARS, lawful money of the United States, to be paid to said Obligee for the benefit of a party who may suffer damages resulting from the failure of the above-named Residential Service Company to meet obligations to the persons contracting for its services, for which payment well and truly to be made, we bind ourselves and our legal representatives, successors and assigns, jointly and severally by these presents. Provided, however, in no event shall Surety's liability for all claims under this bond exceed the penal sum of the bond.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas, the said Principal has been licensed as a Residential Service Company, pursuant to The Residential Service Company Act, Chapter 1303, Texas Occupations Code, by the said Obligee.

NOW, THEREFORE, if the said Principal shall faithfully perform its obligations to the persons contracting for its services and in all things comply with Chapter 1303, Texas Occupations Code, and the rules and regulations of the Texas Real Estate Commission appertaining thereto, then this obligation to be void, otherwise to remain in full force and effect subject to the following conditions:

1. It is agreed that as of _____, _____, this bond shall be in full force and effect indefinitely and that a continuation or renewal certificate is unnecessary.
2. The Surety may at any time cancel this bond by giving ninety (90) days written notice to the Texas real Estate Commission; the Surety, however, is to remain liable for any defaults under this bond committed on residential service contracts written during its term.

SIGNED AND SEALED, this the _____ day of _____, _____.

 (Corporate Seal)

 (Principal)

 (Texas Recording Agent)

 (Surety)

 (Address of Agent)

By: _____
 (Attorney-in-fact)

MAILING ADDRESS:
TEXAS REAL ESTATE COMMISSION
P.O. Box 12188
Austin, Texas 78711-2188
www.trec.state.tx.us



OFFICE ADDRESS:
TEXAS REAL ESTATE COMMISSION
1101 Camino La Costa
Austin, Texas 78752
Telephone: (512) 459-6544 or
1-800-250-TREC (8732)

EVIDENCE OF COVERAGE & SCHEDULE OF CHARGES

These instructions apply to a residential service company licensee or applicant requesting revisions or implementation of a new evidence of coverage (contract) or schedule of charges (rates).

- ◆ On item 1, check whether you are requesting approval for an "Evidence of Coverage" or "Schedule of Charges." If you are requesting both, provide a copy of this form for each.
- ◆ On item 2, enter the date that you propose to implement the Evidence of Coverage or Schedule of Charges. In providing this date, please allow at least 30 days for the Commission to review and provide a response to the information submitted.
- ◆ On item 3, enter the name of the company, the license number, and address.
- ◆ Provide an original signature, title of the person submitting the request, and the date signed.

To expedite the review process, the following will be helpful:

Evidence of Coverage Filing

- ◆ When submitting a new contract, provide a summary explaining the coverage, and how and to whom this contract will be marketed.
- ◆ When submitting revisions to an existing contract, provide a summary of the proposed changes to be made and the rationale for the changes, if applicable.
- ◆ When revising a contract, submit a copy of the previous contract along with the proposed new version. Highlight the additions or deletions to coverage on the proposed version.
- ◆ Provide copies of promotional materials along with the contract. Changes to the contract may also affect advertising and promotional pieces.
- ◆ Before submitting, proofread for typographical errors and reading comprehension for the average person.
- ◆ Avoid extreme cutting and pasting or use of proofreading symbols without providing a readable draft that is clear and clean.
- ◆ Ensure that the evidence of coverage and/or promotional materials submitted are readable. Print less than 11 pt. type may be difficult to read.

Schedule of Charges Filing

- ◆ Identify the contracts that will be affected by these rates or rate changes.
- ◆ Provide justification or a rationale for the rates to be charged or for changes in rates.
- ◆ Provide a breakdown of projected costs (expenses) for the rates to be charged, including a profit projection.
- ◆ Provide a "then" and "now" breakdown of costs (expenses) for contracts where revised rates are being requested. This should include profit projections for the new rates as well as profits earned for the rates currently approved.



Texas Real Estate Commission
P.O. Box 12188
Austin, Texas 78711-2188
www.trec.state.tx.us

APPLICATION TO:

APPROVE EVIDENCE OF COVERAGE/SCHEDULE OF CHARGES

FEE	REGISTER NUMBER	REVENUE CODE	AMOUNT	LICENSE NUMBER
RSC EVIDENCE OF COVERAGE		30	\$250	
RSC SCHEDULE OF CHANGES		30	\$250	

THIS AREA FOR TREC USE ONLY

DO NOT WRITE ABOVE THIS LINE

NOTE: ALL INFORMATION MUST BE TYPED OR PRINTED IN INK

1. This is a request for approval of the enclosed (check only one):

- SCHEDULE OF CHARGES
- EVIDENCE OF COVERAGE

FORM NAME OR NUMBER, IF ANY: _____

2. We propose to use or implement the enclosed evidence of coverage or schedule of charges on (specify date) _____

3. The \$250.00 FEE for filing this request is enclosed.

NAME OF COMPANY: _____

LICENSE NUMBER: _____

ADDRESS: _____

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____

DATE: _____

CONTACT NAME: _____

TELEPHONE/FAX: _____

EMAIL: _____

This document is available on the TREC website at www.trec.state.tx.us

**Agenda Item 12(e):**

Discussion and possible action to adopt amendments to:

- e) 22 TAC §539.91 Annual Report Form RSC 6-3

SUMMARY

Adopts the amendments to Subchapter J, §539.91 concerning Annual Report with changes to the form adopted by reference.

The proposed rule adopts by reference a revised annual report form. The revised form is streamlined and changed to provide consistency with other TREC forms. Among other things, the form is changed to detail payments to real estate brokers, insurance agents, mobile home dealers or non-RSC employees for selling, advertising, inspection, or processing of residential service contracts. The change to the form as adopted from that which was originally proposed is the adopted form may be utilized as a fillable PDF electronic document.

No comments were received on the amendments to the rule as proposed.

**STAFF
RECOMMENDATION**

Adoption of amendments and form as presented.

MOTION

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to Subchapter J, §539.91 concerning Annual Report with changes to the form adopted by reference as presented at this meeting, with any non-substantive changes as staff may deem necessary or advisable for adoption.

(IF CHANGES ADD)
with the changes that have been approved by the Commission for adoption.

Agenda Item 12 (e)
Subchapter J. Annual Report
§539.91

The Texas Real Estate Commission (TREC) adopts amendments to Subchapter J, §539.91 concerning Annual Report with changes to the form adopted by reference as published in the February 26, 2010 issue of the *Texas Register* (35 TexReg 1567). The proposed rule adopts by reference a revised annual report form. The revised form is streamlined and changed to provide consistency with other TREC forms. Among other things, the form is changed to detail payments to real estate brokers, insurance agents, mobile home dealers or non-RSC employees for selling, advertising, inspection, or processing of residential service contracts. The change to the form as adopted from that which was originally proposed is the adopted form may be utilized as a fillable PDF electronic document.

The revisions to the form as adopted do not change the nature or scope so much that they could be deemed a different form. The form as adopted does not affect individuals other than those contemplated by the form as proposed. The form as adopted does not impose more onerous requirements than the proposed version and does not materially alter the issues raised in the proposed forms. Changes in the form adopted by reference reflect non-substantive variations from the proposed form to clarify their intent and improve style and readability to better reflect the statutory reference.

No comments were received on the amendments to the rule as proposed. The reasoned justification for the amendments is enhanced consumer protection for purchasers of residential service contracts.

§539.91. Annual Report [~~Form RSC 6-2~~]. The Texas Real Estate Commission adopts by reference the Annual Report form RSC 6-~~3~~ **[2]** approved by the commission [~~in 2001~~]. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, www.trec.state.tx.us.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on May 17, 2010.

MAILING ADDRESS:
TEXAS REAL ESTATE COMMISSION
P.O. Box 12188
Austin, Texas 78711-2188
www.trec.state.tx.us



OFFICE ADDRESS:
TEXAS REAL ESTATE COMMISSION
1101 Camino La Costa
Austin, Texas 78752
Telephone: (512) 459-6544 or
1-800-250-TREC (8732)

ANNUAL REPORT BY RESIDENTIAL SERVICE COMPANY

GENERAL INFORMATION AND INSTRUCTIONS

The attached form is to be used by a residential service company when filing its Annual Report. The report is due on or before the first day of February each year and will cover the preceding calendar year. Financial statements are due by the first day of April each year.

FEE

A \$3,500 filing fee is required with the Annual Report. Please make checks payable to the Texas Real Estate Commission.

INFORMATION REQUESTED

The residential service company should determine that all requested information provided is detailed and accurate. Use separate sheets of paper where necessary to provide complete responses. **FAILURE TO FILE AN ANNUAL REPORT IN A TIMELY AND ACCURATE MANNER MAY RESULT IN THE SUSPENSION OR REVOCATION OF THE COMPANY'S LICENSE TO DO BUSINESS IN THE STATE OF TEXAS AND TO OTHER PENALTIES AS SET FORTH IN §1352, RESIDENTIAL SERVICE COMPANY ACT, TEXAS OCCUPATIONS CODE.**

1. This report should cover the preceding calendar year ending on December 31.
2. Unanswered questions and blank lines or schedules are not acceptable. If no answers or entries are to be made, write "None", not applicable", "N/A", or "-0-" in the space provided.
3. The certification statement must be signed by the appropriate company officers, have the company seal affixed thereon, and be properly notarized.

If this report does not contain the requested information in the blanks or is not prepared in accordance with these instructions, the residential service company will be required to satisfy these deficiencies.

5. The residential service company must submit **TWO** copies of its financial statements.
6. The Commission will accept any supplemental information submitted on a computer disk, provided the information is in a generally accepted format.

The information submitted in connection with this report is generally subject to public disclosure pursuant to Government Code, Chapter 552, the Public Information Act (PIA). The PIA excepts from disclosure proprietary information under certain conditions. Please identify each page containing such information by clearly marking it as confidential or proprietary. Note that marking documents as proprietary or confidential does not automatically mean that they will be withheld if requested; the marked information would be submitted to the Office of the Attorney General for determination of its status.



Texas Real Estate Commission
P.O. Box 12188
Austin, Texas 78711-2188
www.trec.state.tx.us

ANNUAL REPORT BY:

RESIDENTIAL SERVICE COMPANY

FEE	REGISTER NUMBER	REVENUE CODE	AMOUNT	LICENSE NUMBER
ANNUAL REPORT FEE		29	\$3,500	

DO NOT WRITE ABOVE THIS LINE

NOTE: ALL INFORMATION MUST BE PRINTED OR TYPED.

Identify each page containing proprietary or confidential information under the Public Information Act by clearly marking it as such.

ANNUAL REPORT

Of

Name of Residential Service Company

License Number

(City, State)

To the
TEXAS REAL ESTATE COMMISSION

FOR THE PERIOD ENDED

(Date)

GENERAL INTERROGATORIES

1.	Period covered by this report: From: January 1, _____ to December 31, _____	
2.	What was the total on the last day of this reporting period of company accounts payable to service contractors who have performed service work in Texas under company service contracts? A. Of this amount, how much is 31 to 60 days past due? B. Of this amount, how much is 61 or more days past due?	Answer: \$ _____ Answer: \$ _____ Answer: \$ _____
3.	What was the total of all accounts payable on the last day of this reporting period?	Answer: \$ _____
4.	Attach a copy of pleadings, or briefly describe all lawsuits filed during this reporting period in which the company has been named as a defendant. What is the total potential exposure of all active lawsuits?	Answer: \$ _____
5.	List all lawsuits in which the company was named as a defendant which have been disposed of during this reporting period, either by settlement, dismissal or final judgment. State disposition and terms and attach a copy of the final order of the Court. _____ _____ _____ _____ _____	
6.	Has the company, during the reporting period covered by this report, been the subject of any administrative proceedings in any jurisdiction? If "Yes", explain.	<input type="checkbox"/> Yes <input type="checkbox"/> No
7.	Attach a specimen of each evidence of coverage (contract) used by the company during all or any part of this reporting period, stating the dates, inclusively, such contracts were in use.	
8.	Attach a copy of all schedules of charges (rates) which were used by the company during all or any part of this reporting period, stating the dates, inclusively, such schedules were used.	
9.	Has the company transferred any of the risk of loss under contracts written by it in Texas to any insurer, reinsurer, residential service company or other entity during this reporting period? If "Yes", explain.	<input type="checkbox"/> Yes <input type="checkbox"/> No
10.	Was the company licensed and/or doing business in states other than Texas during this reporting period? If "Yes", attach an additional sheet giving the names of such state(s), the name of the regulating agency (if any), the agency's mailing address and telephone number (if applicable).	<input type="checkbox"/> Yes <input type="checkbox"/> No

COMPUTATION OF REQUIRED FUNDED RESERVE

NOTE: FOR THE PURPOSES OF ALL CALCULATIONS IN THIS SECTION, CARE SHOULD BE TAKEN NOT TO COMBINE CONTRACTS WRITTEN FOR DIFFERENT TERMS. EACH SUCH GROUP OF CONTRACTS SHOULD BE CALCULATED SEPARATELY AND THE RESULTS COMBINED FOR AN ACCURATE REPORT. COMMISSION STAFF ARE AVAILABLE IN CASE QUESTIONS ARISE.

11. a. Total the number of contract months remaining on contracts in force in Texas on the last day of the reporting period. (For purposes of this calculation, contracts expiring on or before the 15th day of the month should be counted as 0 months for the final contract month. Contracts expiring after the 15th day of the month should be counted as 1 month for the final contract month.) Answer: _____
- b. Determine the pro rata monthly contract charge. [For purposes of this calculation the aggregate actual contract costs to the consumer are divided by the aggregate number of months (exclusive of listing period months) in the contract terms of "in force" contracts (see note at top of page).] Answer: \$ _____
- c. Determine the remaining liability on all contracts in force. (Multiply a and b above). Answer: \$ _____
- d. Calculate 50% of c above. Answer: \$ _____
- e. Enter actual Funded reserve as documented in attached financial reports. Answer: \$ _____
- f. **ALTERNATIVE COMPUTATION**
- If 11e is equal to or greater than 11d, no further calculations are needed. If not, filer must demonstrate that a lesser figure will satisfy the statute or be in violation. This is done by totaling the losses of all contracts which expired during the twelve months ending with the last day of the reporting period. This total is divided by the actual gross contract costs of those same expired contracts. (This figure will differ from the aggregate actual contract costs in b above in that none of these contracts are still in force.) The quotient of this calculation is now multiplied by c above. Answer: \$ _____

12. If 11e is not equal to or greater than 11d or 11f above, the residential service company must take immediate steps to come into compliance. Several methods are mentioned in the Act and repeated here:

"Whenever the financial condition of a service company indicates a condition such that the continued operation of the service company might be hazardous to its service contract holders, creditors, or the general public, then the commission may, after notice of hearing, order the service company to take such action as may be reasonably necessary to rectify the existing condition, including but not necessarily limited to one of the following steps:

- (1) to reduce the total amount of present or potential liability for benefits by reinsurance, and/or by obtaining an appropriate bond from an admitted carrier or a surplus line carrier;*
- (2) to reduce the volume of new business being accepted;*
- (3) to reduce expenses by specified methods;*
- (4) to suspend or limit the writing of new business for a period of time; or*
- (5) to increase the service company's net worth by contribution."*

13. EXCEPT AS PROVIDED BELOW, RESIDENTIAL SERVICE COMPANIES WITH ASSETSTOTALING \$5 MILLION OR MORE MUST SUBMIT AUDITED OR REVIEWED FINANCIAL STATEMENTS WITH ANNUAL REPORTS. Attach a copy of a financial statement as of the last day of this reporting period and the management letter issued by the independent public accountant pursuant to the statement. The financial statement must use the GAAP accounting principles and include a balance sheet, income statement, statement of stockholders' equity, and statement of cash flows for the preceding year. **A company licensed or registered in another state may submit a financial statement in the statutory form required by the other state. The Commission may request additional information.**

The company should also provide the following schedules:

- a. A schedule showing the company's funded reserve account for future claims, showing both nationwide and in Texas, if maintained in separate accounts.
- b. A schedule showing the amount owed to service contractors, both nationwide and in Texas.
- c. Schedules showing payments made to service contractors for service work performed on service contracts in Texas and for service work performed in the rest of the nation.
- d. Cash on hand and on deposit. List each account separately. Give name and address of depository, account number, account balance and type. For demand deposits only, give the balance on the last day of each calendar quarter during this reporting period.
- e. Investments. Give type, issuer, purchase date, amount, market and/or book value, and credit ratings, if applicable.
- f. Fixed assets. Also furnish a copy of your depreciation schedule, if applicable.
- g. Real Estate. Give a property description, actual cost, date of purchase, liens, name and address of mortgagee and market value of property. Furnish a copy of your amortization schedule, if you prefer.
- h. Notes payable. For notes of \$5,000 or more give the name and address of the holder of the note, account number, interest rate, date of loan, principal amount of loan, accrued interest, unpaid balance, and repayment terms.
- i. Show payments to real estate brokers, insurance agents, mobile home dealers or non-RSC employees for selling, advertising, inspection or processing of residential service contracts. (residential service company employees who contact producers should not be in this schedule but included in the income statement under costs of contract expense.)

	Number of contracts	Number of payees
--	---------------------	------------------

- | | | |
|----------------|-------|-------|
| A. Selling | _____ | _____ |
| B. Advertising | _____ | _____ |
| C. Inspection | _____ | _____ |
| D. Processing | _____ | _____ |

- j. Schedules listing executive salaries and a subsection showing the total salaries of all employees of the residential service company.

14. Provide information on sales and service call activity sufficient to complete the charts on page 6 and 7 that follows.

Current Reporting Period	Paid Service Contract Fees Collected During Quarter		Service Calls Reported to and Paid for by the Company		Dollar Cost of Service Calls Paid for During Quarter		Average Dollar Cost per Paid Claim	
	Nationwide	Texas	Nationwide	Texas	Nationwide	Texas	Nationwide	Texas
First Quarter								
Second Quarter								
Third Quarter								
Fourth Quarter								
TOTALS								

Current Reporting Period	Paid Service Contracts in Force: Beginning of Quarter		Paid Service Contracts Issued During Quarter		Paid Service Contracts Expired Terminated, or Cancelled During Quarter		Paid Service Contracts in Force at End of Quarter	
	Nationwide	Texas	Nationwide	Texas	Nationwide	Texas	Nationwide	Texas
First Quarter								
Second Quarter								
Third Quarter								
Fourth Quarter								
TOTALS								

General Interrogatory 14
 Statement as of December 31, _____ of the _____
 (Date) (Name of residential service company)

Current Reporting Period	Paid Service Contract Fees Collected During Month		Service Calls Reported to and Paid for by the Company		Dollar Cost of Service Calls Paid for During Month		Average Dollar Cost per Paid Service Call	
	Nationwide	Texas	Nationwide	Texas	Nationwide	Texas	Nationwide	Texas
July								
August								
September								
October								
November								
December								
TOTALS								

Current Reporting Period	Paid Service Contracts in Force: Beginning of Month		Paid Service Contracts Issued During Month		Paid Service Contracts Expired, Terminated, or Cancelled During Month		Paid Service Contracts in Force at End of Month	
	Nationwide	Texas	Nationwide	Texas	Nationwide	Texas	Nationwide	Texas
July								
August								
September								
October								
November								
December								
TOTALS								

STATEMENT

For the period ended December 31, _____ of the conditions and affairs of _____

(Name of Residential Service Company)

Address of Home Office:

Texas Address:

Telephone # _____

Telephone # _____

Fax # _____

Fax # _____

Email _____

Email _____

State of _____

County of _____

_____, President, _____, Secretary,

_____, Treasurer (or corresponding person having charge of the financial

records of the Residential service company) of the _____
being duly sworn each for himself deposes and says that they are the above described officers of the said residential service company, and that on the reporting period stated above, all of the herein assets were the absolute property of the said residential service company, free and clear from any liens or claims therein, except as herein stated, according to generally accepted accounting principles, and that this Annual Report, together with related exhibits, schedules and explanations therein contained, annexed or referred to is a full and true statement of all of the assets and liability and of the condition and affairs of the said residential service company as of the reporting period stated above, and of its income and deductions therefrom for the period reported, and that the information and statements contained therein are true and correct.

_____, President

Name Printed/Typed

Signed

(Company Seal)

_____, Secretary

Name Printed/Typed

Signed

_____, Treasurer

Name Printed/Typed

Signed

Sworn to and subscribed before me by the _____,
said _____,

_____, and _____,

this _____ day of _____, _____, to certify which, witness my hand and seal of office.

My Commission expires _____.

Notary Public in and for

County,

(State)

**Agenda Item 12(f):**

Discussion and possible action to adopt amendments to:

- f) 22 TAC §539.137 Mid-year Report

SUMMARY

Adopts the amendments to Subchapter N, §539.137 concerning Mid-year Report with changes to the form adopted by reference.

The proposed rule adopts by reference a revised mid-year report form. The revised form is streamlined and changed to provide consistency with other TREC forms. Among other things, the form is changed to detail payments to real estate brokers, insurance agents, mobile home dealers or non-RSC employees for selling, advertising, inspection, or processing of residential service contracts. The change to the form as adopted from that which was originally proposed is the adopted form may be utilized as a fillable PDF electronic document.

No comments were received on the amendments to the rule as proposed.

STAFF**RECOMMENDATION**

Adoption of amendments and form as presented.

MOTION

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to Subchapter N, §539.137 concerning Mid-year Report with changes to the form adopted by reference as presented at this meeting, with any non-substantive changes as staff may deem necessary or advisable for adoption.

Agenda Item 12(f)
Subchapter N. Mid-year Report
§539.137

The Texas Real Estate Commission (TREC) adopts amendments to Subchapter N, §539.137 concerning Mid-year Report with changes to the form adopted by reference as published in the February 26, 2010 issue of the *Texas Register* (35 TexReg 1567). The proposed rule adopts by reference a revised mid-year report form. The revised form is streamlined and changed to provide consistency with other TREC forms. Among other things, the form is changed to detail payments to real estate brokers, insurance agents, mobile home dealers or non-RSC employees for selling, advertising, inspection, or processing of residential service contracts. The change to the form as adopted from that which was originally proposed is the adopted form may be utilized as a fillable PDF electronic document.

The revisions to the form as adopted do not change the nature or scope so much that they could be deemed a different form. The form as adopted does not affect individuals other than those contemplated by the form as proposed. The form as adopted does not impose more onerous requirements than the proposed version and does not materially alter the issues raised in the proposed forms. Changes in the form adopted by reference reflect non-substantive variations from the proposed form to clarify their intent and improve style and readability to better reflect the statutory reference.

No comments were received on the amendments to the rule as proposed. The reasoned justification for the amendments is enhanced consumer protection for purchasers of residential service contracts.

§539.137. Mid-year [Semiannual] Report.

(a) The Texas Real Estate Commission adopts by reference **Mid-year [Semiannual]** Report Form RSC 7-~~2~~ **[4]** approved by the commission **[in 1994]**. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, www.trec.state.tx.us.

(b) Each residential service company shall file a **mid-year [semiannual]** report no later than August 15 of each year for the preceding months of January through June **~~[and shall file a semiannual report no later than February 15 of each year for the preceding months of July through December]~~**.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on May 17, 2010.

MAILING ADDRESS:
TEXAS REAL ESTATE COMMISSION
P.O. Box 12188
Austin, Texas 78711-2188
www.trec.state.tx.us



OFFICE ADDRESS:
TEXAS REAL ESTATE COMMISSION
1101 Camino La Costa
Austin, Texas 78752
Telephone: (512) 459-6544 or
1-800-250-TREC (8732)

MID-YEAR REPORT BY RESIDENTIAL SERVICE COMPANY

GENERAL INFORMATION

The attached form is to be used by a residential service company when filing its Mid-year Report. The report for January 1 through June 30 is due on August 1st.

INFORMATION REQUESTED

The residential service company should determine that all requested information provided is detailed and accurate. Use separate sheets of paper where necessary to provide complete responses. **FAILURE TO FILE A MID-YEAR REPORT IN A TIMELY AND ACCURATE MANNER MAY RESULT IN THE SUSPENSION OR REVOCATION OF THE COMPANY'S LICENSE TO DO BUSINESS IN THE STATE OF TEXAS, AND TO OTHER PENALTIES AS SET FORTH IN §1303.352, RESIDENTIAL SERVICE COMPANY ACT, TEXAS OCCUPATIONS CODE.**

1. This report should cover the period from January 1 thru June 30.
2. Unanswered questions and blank lines or schedules are not acceptable. If no answers or entries are to be made, write "None", "not acceptable", "N/A", or "-0-" in the space provided.
3. The certification statement must be signed by the appropriate company officers, have the company seal affixed thereon and be properly notarized.
4. If this report does not contain the requested information asked for in the blanks, or is not prepared in accordance with these instructions, the residential service company will be required to file amendments in order to satisfy these deficiencies.

The information submitted in connection with this mid-year report is generally subject to public disclosure pursuant to Government Code, Chapter 552, the Public Information Act (PIA). The PIA excepts from disclosure proprietary information under certain conditions. Please identify each page containing such information by clearly marking it as confidential or proprietary. Note that marking documents as proprietary or confidential does not automatically mean that they will be withheld if requested; the marked information would be submitted to the Office of the Attorney General for determination of its status.



Texas Real Estate Commission
P.O. Box 12188
Austin, Texas 78711-2188
www.trec.state.tx.us

MID-YEAR REPORT BY:
RESIDENTIAL SERVICE COMPANY

DO NOT WRITE ABOVE THIS LINE

NOTE: ALL INFORMATION MUST BE PRINTED OR TYPED.

Identify each page containing proprietary or confidential information under the Public Information Act by clearly marking it as such.

MID-YEAR REPORT

of

(Name of Residential Service Company)

(License Number)

(City, State)

To the
TEXAS REAL ESTATE COMMISSION

FOR THE PERIOD ENDED
JANUARY-JUNE, _____

GENERAL INTERROGATORIES

<p>1. What was the total on the last day of this reporting period of company accounts payable to service contractors who have performed service work in Texas under company service contracts?</p> <p>A. Of this amount, how much is 31 days to 60 days past due?</p> <p>B. Of this amount, how much is 61 or more days past due?</p> <p>On a separate piece of paper, give an explanation as to why the amount owed is past due. Give the name and address of the service contractor along with the amount owed and date debt was incurred for each separate item in this category</p>	<p>Answer: \$ _____</p> <p>\$ _____</p> <p>\$ _____</p>
<p>2. What was the total of all accounts payable on the last day of this reporting period?</p>	<p>\$ _____</p>
<p>3. Attach a copy of pleadings or briefly describe, all lawsuits filed against the company during this reporting period in which you have been named as a defendant. What is the total potential exposure of all active lawsuits?</p>	<p>\$ _____</p>
<p>4. List all lawsuits in excess of \$10,000 in which the company was named as a defendant which have been disposed of during this reporting period, either by settlement, dismissal or final judgment. State disposition and terms and attach a copy of the final order of the Court.</p>	
<p>5. Has the company, during the reporting period covered by this report, been the subject of any administrative proceedings in any jurisdiction? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "yes," explain.</p>	
<p>6. Has the company transferred any of the risk of loss under contracts written by it in Texas to any insurer, reinsurer, residential service company or other entity during this reporting period? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "yes," explain.</p>	

COMPUTATION OF REQUIRED FUNDED RESERVES

NOTE: FOR THE PURPOSES OF ALL CALCULATIONS IN THIS SECTION, CARE SHOULD BE TAKEN NOT TO COMBINE CONTRACTS WRITTEN FOR DIFFERENT TERMS. EACH SUCH GROUP OF CONTRACTS SHOULD BE CALCULATED SEPARATELY AND THE RESULTS COMBINED FOR AN ACCURATE REPORT. COMMISSION STAFF ARE AVAILABLE IN CASE QUESTIONS ARISE.

7. a. Total the number of contract months remaining on contracts in force in Texas on the last day of the reporting period. (For purposes of this calculation, contracts expiring on or before the 15th day of the month should be counted as 0 months for the final contract month. Contracts expiring after the 15th day of the month should be counted as 1 month for the final contract month.) Answer: _____
- b. Determine the pro rata monthly contract charge. [For purposes of this calculation the aggregate actual contract costs to the consumer are divided by the aggregate number of months (exclusive of listing period months) in the contract terms of "in force" contracts (see note at bottom of page).] Answer: \$ _____
- c. Determine the remaining liability on all contracts in force. (Multiply a and b above). Answer: \$ _____
- d. Calculate 50% of c above. Answer: \$ _____
- e. Enter actual Funded Reserve as documented in attached financial reports. Answer: \$ _____

f. ALTERNATIVE COMPUTATION

If 7e is equal to or greater than 7d, no further calculations are needed. If not, filer must demonstrate that a lesser figure will satisfy the statute or be in violation. This is done by totaling the losses of all contracts which expired during the twelve months ending with the last day of the reporting period. This total is divided by the actual gross contract costs of those same expired contracts. (This figure will differ from the aggregate actual contract costs in b above in that none of these contracts are still in force.) The quotient of this calculation is now multiplied by c above. Answer: \$ _____

- g. Provide the calculation of the funded reserve for the 5 months prior to this reporting period.

8. If 7e is not equal to or greater than 7d or 7f above, the residential service company must take immediate steps to come into compliance. Several methods are mentioned in the Act and repeated here:

"Whenever the financial condition of a service company indicates a condition such that the continued operation of the service company might be hazardous to its service contract holders, creditors, or the general public, then the commission may, after notice of hearing, order the service company to take such actions as may be reasonably necessary to rectify the existing condition, including but not necessarily limited to one of the following steps:

- (1) to reduce the total amount of present or potential liability for benefits by reinsurance, and/or by obtaining an appropriate bond from an admitted carrier of a surplus line carrier;*
- (2) to reduce the volume of new business being accepted;*
- (3) to reduce expenses by specified methods;*
- (4) to suspend or limit the writing of new business for a period of time; or*
- (5) to increase the service company's net worth by contribution."*

9. Furnish schedules for the Funded Reserve. Give details concerning the company's funded reserve account(s) for future service calls, both nationwide and for Texas, if maintained separately. Show the balance in each account on the last day of the preceding six months. (Copies of bank or investment house statements are preferred here.)

10. Show payments to real estate brokers, insurance agents, mobile home dealers or non-RSC employees for selling, advertising, inspection or processing of residential service contracts. (residential service company employees who contact producers should not be in this schedule but included in the income statement under costs of contract expense.)

	Number of contracts	Number of payees
A. Selling	_____	_____
B. Advertising	_____	_____
C. Inspection	_____	_____
D. Processing	_____	_____

11. Provide information on sales and service call activity sufficient to complete the chart on page 5.

General Interrogatory 11

Statement as of June 30, _____ of the _____ (Name of residential service company)

(Date)

Current Reporting Period	Paid Service Contract Fees Collected During Month		Service Calls Reported to and Paid for by the Company		Dollar Cost of Service Calls Paid for During Month		Average Dollar Cost per Paid Service Call	
	Nationwide	Texas	Nationwide	Texas	Nationwide	Texas	Nationwide	Texas
January								
February								
March								
April								
May								
June								
TOTALS								

Current Reporting Period	Paid Service Contracts in Force: Beginning of Month		Paid Service Contracts Issued During Month		Paid Service Contracts Expired Terminated, or Cancelled During Month		Paid Service Contracts in Force at End of Month	
	Nationwide	Texas	Nationwide	Texas	Nationwide	Texas	Nationwide	Texas
January								
February								
March								
April								
May								
June								
TOTALS								

STATEMENT

For the period ended June 30, _____, of the conditions and affairs of _____

(Name of Residential Service Company)

Address of Home Office:

Texas Address:

Telephone # _____

Telephone # _____

Fax# _____

Fax# _____

Email _____

Email _____

State of _____

County of _____

_____, President, _____, Secretary,
_____, Treasurer (or corresponding person having charge of the financial

records of the residential service company) of the _____,
being duly sworn each for himself deposes and says that they are the above described officers of the said residential service company, and that on the reporting period stated above, all of the herein assets were the absolute property of the said residential service company, free and clear from any liens or claims therein, except as herein stated, according to generally accepted accounting principles, and that this Mid-Year Report, together with related exhibits, schedules and explanations therein contained, annexed or referred to is a full and true statement of all of the assets and liability and of the condition and affairs of the said residential service company as of the reporting period stated above, and of its income and deductions therefrom for the period reported, and that the information and statements contained therein are true and correct.

_____, President,
Name Printed/Typed

Signed

_____, Secretary
Name Printed/Typed

Signed

_____, Treasurer
Name Printed/Typed

Signed

(Company Seal)

Sworn to and subscribed before me by the said _____,
_____, and _____,
this _____ day of _____, _____, to certify which, witness my hand and seal of office.

My Commission expires _____.

Notary Public in and for

_____ County,

_____ (State)

**Agenda Item 13(a):**

Discussion and possible action to propose amendments to:

- a) 22 TAC Chapter 531, Canons of Professional Ethics and Conduct for Real Estate Licensees

SUMMARY

Proposes an amendment to 22 TAC §531.18 regarding Consumer Information Form 1-1. The amendment would add a reference to the TREC website to download the form.

**STAFF
RECOMMENDATION**

Approve for proposal.

MOTION

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to 22 TAC §531.18 regarding Consumer Information Form 1-1, as presented at this meeting, with any non-substantive changes as staff may deem necessary or advisable for proposal to the *Texas Register*.

(IF CHANGES ADD)
with the changes that have been approved by the Commission for adoption.

Agenda Item 13(a)
22 TAC §531.18
Consumer Information Form 1-1

The Texas Real Estate Commission (TREC) proposes an amendment to 22 TAC §531.18 regarding Consumer Information Form 1-1. The amendment would add a reference to the TREC website to download the form.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties and to establish standards of conduct and ethics for its licensees in keeping with the purpose and intent of the Act to ensure compliance with the provisions of the Act.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendment to the rule.

§531.18 Consumer Information Form 1-1

(a) The Texas Real Estate Commission adopts by reference Consumer Information Form 1-1 approved by the Texas Real Estate Commission in 1991. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, www.trec.state.tx.us.

(b) No Change.

**Agenda Item 13(b):**

Discussion and possible action to propose amendments to:

- b) 22 TAC Chapter 533, Practice and Procedure

SUMMARY

Proposes amendments to 22 TAC §§533.1 Definitions; 533.3.Filing and Notice; 533.4. Failure to Answer, Failure to Attend Hearing and Default; 533.8 Final Orders, Motions for Rehearing, and Emergency Orders; 533.20 Informal Proceedings; 533.31 Referral of Contested Matter for Alternative Dispute Resolution Procedures; and 533.34 Commencement of ADR.

The proposed amendment to §533.1 adds the definition of “last known mailing address” to the list of definitions. The proposed amendment to §533.3 clarifies that the Notice of Alleged Violation required by Occupations Code §1101.703 will be mailed to the respondent’s last known mailing address, corrects typographical errors, and makes conforming changes to the rule. The proposed amendment to §533.4 corrects typographical errors and makes conforming changes to the rule. The proposed amendment to §533.8 provides a procedure for motions for rehearing before the commission, and provides that a person appealing a decision of the commission is responsible for paying for the costs of preparation of an original or certified copy of the transcript of the proceedings required by a reviewing court. The proposed amendments to §533.20 and §533.31 make conforming changes.

The proposed amendments to §533.34 delete the procedures for alternative dispute resolution of employment matters as those matters are provided for in the TREC employee handbook.

STAFF
RECOMMENDATION

Approve for proposal.

MOTION

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to 22 TAC §§533.1 Definitions; 533.3.Filing and Notice; 533.4. Failure to Answer, Failure to Attend Hearing and Default; 533.8 Final Orders, Motions for Rehearing, and Emergency Orders; 533.20 Informal Proceedings; 533.31 Referral of Contested Matter for Alternative Dispute Resolution Procedures; and 533.34 Commencement of ADR., as presented at this meeting, with any non-substantive changes as staff may deem necessary or advisable for proposal to the *Texas Register*.

(IF CHANGES ADD)

with the changes that have been approved by the Commission for adoption.

22 TAC Chapter 533
§§533.1, 533.3, 533.4, 533.8, 533.20, 533.31, and 533.34

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §§533.1 Definitions; 533.3.Filing and Notice; 533.4. Failure to Answer, Failure to Attend Hearing and Default; 533.8 Final Orders, Motions for Rehearing, and Emergency Orders; 533.20 Informal Proceedings; 533.31 Referral of Contested Matter for Alternative Dispute Resolution Procedures; and 533.34 Commencement of ADR.

The proposed amendment to §533.1 adds the definition of “last known mailing address” to the list of definitions. The proposed amendment to §533.3 clarifies that the Notice of Alleged Violation required by Occupations Code §1101.703 will be mailed to the respondent’s last known mailing address, corrects typographical errors, and makes conforming changes to the rule. The proposed amendment to §533.4 corrects typographical errors and makes conforming changes to the rule. The proposed amendment to §533.8 provides a procedure for motions for rehearing before the commission, and provides that a person appealing a decision of the commission is responsible for paying for the costs of preparation of an original or certified copy of the transcript of the proceedings required by a reviewing court. The proposed amendments to §533.20 and §533.31 make conforming changes. The proposed amendments to §533.34 delete the procedures for alternative dispute resolution of employment matters as those matters are provided for in the TREC employee handbook.

Loretta R. DeHay, General Counsel, has determined that for the first five-year period the proposed rules as amended are effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the rules. There is no anticipated economic effect on small businesses, micro-businesses, persons, or local or state employment as a result of implementing the amendment.

Ms. DeHay also has determined that for each year of the first five years the amended sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be clarification of the practice and procedure before the commission and the State Office of Administrative Hearings.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties and to establish standards of conduct and ethics for its licensees in keeping with the purpose and intent of the Act to ensure compliance with the provisions of the Act.

The statutes affected by this proposal are Texas Occupations Code, Chapter 1101, Chapter 1102, 1303, and Texas Property Code, Chapter 221. No other statute, code or article is affected by the proposed amendments.

§533.1 Definitions. The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) ADR--Alternative dispute resolution.

(2) ADR Administrator--The trained coordinator in the commission office designated by the commission to coordinate and oversee the ADR procedures which may include conducting mediations. The ADR Administrator shall serve as a resource for ADR training and shall collect data concerning the effectiveness of the ADR procedures.

(3) Administrator--The Administrator of the Texas Real Estate Commission.

(4) ALJ--Administrative law judge employed by the State Office of Administrative Hearings.

(5) Alternative Dispute Resolution (ADR) Procedures--Alternatives to judicial forums or administrative agency contested case proceedings for the voluntary settlement of contested matters through the facilitation of an impartial third-party.

(6) APA--The Administrative Procedure Act (Texas Government Code, Chapter 2001).

(7) Applicant--Any person seeking a license, certificate, registration, approval or permit from the commission.

(8) Commission--The Texas Real Estate Commission.

(9) Complainant--Any person who has filed a complaint with the commission against any person whose activities are subject to the jurisdiction of the commission.

(10) Contested case or proceeding--A proceeding in which the legal rights, duties, or privileges of a party are to be determined by the commission and/or administrator after an opportunity for adjudicative hearing.

(11) Final decision maker--The commission and/or the administrator, both of whom are authorized to render the final decision in a contested case.

(12) Judge--Administrative law judge employed by the State Office of Administrative Hearings.

(13) **Last Known Mailing Address -- The permanent mailing address as provided to the commission by a Licensee or Applicant or as shown in the commission's records for a Respondent who is not a license holder.**

(14) (13) License--The whole or part of any commission registration, license, certificate, approval, permit, or similar form of permission required or permitted by law.

(15) (14) Mediator--The commission employee or other state employee who presides over ADR proceedings regardless of which ADR method is utilized.

(16) (15) Party--A person admitted to participate in a case before the final decision maker.

(17) (16) Person--Any individual, partnership, corporation, or other legal entity, including a state agency or governmental subdivision.

(18) (17) Pleading--A written document submitted by a party, or a person seeking to participate in a case as a party, which requests procedural or substantive relief, makes claims, alleges facts, makes legal argument, or otherwise addresses matters involved in the case.

(19) (18) Private Mediator--A person in the mediation profession who is not a Texas State employee and who has met all the qualifications prescribed by Texas law for mediators.

(20) (19) Respondent--Any person, licensed or unlicensed, who has been charged with violating a law establishing a regulatory program administered by the commission or a rule or order issued by the commission.

(21) (20) Rule--Any commission statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the commission and is filed with the Texas Register.

(22) (21) SOAH--State Office of Administrative Hearings.

§533.3.Filing and Notice

(a) The commission shall provide notice to all parties in accordance with the APA §2001.052, Chapters 1101 and 1102, Texas Occupations Code, and the following:

(1) If, after investigation of a possible violation and the facts surrounding that possible violation, the commission determines that a violation has occurred, the commission may ~~shall~~ issue a written Notice of Alleged Violation.

(2) The Notice of Alleged Violation shall be sent to the Respondent's last known mailing address by certified or registered mail.

(3) (2) The Notice of Alleged Violation shall include:

(A) a brief summary of the alleged violation(s);

(B) a statement of the amount of the penalty and/or sanction recommended; and

(C) a statement of the right of the Respondent to a hearing.

(4) (3) The commission shall base the recommendation on the factors set forth in this chapter.

(b) (No change.)

(c) Upon receipt of a written request for hearing, the commission shall submit a Request for Docket Case form to SOAH accompanied by legible copies of all pertinent documents, including but not limited to the Notice of Hearing or other document describing the agency action giving rise to a contested case. In accordance with 1 TAC **§155.53**, ~~(§155.9)~~ the commission shall request one or more of the following actions on the Request to Docket Case form:

(1) –(3) (No change.)

(d) The original of all pleadings and other documents requesting action or relief in a contested case, shall be filed with SOAH once it acquires jurisdiction. Pleadings, other documents, and service to SOAH shall be directed to: Docketing Division, State Office of Administrative Hearings, 300 West 15th Street, Room 504, P.O. Box 13025, Austin, Texas 78711-3025. The time and date of filing shall be determined by the file stamp affixed by SOAH. Unless otherwise ordered by the judge, only the original and no additional copies of any pleading or document shall be filed. Unless otherwise provided by law, after a proposal for decision has been issued, originals of documents requesting relief, such as exceptions to the proposal for decision or requests to reopen the hearing, shall be filed with the commission's administrator and/or commission as well as the commission's **Standards & Enforcement Services**~~[Enforcement]~~ Division, P.O. Box 12188, Austin, Texas 78711; 1101 Camino La Costa, Austin, Texas; or by facsimile **[mail-at]** (512) 465-3962 if the documents contain 20 or fewer pages including exhibits. Filings may be made until 5:00 p.m. on business days. Copies shall be filed with SOAH.

(e) (No change.)

(f) Any document served upon a party is prima facie evidence of receipt if it is directed to the party's last known **mailing** ~~[complete, correct]~~ address **[as shown by the commission's records]**. This presumption is rebuttable. Failure to claim properly addressed certified or registered mail will not support a finding of nondelivery.

§533.4. Failure to Answer, Failure to Attend Hearing and Default.

(a) If, within twenty days after receiving a Notice of Alleged Violation, the Respondent fails to accept the commission's determination and recommended administrative penalty and/or sanction, or fails to make a written request for a hearing on the determination, the commission shall enter a default order against the Respondent, **incorporating the [containing]** findings of fact and conclusions of law **in the Notice of Alleged Violation**.

(b) -(c) (No change.)

(d) 1 TAC **§155.501 and §155.503** ~~[\$155.55]~~ (SOAH rules) **apply** ~~[applies]~~ where a Respondent fails to appear on the day and time set for administrative hearing. In that case, the commission's staff may move either for dismissal of the case from SOAH's docket or for the issuance of a default proposal for decision by the judge.

§533.8 Final Orders, Motions for Rehearing, and Emergency Orders

(a) Unless otherwise authorized under **§533.8(f)** ~~[\$533.13(f)]~~ of this chapter, a final order in a contested case shall be in writing and shall be signed by the presiding officer of the commission. Final orders shall include findings of fact and conclusions of law separately stated.

(b) If the commission modifies, amends, or changes a proposal for decision, the order shall reflect the commissions changes as stated in the record of the meeting and state the specific reason and legal basis for the changes made according to §533.7(c) of this chapter.

(c) A party notified by mail of a final decision or order shall be presumed to have been notified on the third day after the date on which the notice is mailed.

(d) The timely filing of a motion for rehearing is a prerequisite to appeal.

(e) Motions for rehearing are controlled by Texas Government Code §2001.145 and §2001.146 and this section.

(f) A motion for rehearing shall set forth the particular finding of fact, conclusion of law, ruling, or other action which the complaining party asserts was error. In the absence of specific grounds in the motion, the commission shall presume that the motion should be overruled.

(g) The chairperson or the member designated by the chairperson to preside (the presiding member) shall announce the case. Upon the request of any party, the presiding member may conduct a prehearing conference with the parties and their attorneys of record. The presiding member may announce reasonable time limits for any oral arguments to be presented by the parties. The hearing on the motion shall be limited to a consideration of the grounds set forth in the motion. Testimony by affidavit or documentary evidence such as excerpts of the record before the presiding officer may be offered in support of, or in opposition to, the motion; provided, however, a party offering affidavit testimony or documentary evidence must provide the other party with copies of the affidavits or documents at the time the motion is filed.

(h) In presenting oral arguments, the party filing the motion will have the burden of proof and persuasion and shall open and close. The party responding to the motion may offer rebuttal arguments. Parties may request an opportunity for additional rebuttal subject to the discretion of the presiding member.

(i) After being recognized by the presiding member, the members of the commission may ask questions of the parties. If a party is represented by counsel, the questions must be directed to the party's attorney. Questions must be limited to the grounds asserted for the motion to be granted and to the arguments made by the parties.

(j) Upon the conclusion of oral arguments, questions by the members of the commission, and any discussion by the member of the commission, the presiding member shall call for a vote on the motion. A member of the commission need not make a separate motion or second a motion filed by a party. The presiding member may vote on the motion. A motion may be granted only if a majority of the members present and voting vote in favor of the motion. In the event of a tie vote, the presiding member shall announce that the motion is overruled.

(k)(f) If the commission and/or the administrator find that an imminent peril to the public health, safety, or welfare requires immediate effect of a final decision or order, that finding shall be recited in the decision or order as well as the fact that the decision or order is final and effective on the date signed, in which event the decision or order is final and appealable on the date signed and no motion for rehearing is required as a prerequisite for appeal.

(l)(g)A petition for judicial review must be filed in a District Court of Travis County Texas within 30 days after the order is final and appealable, as provided by Texas Government Code, Title 10, Subtitle A, Chapter 2001. A party filing a petition for judicial review must also comply with the requirements of Texas Occupations Code, §1101.707.

(m) A party who appeals a final decision in a contested case must pay all costs for the preparation of the original or a certified copy of the record of the agency proceeding that is required to be transmitted to the reviewing court.

(n) ~~(m)~~ If, after judicial review, the penalty is reduced or not assessed, the administrator shall remit to the person charged the appropriate amount, plus accrued interest if the penalty has been paid, or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the administrator under this subsection shall be paid at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and shall be paid for the period beginning on the date that the assessed penalty is paid to the commission and ending on the date the penalty is remitted.

§533.20 Informal Proceedings

(a) Informal disposition of any contested case involving a **respondent [licensee or an applicant for licensure]** may be made through an informal conference pursuant to Texas Occupations Code §1101.660.

(b) The commission and the **respondent [or applicant]** may enter into an agreed order without first engaging in an informal conference under this subchapter.

(c) A **respondent [licensee or applicant]** may request an informal conference; however, the decision to hold a conference shall be made by the Director of **Standards & Enforcement Services [Enforcement]**.

(d) -(e) (No change.)

(f) The Director of **Standards & Enforcement Services [Enforcement]** or the director's designee shall decide upon the time, date and place of the informal conference, and provide written notice to the **respondent [licensee or applicant]**. Notice shall be provided by certified mail no less than ten days prior to the date of the conference to the last known mailing address of the **respondent [licensee or applicant]**. The ten days shall begin on the date of mailing. The **respondent [licensee or applicant]** may waive the ten-day notice requirement.

(g) A copy of the commission's rules concerning informal conferences shall be enclosed with the notice of the informal conference. The notice shall inform the **respondent [licensee or applicant]** of the following:

(1) that the **respondent [licensee or applicant]** may be represented by legal counsel;

(2) that the **respondent [licensee or applicant]** may offer documentary evidence as may be appropriate;

(3) that at least one public member of the commission shall be present;

(4) that two staff members, including the staff attorney assigned to the case, with experience in the regulatory area that is the subject of the proceedings shall be present;

(5) that the **respondent's [licensee's or applicant's]** attendance and participation is voluntary; and

(6) that the complainant involved in the alleged violations may be present.

(h) The notice of the informal conference shall be sent to the complainant at his or her last known **mailing** address. The complainant shall be informed that he or she may appear in person or may submit a written statement for consideration at the informal conference.

(i) (No change.)

(j) The **respondent** ~~[licensee or applicant]~~, the **respondent's** ~~[licensee's or applicant's]~~ attorney, the commission member, and the staff **members** ~~[attorney]~~ may question the respondent or complainant, make relevant statements, present statements of persons not in attendance, and present such other evidence as may be appropriate.

(k)-(l) (No change.)

(m) The complainant may be excluded from the informal conference except during the complainant's oral presentation. The **respondent** ~~[licensee or applicant]~~, the **respondent's** ~~[licensee's or applicant's]~~ attorney, and commission staff may remain for all portions of the informal conference, except for consultation between the commission member and commission staff.

(n) (No change.)

(o) At the conclusion of the informal conference, the commission member or staff **members** may propose an informal settlement of the contested case. The proposed settlement may include administrative penalties or any disciplinary action authorized by the Act. The commission member or staff **members** may also recommend that no further action be taken.

(p) The **respondent** ~~[licensee or applicant]~~ may either accept or reject the **proposed** settlement recommendations at the conference. If the **proposed settlement recommendations** are accepted, **a proposed** agreed order shall be prepared by the staff attorney and forwarded to the **respondent** ~~[licensee or applicant]~~. The order shall contain agreed findings of fact and conclusions of law. The **respondent** ~~[licensee or applicant]~~ shall execute the **proposed agreed** order and return the **executed** ~~[signed]~~ order to the commission within ten days of his or her receipt of the proposed agreed order. If the **respondent** ~~[licensee or applicant]~~ fails to **sign and** return the **executed proposed agreed** ~~[signed]~~ order within the stated time period, the inaction shall constitute rejection of the **proposed** settlement recommendation.

(q) If the **respondent** ~~[licensee or applicant]~~ rejects the proposed settlement **recommendation**, the matter shall be referred to the Director of **Standards & Enforcement Services** ~~[Enforcement]~~ for appropriate action.

(r) If the **respondent accepts and signs** ~~[licensee or applicant signs and accepts]~~ the proposed ~~[recommendation, the]~~ agreed order, **it** shall be **signed by the staff attorney and submitted** to the administrator for approval.

(s) If the administrator does not approve a proposed agreed order, the **respondent** shall be so informed and the matter shall be referred to the Director of **Standards & Enforcement Services** ~~[Enforcement]~~ for other appropriate action.

(t) (No change.)

(u) The commission may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal conference instead of or in addition to imposing an administrative penalty **pursuant to Texas Occupations Code §1101.659**. The amount of a refund ordered as provided in an agreement

resulting from an informal conference may not exceed the amount the consumer paid to the license holder for a service regulated by the Act and this title. The commission may not require payment of other damages or estimate harm in a refund order.

§533.31. Referral of Contested Matter for Alternative Dispute Resolution Procedures. The commission's Director of Standards & Enforcement Services ~~[Enforcement or Human Resources Office]~~ or the director's designee on behalf of the commission, may seek to resolve a contested matter through ~~[negotiation or]~~ mediation involving all parties and if so, shall refer the matter for mediation in accordance with §533.34 of this chapter (relating to Commencement of ADR).

§533.34. Commencement of ADR (a) The commission encourages resolution of disputes at any time; however, ADR procedures may begin, at the discretion of the Director of Standards & Enforcement Services ~~[Enforcement or the Human Resources Office]~~, anytime after the commission anticipates initiation of an adverse action against an applicant~~[,]~~ or respondent ~~[or employee]~~. The commission may issue a Notice of Mediation along with a Notice of Alleged Violation or along with a notice of a proposed denial of licensure or opportunity to take an examination. Prior to the submission of a Request for Docket Case form to SOAH, and with agreement of all parties, the ADR Administrator may schedule mediation upon any party's request.

(b) ~~[A commission employee, subsequent to appealing a personnel action to the appropriate commission Division Director in accordance with the commission's Personnel Manual and without having obtained satisfaction, may request approval of mediation from the Human Resources Office.]~~

~~(c)~~ Upon unanimous motion of the parties and at the discretion of the administrative law judge, the provisions of this section may apply to contested case hearings. In such cases, it is within the discretion of the judge to continue the hearing to allow the use of ADR procedures.

**Agenda Item 13(c):**

Discussion and possible action to propose amendments to:

- c) 22 TAC Chapter 537, Professional Agreements and Standard Contracts

SUMMARY

Proposes amendments to 22 TAC §537.11 concerning Professional Agreements and Standard Contracts. The proposed amendments are non-substantive and break down existing paragraphs into subsections to provide structure to each subsection for readability and clarity.

**STAFF
RECOMMENDATION**

Approve for proposal.

MOTION

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to 22 TAC §537.11 concerning Professional Agreements and Standard Contracts, as presented at this meeting, with any non-substantive changes as staff may deem necessary or advisable for proposal to the *Texas Register*.

(IF CHANGES ADD)
with the changes that have been approved by the Commission for adoption.

Agenda Item 13(c)
22 TAC §537.11 Use of Standard Contract Forms

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §537.11 concerning Professional Agreements and Standard Contracts. The proposed amendments are nonsubstantive and break down existing paragraphs into subsections to provide structure to each subsection for readability and clarity.

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

§537.11 Use of Standard Contract Forms

(a) When negotiating contracts binding the sale, exchange, option, lease or rental of any interest in real property, a real estate licensee shall use only those contract forms promulgated by the Texas Real Estate Commission **(the commission)** for that kind of transaction with the following exceptions:

(1) transactions in which the licensee is functioning solely as a principal, not as an agent;

(2) transactions in which an agency of the United States government requires a different form to be used;

(3) transactions for which a contract form has been prepared by **a principal to the transaction** ~~[the property owner]~~ or prepared by an attorney and required by **a principal to the transaction; [the property owner] or**

(4) transactions for which no standard contract form has been promulgated by the **commission** ~~[Texas Real Estate Commission]~~, and the licensee uses a form prepared by an attorney at law licensed by this state and approved by the attorney for the particular kind of transactions involved or prepared by the Texas Real Estate Broker-Lawyer Committee **(the committee)** and made available for trial use by licensees with the consent of the **commission** ~~[Texas Real Estate Commission]~~.

(b) A licensee may not:

(1) practice law,

(2) offer, give **or [nor]** attempt to give legal advice, directly or indirectly; ~~[the licensee may not act as a public conveyancer nor],~~

(3) give advice or opinions as to the legal effect of any contracts or other such instruments which may affect the title to real estate,

~~(4) [the licensee may not]~~ give opinions concerning the status or validity of title to real estate, or [and the licensee may not]

~~(5)~~ attempt to prevent or [nor] in any manner whatsoever discourage any principal to a real estate transaction from employing a lawyer.

~~(c) [However,]~~ Nothing in this section [nothing herein] shall be deemed to limit the licensee's fiduciary obligation to disclose to the licensee's principals all pertinent facts which are within the knowledge of the licensee, including such facts which might affect the status of or title to real estate.

~~(d)~~ (c) A licensee may not undertake to draw or prepare documents fixing and defining the legal rights of the principals to a real estate transaction.

~~(e)~~ In negotiating real estate transactions, the licensee may fill in forms for such transactions, using exclusively forms which have been approved and promulgated by the commission [Texas Real Estate Commission] or such forms as are otherwise permitted by these rules.

~~(f)~~ When filling in ~~[such]~~ a form authorized for use by this section, the licensee may only fill in the blanks provided and may not add to or strike matter from such form, except that licensees shall add factual statements and business details desired by the principals and shall strike only such matter as is desired by the principals and as is necessary to conform the instrument to the intent of the parties.

~~(g)~~ A licensee may not add to a promulgated ~~[earnest money]~~ contract form factual statements or business details for which a contract addendum, lease or other form has been promulgated by the commission for mandatory use.

~~(h)~~ Nothing in this section [herein] shall be deemed to prevent the licensee from explaining to the principals the meaning of the factual statements and business details contained in the said instrument so long as the licensee does not offer or give legal advice.

~~(i)~~ It is not the practice of law as defined in this Act for a real estate licensee to complete a contract form which is either promulgated by the commission [Texas Real Estate Commission] or prepared by the committee [Texas Real Estate Broker-Lawyer Committee] and made available for trial use by licensees with the consent of the commission [Texas Real Estate Commission].

~~(j)~~ Contract forms prepared by the committee [Texas Real Estate Broker-Lawyer Committee] for trial use may be used on a voluntary basis after being approved by the commission.

~~(k)~~ Contract forms prepared by the committee [Texas Real Estate Broker-Lawyer Committee] and approved by the commission to replace previously promulgated forms may be used by licensees on a voluntary basis prior to the effective date of rules requiring use of the replacement forms.

~~(l) [(d)]~~—Where it appears that, prior to the execution of any such instrument, there are unusual matters involved in the transaction which should be resolved by legal counsel before the instrument is executed or that the instrument is to be acknowledged and filed for record, the licensee shall advise the principals that each should consult a lawyer of the principal's choice before executing same.

~~(m) [(e)]~~—A licensee may not employ, directly or indirectly, a lawyer nor pay for the services of a lawyer to represent any principal to a real estate transaction in which the licensee is acting as an agent. The licensee may employ and pay for the services of a lawyer to represent only the licensee in a real estate transaction,

including preparation of the contract, agreement, or other legal instruments to be executed by the principals to the transactions.

(n) [(f)] A licensee shall advise the principals that the instrument they are about to execute is binding on them.

(o) [(g)] Forms approved or promulgated by the commission may be reproduced only from the following sources:

(1) numbered copies obtained from the commission, whether in a printed format or electronically reproduced from the files available on the commission's **web [Internet]** site;

(2) printed copies made from copies obtained from the commission;

(3) legible photocopies made from such copies; or

(4) computer-driven printers following these guidelines:

(A) The computer file or program containing the form text must not allow the end user direct access to the text of the form and may only permit the user to insert language in blanks in the forms or to strike through language at the direction of the parties to the contract.

(B) Typefaces or fonts must appear to be identical to those used by the commission in printed copies of the particular form.

(C) The text and number of pages must be identical to that used by the commission in printed copies of the particular form.

(D) The spacing, length of blanks, borders and placement of text on the page must appear to be identical to that used by the commission in printed copies of the form.

(E) The name and address of the person or firm responsible for developing the software program must be legibly printed below the border at the bottom of each page in no less than six point type and in no larger than 10 point type.

(p) [(h)] Forms approved or promulgated by the commission must be reproduced on the same size of paper used by the commission with the following changes or additions only:

(1) The business name or logo of a broker, organization or printer may appear at the top of a form outside the border.

(2) The broker's name may be inserted in any blank provided for that purpose.

**Agenda Item 13(d):**

Discussion and possible action to propose amendments to:

- d) 22 TAC Chapter 541, Rules Relating to the Provisions of the Texas Occupations Code, Chapter 53

SUMMARY

Proposes amendments to 22 TAC §541.1 concerning Criminal Offense Guidelines and new 22 TAC §541.2 concerning Criminal History Evaluation Letters.

House Bills 963, and 2808, 81st Legislature, Regular Session (2009) amended Texas Occupations Code Chapter 53. These bills changed the license eligibility requirements for persons with criminal histories and changed TREC's authority to review and consider a person's criminal history information. The proposed amendments and new rule clarify license eligibility for persons with criminal histories, and outline the process by which a person may request and receive a criminal history evaluation letter under Chapter 53.

**STAFF
RECOMMENDATION
MOTION**

Approve for proposal.

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to 22 TAC §541.1 concerning Criminal Offense Guidelines and new 22 TAC §541.2 concerning Criminal History Evaluation Letters, as presented at this meeting, with any non-substantive changes as staff may deem necessary or advisable for proposal to the *Texas Register*.

(IF CHANGES ADD)
with the changes that have been approved by the Commission for adoption.

22 TAC §541.1 Criminal Offense Guidelines and
§541.2 Criminal History Evaluation Letters

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §541.1 concerning Criminal Offense Guidelines and new 22 TAC §541.2 concerning Criminal History Evaluation Letters.

House Bills 963, and 2808, 81st Legislature, Regular Session (2009) amended Texas Occupations Code Chapter 53. These bills changed the license eligibility requirements for persons with criminal histories and changed TREC's authority to review and consider a person's criminal history information. The proposed amendments and new rule clarify license eligibility for persons with criminal histories, and outline the process by which a person may request and receive a criminal history evaluation letter under Chapter 53.

The proposed amendments to §541.1 clarify that the commission considers convictions and deferred adjudications of the offenses listed in the rule to be directly related to the duties and responsibilities of the licenses issued by the commission for the reasons articulated in the rule. The amendments clarify that the commission has determined that multiple violations which evidence a disregard for or inability to comply with the law and felony offenses involving driving while intoxicated or under the influence directly relate to the duties and responsibilities of a license issued by the commission.

The proposed new rule implements the new statutory requirements under Occupations Code Chapter 53. The new statutory provisions require the Commission to establish a process that will allow a person to submit a request for a criminal history evaluation. Under Chapter 1101, §1101.353 the commission is already authorized to issue a moral character determination of an applicant. Under the proposed rule, the commission will review the person's criminal history under Chapter 53 using the same process it currently uses to conduct a moral character determination under Chapter 1101. The intent of both statutes is to provide information about potential license ineligibility based on criminal history before a person spends time and money pursuing an education or training, taking an examination, or applying for a particular license. New §541.2 clarifies that a person may request an eligibility letter from the commission under Chapter 53 using the same form and paying the same fee required of persons applying for a moral character determination under §1101.353.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties and to establish standards of conduct and ethics for its licensees in keeping with the purpose and intent of the Act to ensure compliance with the provisions of the Act.

The statutes affected by this proposal are Texas Occupations Code, Chapter 1101 and 1102. No other statute, code or article is affected by the proposed amendments.

§541.1. Criminal Offense Guidelines (a) For the purposes of Texas Occupations Code, Chapter 53, §§1101.354, 1102.107, 1102.108, 1102.109, and §535.400(f) of this title, the Texas Real Estate Commission considers that **a deferred adjudication deemed a conviction under §53.021 or a conviction of** the following criminal offenses directly relate to the duties and responsibilities of a real estate broker, real estate salesperson, easement or right-of-way agent, professional inspector, real estate inspector or apprentice inspector for the reason that the commission of the offenses tends to demonstrate the person's inability to represent the interest of another with honesty, trustworthiness and integrity:

(1)- (12) (No change.)

(13) **repeated or** multiple violations of any criminal statute **evidencing a disregard for or inability to comply with the law;** [and]

(14) **felonies involving driving while intoxicated (DWI) or driving under the influence (DUI); and**

(15) any other offense that the commission determines is directly related to an occupation regulated by the commission using the factors described in subsection (b) of this section.

(b)-(c) No Change.

§541.2 Criminal History Evaluation Letters. Pursuant to Texas Occupations Code Chapter 53, Subchapter D and §11011.353, a person may request that the commission evaluate the person's eligibility for a specific occupational license regulated by the commission by:

(1) submitting a request on a form approved by the commission for that purpose; and

(2) paying the required fee.



Agenda Item 13(e):

Discussion and possible action to propose amendments to:

- e) 22 TAC §535.51, General Requirements

SUMMARY

Proposes amendments to 22 TAC §535.51 concerning General Requirements for a License.

The proposed amendments to §535.51 delete the requirement that an applicant must submit an education evaluation and receive a notice from the commission that the applicant has satisfied all education requirements for a license prior to submitting an application. The amendment also deletes the signature requirement, changes from 60 to 20 days the time in which an applicant must submit a payment after the commission has requested such payment, and deletes the adoption by reference of all application forms.

For efficiency and consistency purposes, the application forms will no longer be adopted by reference in the rules but they will continue to be approved by the commission before staff makes the forms available for use by applicants for a license. The changes are part of the enhancements being made to the TREC licensing system as it is upgraded.

**STAFF
RECOMMENDATION
MOTION**

Approve for proposal.

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to 22 TAC §541.1 concerning Criminal Offense Guidelines and new 22 TAC §541.2 concerning Criminal History Evaluation Letters, as presented at this meeting, with any non-substantive changes as staff may deem necessary or advisable for proposal to the *Texas Register*.

(IF CHANGES ADD)

with the changes that have been approved by the Commission for adoption.

Agenda Item 13(e)
22 TAC §535.51 General Requirements for a License

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.51 concerning General Requirements for a License. The proposed amendments to §535.51 delete the requirement that an applicant must submit an education evaluation and receive a notice from the commission that the applicant has satisfied all education requirements for a license prior to submitting an application for a license. The amendments also delete the signature requirement, change from 60 to 20 days the time in which an applicant must submit a payment after the commission has requested such payment, and deletes the adoption by reference of all application forms. For efficiency and consistency purposes, the application forms will no longer be adopted by reference in the rules but they will continue to be approved by the commission before staff makes the forms available for use by applicants for a license. The changes are part of the enhancements being made to the TREC licensing system as it is upgraded.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties and to establish standards of conduct and ethics for its licensees in keeping with the purpose and intent of the Act to ensure compliance with the provisions of the Act.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendments.

535.51 General Requirements for a License.

(a) A person who wishes to be licensed by the commission must file an application for the license on the form **prescribed [adopted]** by the commission for that purpose.

~~(b) [Prior to submitting an application, an applicant must submit a completed education evaluation request form along with the appropriate fee. If the commission determines that the applicant has met current education requirements for the applicable license, it shall notify the applicant that his or her education has been approved. Any such approval shall then remain valid for one year from the date the commission received the education evaluation request. If the commission determines that the applicant has not completed all required education, the applicant has until one year from the date the commission received the request to meet all education requirements and submit an application for licensure or the education evaluation request will expire. If the education requirements change while the education evaluation request is pending, any evaluation issued by the commission after the new requirements take effect will be based on then-current requirements. If the education requirements change after the commission has notified the applicant that his or her education satisfies the commission's requirements but before the applicant submits an~~

~~application, the applicant must meet any additional education requirements before the application will be processed.]~~

~~[(c)] A person [who has previously satisfied applicable education requirements and obtained an evaluation from the commission] also may apply for a license by accessing the commission's [Internet] web site, entering the required information on the application form and paying the appropriate fee in accordance with the instructions provided at the site by the commission. [If the person is an individual, the person must provide the commission with the person's signature prior to issuance of a license certificate. The person may provide the signature prior to the submission of an electronic application.]~~

(c) ~~[(d)]~~ The commission shall return the application of an applicant who:

- (1) is not 18 years of age;
- (2) does not meet any applicable residency requirement;
- (3) is not a citizen of the United States or a lawfully admitted alien;
- (4) submits the application in pencil; or
- (5) submits an incorrect filing fee or no filing fee~~;~~ or

~~-(6) has not satisfied applicable education requirements].~~

(d) ~~[(e)]~~ An application is considered void and is subject to no further evaluation or processing when one of the following events occurs:

(1) the applicant fails to satisfy a current education requirement or an examination requirement within six months from the date the application is filed;

(2) the applicant, ~~[having satisfied any examination requirement,]~~ fails to submit a required fee within twenty (20) ~~[sixty (60)]~~ days after the commission makes written request for payment;

(3) the applicant, having satisfied any education or examination requirement, fails to provide information or documentation within sixty (60) days after the commission makes written request for correct or additional information or documentation;

(4) the applicant fails to provide fingerprints to the Department of Public Safety within six months from the date the application is filed.

~~[(f) The commission adopts by reference the following forms published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, www.trec.state.tx.us:~~

~~-(1) Application for a Real Estate Broker License, TREC Form BL-9;~~

~~-(2) Application for a Real Estate Broker License by a Corporation, TREC Form BLC-6;~~

~~-(3) Application for Late Renewal of A Real Estate Broker License, TREC Form BLR-10;~~

~~-(4) Application for Late Renewal of Real Estate Broker License by a Corporation, TREC Form BLRC-7;~~

~~-(5) Application for Real Estate Salesperson License, TREC Form SL-13;~~

~~-(6) Application for Late Renewal of Real Estate Salesperson License, TREC Form SLR-11;~~

- ~~-(7) Application for Moral Character Determination, TREC Form MCD-6;~~
- ~~-(8) Application for Real Estate Broker License by a Limited Liability Company, TREC Form BLLL-6;~~
- ~~-(9) Application of Currently Licensed Real Estate Broker for Salesperson License, TREC Form BSL-8; and~~
- ~~-(10) Application for Late Renewal of a Real Estate Broker License by a Limited Liability Company, TREC Form BLRLL-7.]~~

MAILING ADDRESS:
TEXAS REAL ESTATE COMMISSION
P.O. Box 12188
Austin, Texas 78711-2188



OFFICE ADDRESS:
TEXAS REAL ESTATE COMMISSION
1101 Camino La Costa
Austin, Texas 78752
Telephone: (512) 459-6544 or
1-800-250-TREC (8732)

APPLICATION FOR INACTIVE SALESPERSON LICENSE

(PLEASE READ ALL INFORMATION CAREFULLY)

DO NOT USE THIS FORM IF YOU WERE LICENSED AS A TEXAS BROKER OR SALESPERSON IN THE PAST SIX YEARS. THE CORRECT FORM MAY BE DOWNLOADED FROM THE TREC WEBSITE @ www.trec.state.tx.us

There are 3 steps to obtaining an active Texas real estate salesperson license.

- (1) File an education evaluation form along with copies of your transcripts and education documents and \$30.00 fee. The fee is required for an evaluation of education documents unless you obtained an evaluation in the past 12 months and paid the fee at that time. **Do Not** submit original education documents. You must obtain a letter from TREC attesting to satisfaction of all education requirements before you can file an application for a license. The current education requirements for a salesperson license are:

150 classroom hours of real estate courses acceptable to TREC. Specific core courses are required:

60 hours in Principles of Real Estate

30 hours in Law of Agency

30 hours in Law of Contracts

30 additional core hours

60 additional related or core hours

Other **core** courses are: Real Estate Appraisal; Real Estate Law; Promulgated Contract Forms; Real Estate Finance; Real Estate Marketing; Real Estate Mathematics; Real Estate Brokerage; Property Management; Real Estate Investments; and Residential Inspection for Real Estate Agents.

- (2) File an application for an inactive salesperson license, pass the examination, get your fingerprints taken and satisfy the statutory requirement for honesty, trustworthiness and integrity.

NOTICE FOR APPLICANTS FILING ON OR AFTER JANUARY 1, 2008

If your renewal is filed on or after January 1, 2008 you are required by law to have your fingerprints on file with the Department of Public Safety for TREC. Fingerprints on file for other agencies will not be accepted. Your license will issue once you meet all licensing requirements and TREC receives confirmation from DPS that your fingerprints are on file. These fingerprints will be valid for subsequent renewals. You must present a completed FAST Pass at the time of fingerprinting. For directions on how to download your FAST Pass and make an appointment to get your fingerprints taken go to <http://www.trec.state.tx.us/fastpass>. The digital fingerprinting process may take up to 10 days, so plan accordingly. You must pay a license application fee AND a fingerprinting fee.

You must pass the examination and get fingerprinted within six months after the date the application is filed with TREC or your application will expire.

Check the TREC web site at www.trec.state.tx.us for updates on the fingerprinting requirement.

Fees to be submitted with an application:

Application processing fee: \$97.00

Recovery fund fee: \$10.00 (if not previously paid)

License examinations are administered by Psychological Services, Inc. (PSI), a national testing service. Once your application has been received, processed and accepted, you will receive notification that you may obtain a copy of the Candidate Information Brochure (CIB) to register for the exam. The CIB contains information about the examination, study material and instructions for making a reservation with PSI. A valid photograph ID (driver's license, etc) is required for admission to a testing site. The name on the ID must match the name on the application for a license. You must pass the examination within six months after the date the application is filed with TREC.

If you have defaulted on a student loan with the Texas Guaranteed Student Loan Corporation (TG) and are not currently making payments under a repayment agreement, contact the Texas Guaranteed Student Loan Corporation, P.O. Box 83100, Round Rock, TX 78683-3100, Telephone: 1-800-252-9743, BEFORE filing an application. State law prohibits renewing a license after a licensee has defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG) unless the licensee has entered into a repayment agreement with TG. An application or renewal may be rejected if this agency has received information from TG that the applicant has defaulted on a student loan.

- (3) Arrange for a Texas real estate broker holding an active license to sponsor you as a salesperson. **Applicants and inactive salespersons are not authorized to act as real estate agents.**

While you are not required to have a sponsoring broker to file an application for a license, a sponsorship request form is included with the application materials. If you wish, you may file the sponsorship request along with the application. Once all licensing requirements have been satisfied, TREC will send an active salesperson license to the broker, and you may act for the broker on receipt of the license.

You may also file the application and arrange for sponsorship after TREC notifies you that you have been issued an inactive license. Once a broker holding an active license has mailed a request to TREC to act as your sponsor, you may begin to act for the broker as a salesperson.

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.
- (2) Under Sections 552.021 and 552.023 of the Government Code, the individual is entitled to receive and review the information.
- (3) Under Section 559.004 of the Government Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.



Texas Real Estate Commission
P.O. Box 12188
Austin, Texas 78711-2188
www.trec.state.tx.us

APPLICATION FOR:

INACTIVE REAL ESTATE SALESPERSON LICENSE

FEE	REGISTER NUMBER	AMOUNT	MONEY TYPE
Application Fee		\$97.00	
Recovery Fund Fee		\$10.00	

License #

DO NOT WRITE ABOVE THIS LINE

NOTE: ALL INFORMATION MUST BE TYPED OR PRINTED IN INK

This application is for an **INACTIVE** salesperson license. Once an inactive license has been issued, you must obtain an active license under the sponsorship of a licensed broker to practice real estate brokerage.

1. Applicant's Full Name:

Last	First	Middle

2. Applicant's Social Security No.

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Note: Section 231.302 of the Texas Family Code REQUIRES all applicants to disclose their Social Security Numbers (SSN) when filing an application. The SSN that is provided will be confidential and is required to enforce Child Support orders. Failure to provide the SSN will prevent a license from being issued and could ultimately lead to termination of the application.

3. Applicant's Permanent Mailing Address and Contact Information: (Post Office Box may be used)

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Number, Street and Apt. No. -or- P.O. Box

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City State Zip Code Area Code Phone Number

FAX Number:										
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Area Code Phone Number E-mail Address

4. Driver's License Number:

		State:
--	--	--------

5. Date of Birth:

Month	Day	Year			

6. Place of Birth:

City	State	

This document is available on the TREC website at www.trec.state.tx.us

7. Height: <input style="width: 100px; height: 25px;" type="text"/> Weight: <input style="width: 30px; height: 25px;" type="text"/> <input style="width: 30px; height: 25px;" type="text"/> <input style="width: 30px; height: 25px;" type="text"/>	8. Sex: F <input type="checkbox"/> M <input type="checkbox"/> (check one)	9. Ethnic Group: Black <input type="checkbox"/> White <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian <input type="checkbox"/> Other (specify): <input style="width: 500px; height: 25px;" type="text"/>
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10. Have you ever been licensed in Texas as a real estate salesperson or broker? Yes No
If the answer is YES, fill in the appropriate information below.

License Expiration Date	License Type	License Number	Exact Name In Which License Was Issued

11. Have you been licensed as a real estate salesperson or broker in a state **other than Texas** within the last five (5) years? Yes No
If the answer is YES, submit a complete license history signed by the licensing agency of the state(s) in which you were licensed.

12. (a) Have you ever had a professional or occupational license in this state or any other state suspended, canceled or revoked, or ever surrendered such a license? Yes No

 (b) Have you ever had an application for a professional or occupational license disapproved or denied in this state or any other state? Yes No

 (c) Are there any disciplinary hearings or investigations pending against any professional or occupational licenses you hold? Yes No

If the answer to (a), (b), or (c) is YES, submit copies of all orders, notices, disapprovals, investigative reports, and a written explanation.

13. Are there any unpaid judgments or any civil suits pending against you? Yes No
If the answer is YES, submit copies of all petitions and judgments and a written explanation.

14. (a) Have you ever been convicted of a criminal offense? (Include all felonies and misdemeanors other than minor traffic tickets.) Yes No

 (b) Have you ever been placed on probation or community supervision (also known as deferred adjudication)? Yes No

 (c) Are there any criminal charges pending against you? Yes No

If the answer to (a), (b), or (c) is YES, submit copies of all indictments, information, judgments, orders and charges, and a written explanation.

15. Have you ever acted, or attempted to act, as a real estate broker or salesperson or appraiser in this state or in any other state at a time when not properly licensed? (Include all periods in which you acted either before obtaining a license or after a license may have expired.) Yes No
If the answer is YES, submit a written explanation.

16. List below all names (maiden, aliases, nicknames, etc.) by which you have been known

17. Provide employment history for the last five (5) years to the present date. Explain any periods of unemployment for more than thirty (30) days. If additional space is needed, attach a separate sheet of paper to complete your answer.

FROM		TO		Employer	City, State	Position
Month	Year	Month	Year			

IMPORTANT INFORMATION - PLEASE READ CAREFULLY

The filing fee for this application is \$97.00. Most applicants must also pay a \$10 fee which is deposited into the real estate recovery fund. These fees are nonrefundable and must be submitted at the time the application is filed. TREC will reject and return an application submitted without the filing fees. Please submit ONE cashier's check, personal check, or money order for \$107.00 (\$97.00 if you have previously paid the recovery fund fee) payable to the Texas Real Estate Commission.

NOTE

State law prohibits renewing a license more than once after a licensee has defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG) unless the licensee has entered into a repayment agreement with TG. YOU SHOULD CONTACT TG BEFORE FILING THIS APPLICATION if you have defaulted on a student loan. An application or renewal may be rejected if this agency has received information from TG that the applicant has defaulted on a student loan. The Texas Guaranteed Student Loan Corporation can be contacted at:

Texas Guaranteed Student Loan Corporation
P.O. Box 83100
Round Rock, TX 78683-3100
Telephone: 1-800-252-9743

STATEMENT OF SALESPERSON APPLICANT

I certify that I am eighteen (18) years of age or older; that I am a citizen of the United States or a lawfully admitted alien; and that I am a legal resident of Texas. I certify that I have examined this application and the answers given are true, correct and complete. I authorize the Texas Real Estate Commission to conduct any investigations of me which it deems prudent. I understand that information revealed in an investigation may be cause for disapproval of the application even though other requirements for a license have been met and that if an investigation is necessary, it may not be conducted until I have passed the examination. I further understand that information submitted in conjunction with this application may become a public record. If granted a license, I will abide by the provisions of The Real Estate License Act and the Rules of the Texas Real Estate Commission. I WILL NOT PERFORM ANY ACT OF A REAL ESTATE SALESPERSON UNTIL AN ACTIVE TEXAS REAL ESTATE COMMISSION LICENSE CERTIFICATE IS IN MY SPONSORING BROKER'S POSSESSION.

I understand that the contents of the qualifying examination are confidential and that revealing questions and answers to another applicant or to any person associated with a school or examination preparation course is grounds for disapproval of this application or revocation of my license. If I am asked to reveal the contents of an examination, I will not do so.

Date Signed

Signature of Applicant

IMPORTANT INFORMATION - PLEASE READ THIS CAREFULLY

1. Only fees pertaining to THIS APPLICATION should accompany this application.
2. Please ensure the following:
 - a. all information is printed in ink or typewritten;
 - b. all requested information is provided;
 - c. all questions have been answered;
 - d. all required original signatures and dates of signing are in place (**do not** use signature stamps);
 - e. all education requirements have been met; and
 - f. all fee(s) are enclosed.

IF ALL REQUIREMENTS FOR A LICENSE ARE NOT MET WITHIN SIX (6) MONTHS OF THE FILING DATE, THE APPLICATION TERMINATES.



Texas Real Estate Commission
P.O. Box 12188
Austin, Texas 78711-2188

SALESPERSON SPONSORSHIP FORM

This form is to be used **ONLY** when applying for sponsorship for the **FIRST** time, or when filing a **LATE RENEWAL**.
NO FEE IS REQUIRED

Salesperson's Name: Last	First	Middle	License or ID Number
Salesperson's Permanent Mailing Address			Expiration date (MM/YYYY)
City	State	Zip Code	Social Security Number
Telephone Number			Salesperson's E-mail address

1. STATEMENT OF SALESPERSON: CHECK ONE BOX ONLY, SIGN AND DATE

A. SPONSORSHIP FOR SALESPERSON APPLICANT IN CONJUNCTION WITH AN ORIGINAL APPLICATION

- I have submitted a salesperson's original application and am applying for an active salesperson license to be issued from that application. I wish to enter the sponsorship of the broker named below. I will not act as a real estate agent until after the broker has received my active real estate salesperson license certificate from TREC.
- I have been notified by TREC that I have an inactive salesperson license from an original application. I am applying for active status for this license. I wish to enter the sponsorship of the broker named below. I will not act as a real estate agent until after this sponsorship form has been sent to TREC by mail or faxed to 512-465-3913. I certify that I have not engaged in activity requiring a license at any time when my license was inactive.

Salesperson's Signature	Date

B. SALESPERSON FILING LATE RENEWAL APPLICATION

- I am applying for an active license in conjunction with a salesperson's late renewal application. I wish to enter the sponsorship of the broker named below. I understand that TREC will not issue a license until all MCE and fingerprinting requirements are met. I certify that I will not act as a salesperson until I have satisfied any applicable mandatory continuing education (MCE) requirements. I certify that I have not engaged in activity requiring a license at any time when my license was expired or inactive.

Salesperson's Signature	Date

2. STATEMENT OF SPONSORING BROKER

I CERTIFY THAT I HOLD AN ACTIVE Texas real estate broker license and agree to serve as a sponsor and to be responsible for the real estate brokerage activities of the above named person. If applicable, I will not permit the salesperson to practice as a real estate agent for me until the salesperson has satisfied all MCE and fingerprinting requirements. Please issue a new license reflecting a change of sponsorship.

Sponsoring Broker's Name (Individual/Corporation/LLC) as shown on license.		
Sponsoring Broker's Business Address	City	State
Sponsoring Broker's Phone	Sponsoring Broker's License Number	Expiration date (MM/YYYY)
Sponsoring Broker's Signature*	Date	

*If Corporation: signature of Designated Officer is required. *If LLC: signature of Designated Manager is required.

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.**
- (2) Under Sections 552.021 and 552.023 of the Government Code, the individual is entitled to receive and review the information.**
- (3) Under Section 559.004 of the Government Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect**

**Agenda Item 13(f):**

Discussion and possible action to propose amendments to:

f) 22 TAC §535.101, Fees

SUMMARY

Proposes amendments to 22 TAC §535.101 concerning Fees.

The proposed amendments to §535.101 (1) delete the reference to a specific fee for an education evaluation, (2) add the fee to the relevant application fees, and (3) add an additional fee of \$20 to submit a paper form in cases where the commission has established an online process for submitting the same form. For efficiency and consistency purposes, the changes to the fees are included as part of the upgrades and enhancements to the TREC licensing system.

**STAFF
RECOMMENDATION
MOTION**

Approve for proposal.

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to 22 TAC §535.101 concerning Fees, as presented at this meeting, with any non-substantive changes as staff may deem necessary or advisable for proposal to the *Texas Register*.

(IF CHANGES ADD)
with the changes that have been approved by the Commission for adoption.

Agenda Item 13(f)
22 TAC §535.101 Fees

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.101 concerning Fees. The proposed amendments to §535.101 (1) delete the reference to a specific fee for an education evaluation, (2) add the fee to the relevant application fees, and (3) add an additional fee of \$20 to submit a paper form in cases where the commission has established an online process for submitting the same form. For efficiency and consistency purposes, the changes to the fees are included as part of the upgrades and enhancements to the TREC licensing system.

Loretta R. DeHay, General Counsel, has determined that for the first five-year period the proposed rule as amended is in effect there will be no direct fiscal implications for the state or for units of local government as a result of enforcing or administering the rule. While there will be increased revenue associated with the additional fee for submitting paper applications in lieu of submitting the form online, the cost to the agency of processing the paper requests will offset the increase.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties and to establish standards of conduct and ethics for its licensees in keeping with the purpose and intent of the Act to ensure compliance with the provisions of the Act.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendments.

535.101. Fees.

(a) No Change.

(b) The commission shall charge and collect the following fees:

(1) a fee ~~of [not to exceed] \$105 [\$75]~~ for the filing of an original application for a real estate broker license, which includes a fee for transcript evaluation;

(2) a fee of \$34 for annual renewal of a real estate broker license;

(3) a fee of ~~\$105 [\$75]~~ for the filing of an original application for a real estate salesperson license, which includes a fee for transcript evaluation;

(4) a fee of \$34 for annual renewal of a real estate salesperson license;

(5) a fee of \$61 for taking a license examination;

(6) a fee of \$20 for filing a request for a license for each additional office or place of business;

(7) a fee of \$20 for filing a request for a license for a change of place of business change of name, return to active status or change of sponsoring broker;

(8) a fee of \$20 for filing a request to replace a license lost or destroyed;

(9) a fee of \$400 for filing an application for accreditation of an education program under Texas Occupations Code (the Act), §1101.301;

(10) a fee of \$200 a year for operation of a real estate education program under the Act, §1101.301;

~~[(11) a fee of \$30 for transcript evaluation;]~~

(11)~~[(12)]~~ a fee of \$20 for preparing a license history;

(12)~~[(13)]~~ a fee of \$25 for the filing of an application for a moral character determination;

(13)~~[(14)]~~ a fee of \$25 for the filing of an instructor application;

(14)~~[(15)]~~ a fee of \$51 for the annual late renewal of a real estate salesperson or broker license for a person whose license has been expired 90 days or less;

(15)~~[(16)]~~ a fee of \$68 for the annual late renewal of a real estate salesperson or broker license for a person whose license has been expired more than 90 days but less than one year;

(16)~~[(17)]~~ the fee charged by the Federal Bureau of Investigation for a national criminal history check in connection with a license renewal; **and**

(17)~~[(18)]~~ a late reporting fee of \$250 to reactivate a license under §535.92(f) of this chapter; **and**

(18) a fee of \$20 for filing any application, renewal, change request, or other record on paper that a person may otherwise file with the commission electronically by accessing the commission's web site, entering the required information online, and paying the appropriate fee.

(c) Fees established by this section that are paid when an application is filed are not refundable once an application has been accepted for filing.

**Agenda Item 13(g)(h):**

Discussion and possible action to propose amendments to:

- g) 22 TAC §535.208, Application for a License; and
- h) 22 TAC §535.210, Fees

SUMMARY

Proposes amendments to 22 TAC §§535.208 concerning Application for a License and 535.210 concerning Fees.

The proposed amendments to §535.208 delete the requirement that an applicant must submit an education evaluation and receive a notice from the commission that the applicant has satisfied all education requirements for a license prior to submitting an application for a license. The amendments also delete the signature requirement, change from 60 to 20 days the time in which an applicant must submit a payment after the commission has requested such payment, and delete the adoption by reference of all application forms. For efficiency and consistency purposes, the application forms will no longer be adopted by reference in the rules but they will continue to be approved by the commission before staff makes the forms available for use by applicants for a license. The changes are part of the upgrades and enhancements being made to the TREC licensing system.

The proposed amendments to §535.210 (1) delete the reference to a specific fee for an education evaluation, (2) add the fee to the relevant application fees, and (3) add an additional fee of \$20 to submit a paper form in cases where the commission has established an online process for submitting the same form.

STAFF
RECOMMENDATION
MOTION

Approve for proposal.

MOVED, that staff is authorized, on behalf of this Commission, to submit the amendments to 22 TAC §535.208 concerning Application for a License and §535.210 concerning Fees, as presented at this meeting, with any non-substantive changes as staff may deem necessary or advisable for proposal to the *Texas Register*.

(IF CHANGES ADD)

with the changes that have been approved by the Commission for adoption.

Agenda Item 13 (g)-(h)
Subchapter R Real Estate Inspectors
§535.208 Application for a License; 535.210 Fees

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §§535.208 concerning Application for a License and 535.210 concerning Fees. The proposed amendments to §535.208 delete the requirement that an applicant must submit an education evaluation and receive a notice from the commission that the applicant has satisfied all education requirements for a license prior to submitting an application for a license. The amendments also delete the signature requirement, change from 60 to 20 days the time in which an applicant must submit a payment after the commission has requested such payment, and deletes the adoption by reference of all application forms. For efficiency and consistency purposes, the application forms will no longer be adopted by reference in the rules but they will continue to be approved by the commission before staff makes the forms available for use by applicants for a license. The changes are part of the upgrades and enhancements being made to the TREC licensing system.

The proposed amendments to §535.210 (1) delete the reference to a specific fee for an education evaluation, (2) add the fee to the relevant application fees, and (3) add an additional fee of \$20 to submit a paper form in cases where the commission has established an online process for submitting the same form.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties and to establish standards of conduct and ethics for its licensees in keeping with the purpose and intent of the Act to ensure compliance with the provisions of the Act.

The statute affected by this proposal is Texas Occupations Code, Chapters 1101 and d1102. No other statute, code or article is affected by the proposed amendments.

535.208 Application for a License (a) A person desiring to be licensed shall file an application using forms prescribed by the commission. ~~[Prior to filing an application for a real estate inspector license or for a professional inspector license, the applicant must pay the required fee for evaluation of the education completed by the person and must obtain a written response from the commission showing the applicant meets current education requirements for the license.]~~ The commission may require an applicant to furnish materials such as source outlines, syllabi, course descriptions or official transcripts to verify course content or credit to meet education requirements. The commission may not accept an application for filing if the application is materially incomplete or the application is not accompanied by the appropriate fee. The commission may not issue a license unless the applicant:

(1)-(5) (No change.)

(b) A person ~~[who has previously satisfied applicable education requirements and obtained an evaluation from the commission]~~ also may apply for a license by accessing the commission's Internet web site, entering the required information on the application form and paying the appropriate fee in accordance with the instructions provided at the site by the commission. An applicant for an apprentice inspector license must provide the commission with the applicant's photograph and signature prior to issuance of a license certificate. ~~[An applicant for a real estate or professional inspector license must provide the commission with the applicant's signature prior to issuance of a license certificate. An applicant may provide the required item(s) prior to the submission of an electronic application.]~~

~~[(e) The Texas Real Estate Commission adopts by reference the following forms approved by the commission. These forms are published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188:~~

~~-(1) Inspection Log, Form REI 1-3;~~

~~-(2) Application for a License as an Apprentice Inspector, Form REI 2-7;~~

~~-(3) Application for a License as a Real Estate Inspector, Form REI 4-9;~~

~~-(4) Application for a License as a Professional Inspector, Form REI 6-9;~~
and

~~-(5) Certificate of Insurance, Form REI 8-1.]~~

(d) An application shall be considered void and subject to no further evaluation or processing when one of the following events occurs.

(1) The applicant fails to satisfy a current [required] education requirement or examination requirement within six months from the date the application is accepted for filing.

(2) The applicant fails to provide information or documentation within 60 days after the commission makes written request for the information or documentation.

(3) The applicant fails to submit a required fee within twenty (20) [60] days after the commission makes written request for payment of the fee.

(4) The applicant fails to submit the required proof of professional liability insurance, or any other insurance that provides coverage for violations of Subchapter G of Chapter 1102, within 60 days after the commission makes written request for proof of insurance.

(e) (No change.)

(f) An application for a license may be denied if the commission determines that the applicant has failed to satisfy the commission as to the applicant's honesty, trustworthiness and integrity or if the applicant has been convicted of a criminal offense which is grounds for disapproval of an application under §541.1 of this title (relating to Criminal Offense Guidelines). Notice of the denial and any hearing on the denial shall be as provided in Texas Occupations Code, §1101.364, and §533.34 of this title (relating to Disapproval of an Application for a License or Registration). ~~[For the purposes of this section, the term "late renewal" means an application for a license by a person who held the same type of license no more than two years prior to the filing of the application.]~~

(g) Procuring or attempting to procure a license by fraud, misrepresentation or deceit or by making a material misstatement of fact in an application is grounds to deny the application or suspend or revoke the license. It is a violation of this section for a sponsoring professional inspector knowingly to make a false statement to the commission in an application for a license ~~[or late renewal of a license]~~ for an apprentice or a real estate inspector.

§535.210 Fees (a) The commission shall charge and collect the following fees:

(1) a fee of \$35 for filing an original application for a license as an apprentice inspector;

(2) a fee of ~~\$75~~ **\$45** for filing an original application for a license as a real estate inspector, **which includes a fee for transcript evaluation;**

(3) a fee of ~~\$90~~ **\$60** for filing an original application for a license as a professional inspector, **which includes a fee for transcript evaluation;**

(4)-(8) (No change.)

~~**(9) a fee of \$30 for transcript evaluation;]**~~

(9) [(40)] a fee of \$20 for requesting issuance of a license because of a change of name, return to active status, or change in sponsoring professional inspector; ~~and~~

(10) [(41)] a fee of \$100 for deposit in the real estate inspection recovery fund upon an applicant's successful completion of an examination; ~~and~~

(12) a fee of \$20 for filing any application, renewal, change request, or other record on paper that a person may otherwise file with the commission electronically by accessing the commission's web site, entering the required information online, and paying the appropriate fee.

(b) Fees established by this section which are paid when an application is filed are not refundable once an application has been accepted for filing.



Texas Real Estate Commission

P.O. Box 12188

Austin, Texas 78711-2188

Office Address:

1101 Camino La Costa

Austin, Texas 78752

PH: (512) 459-6544 or 1-800-250-TREC (8732)

INSTRUCTIONS FOR:

Professional Inspector License Application

(Please read all information carefully)

1. To be eligible to file a Professional Inspector license, an individual must be a citizen of the United States or a lawfully admitted alien, eighteen (18) years of age or older and a legal resident of Texas.
2. The filing of an application authorizes an investigation of the applicant's background. Information revealed in an investigation may be cause for disapproval of an application even though other requirements for a license are met. If an investigation is necessary, it may not be conducted until the applicant has passed the examination.
3. To be eligible to apply for a professional inspector license, you must first obtain a letter from the Commission attesting to satisfaction of all education requirements. **THE EVALUATION MUST BE PERFORMED BEFORE THE APPLICATION CAN BE FILED.** To obtain an evaluation of your education, submit a REQUEST FOR EVALUATION OF EDUCATION DOCUMENTS. A copy of this form is included in this packet with the application form. Please submit copies of your transcripts or course certificates with your request for evaluation. DO NOT submit original documents. A FEE OF \$30 IS REQUIRED FOR THIS EVALUATION.

An applicant for a Professional Inspector license may apply by one of the following methods:

The Professional Inspector applicant must have been licensed as a Real Estate Inspector for at least 12 months during the 24 month period prior to filing a Professional Inspector Application; show evidence of having performed 200 inspections (175 of which were performed under indirect supervision while licensed as a Real Estate Inspector and 25 of which were completed under direct supervision as an apprentice); and proof of completion of at least 128 classroom hours of core real estate inspection courses, 8 of which must be related to the study of standards of practice, legal issues or ethics related to the profession of real estate inspection. Evidence of successful completion of the courses shall be presented via credit transcript or certificate accompanying the application. Do not submit original transcripts and/or course completion certificates. Only photocopies should be returned with the application. Keep the original(s) for your personal files. Educational documents may be retained by the Commission only for a short period of time and will not be returned.

OR

The Professional Inspector applicant must complete **128** classroom hours of core inspector education as well as **200** additional hours of core inspector education in the following courses: 30 hours in Foundation Systems, 25 hours in Roof Systems, 30 hours in Framing, 25 hours in Electrical Systems, 25 hours in HVAC Systems, 25 hours in Plumbing, 12 hours in Building Enclosure, 6 hours in Appliances, 8 hours in Standards of Practice/Legal/Ethics, 8 hours in Standard Report Form/Report Writing, and 6 hours of other core inspection approved courses (**328** hours total).

In addition to the total **328** hours, one of the following requirements must be met:

- a. **120** hours in an experience training module (provide a letter from the education provider or a course completion certificate); **or**
- b. **120** hours inspecting with a licensed professional inspector who is eligible to sponsor applicants and can provide a letter certifying attendance; **or**
- c. **5** years of personal experience in a field directly related to home inspecting (provide 2 reference letters from persons other than the applicant who has personal knowledge of the applicant's work).

OR

The Professional Inspector applicant must complete **128** classroom hours of core inspector education as well as **8** hours in the Standards of Practice/Leal/Ethics; **8** hours in Standard Report Form/Report Writing (**144** hours total); **AND** must have **3** years of experience as an active practicing licensed or registered architect, professional engineer, or engineer-in-training (provide a license history documenting active practice).

A link to a list of providers and courses can be found on the TREC web site, on the main page of the inspector tab area.

NOTE: A licensed Professional Inspector must submit satisfactory evidence to the Commission of successful completion of at least 32 classroom hours of Commission-approved core real estate inspection courses for each 2-year renewal period for an active license.

4. A filing fee must be submitted at the time of filing an application. An application received without the appropriate fee will be rejected and returned. The fee should be submitted in the form of one cashier's check, personal check or money order payable to the Texas Real Estate Commission.

Original application fee \$60.00

5. The fee listed above is nonrefundable. Fees not pertaining to this application should *not* accompany the application.
6. If you were licensed within 2 years prior to filing the application, you will NOT be subject to the original education, experience and examination described above. Your application may be subject to a continuing education requirement if you were licensed within one year prior to filing the application. Contact the commission for further information.
7. License examinations are administered by Psychological Services, Inc. (PSI). Once your application has been received, processed and accepted, you will receive notification that you may obtain a copy of the Candidate Information Brochure (CIB) to register for the exam. The CIB will provide instructions on how to make reservations to take the examination and contains study material and instructions about licensing. A copy of the CIB can be downloaded from <http://www.psiexams.com> Please DO NOT attempt to register for the exam with first receiving notification from our office.

If an examination is required, it must be passed within 6 months from the date the application for a license is filed or the application terminates. If a license applicant fails the examination three consecutive times in connection with the same application, the applicant may not apply for reexamination or submit a new license application with the Commission for 6 months from the date he or she failed the last examination.

8. Upon successful completion of the examination and final processing of the application, the applicant must pay a fee of \$100 into the Real Estate Inspection Recovery Fund which exists to compensate persons who successfully sue a real estate inspector and then find inadequate attachable financial resources to satisfy the judgment. The fund is not and should not substitute for professional liability insurance (known as errors and omission insurance). Do not submit this fee until the Commission requests it.
9. Inspector applicants who have met the requirements to apply for a license and who pass the examination must **provide proof of professional liability insurance** or any other insurance that provides coverage for violations of Subchapter G of Chapter 1102, on **TREC Form REI 8-0, Certificate of Insurance**. An inactive license will issue if there is no proof of insurance. An inactive license does not permit a person to perform inspections.
10. State law prohibits renewing a license after a licensee has defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TGSLC) unless the licensee has entered into a repayment agreement with TGSLC. You should contact TGSLC before filing this application if you have defaulted on a student loan. An application or renewal may be rejected if this agency has received information from TGSLC that the applicant has defaulted on a student loan. The Texas Guaranteed Student Loan Corporation can be contacted at: Texas Guaranteed Student Loan Corporation, P.O. Box 83100, Round Rock, TX 78683-3100, Telephone: 1-800-252-9743.
11. The time involved in processing an application depends on work volume. Inquiry as to the status of an application delays processing. Inquiry should not be made unless there is reason to believe that information submitted to the Commission has not been received.

NOTE: An incomplete application may be returned for completion, or a letter will be mailed requesting additional information. The time it takes to reply may decrease the amount of time available to take the examination. The examination must be passed within six months from the date the application is filed with this office.

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.
- (2) Under Sections 552.021 and 552.023 of the Government Code, the individual is entitled to receive and review the information.
- (3) Under Section 559.004 of the Government Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect

11. Have you ever been registered or licensed in Texas as an apprentice inspector, real estate inspector, or professional inspector? Yes No
 If the answer is Yes, fill in the appropriate information below.

License Expiration Date	License Type	License Number	Exact Name In Which License Was Issued

12. Have you been registered or licensed as an inspector in a state other than Texas within the last five (5) years? Yes No
 If the answer is Yes, submit a complete license history signed by the licensing agency of the state(s) in which you were registered or licensed.

13. (a) Have you ever had a professional or occupational license in this state or any other state suspended, cancelled or revoked, or ever surrendered such a license? Yes No
 (b) Have you ever had an application for a professional or occupational license disapproved or denied in this state or any other state? Yes No
 (c) Are there any disciplinary hearings or investigations pending against any professional or occupational licenses you hold? Yes No
 If the answer to a, b, or c is Yes, submit copies of all orders, notices, disapprovals, investigative reports, and a written explanation.

14. Are there any unpaid judgments or any civil suits pending against you? Yes No
 If the answer is Yes, submit copies of all petitions and judgments and a written explanation.

15. (a) Have you ever been convicted of a criminal offense? (Include all felonies and misdemeanors other than traffic tickets.) Yes No
 (b) Have you ever been placed on probation or community supervision? Yes No
 (c) Are there any criminal charges pending against you? Yes No
 If the answer to a, b, or c is Yes, submit copies of all indictments, information, judgments, orders and charges, and a written explanation.

16. Have you ever acted, or attempted to act, as a real estate inspector in this state or in any other state at a time when not properly registered or licensed? Yes No
 (Include all periods in which you acted either before registering or obtaining a license or after a license may have expired.)
 If the answer is Yes, submit a written explanation.

17. List below all names (maiden, aliases, nicknames, etc.) by which you have been known

18. Business name(s) to be assumed (if any):

Assumed names must be filed with the County Clerk in the county in which you do business. Submit a copy of any assumed name certificate with this application or immediately after the certificate is filed with the County Clerk.

19. Provide employment history for the last five (5) years to the present date. Explain any periods of unemployment for more than thirty (30) days. If additional space is needed, attach a separate sheet of paper to complete your answer.

From		To		Employer	City, State	Position
Month	Year	Month	Year			

Application fee is \$60.00.

Only fees pertaining to this application should accompany the application. All required fees must be submitted at the time of filing an application. An application received without the appropriate fees will be rejected and returned. The fees should be submitted in one check or money order payable to the Texas Real Estate Commission.

Note: State law prohibits renewing a license more than once after a licensee has defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TGSLC) unless the licensee has entered into a repayment agreement with TGSLC. You should contact TGSLC before filing this application if you have defaulted on a student loan. An application or renewal may be rejected if this agency has received information from TGSLC that the applicant has defaulted on a student loan. The Texas Guaranteed Student Loan Corporation can be contacted at: Texas Guaranteed Student Loan Corporation, P.O. Box 15996, Austin, Texas 78761-5996; Telephone: 1-800-222-6297

CERTIFICATION

I certify that I am eighteen (18) years of age or older; that I am a citizen of the United States or a lawfully admitted alien; and that I am a legal resident of Texas. I certify that I have examined this application and the answers given are true, correct and complete. I authorize the Texas Real Estate Commission to conduct any investigations of me which it deems prudent. I understand that information revealed in an investigation may be cause for disapproval of the application even though other requirements for a license have been met. I further understand that information submitted in conjunction with this application may become a public record. If granted a license, I will abide by the provisions of the Real Estate License Act and the Rules of the Texas Real Estate Commission. I will not perform any act of professional inspector until the Texas Real Estate Commission license certificate is in my possession.

I understand that the contents of the qualifying examination are confidential and that revealing questions and answers to another applicant or to any person associated with a school or examination preparation course is grounds for disapproval of this application or revocation of my license. If I am asked to reveal the contents of an examination, I will not do so.

Signature of Applicant

Date signed

IMPORTANT INFORMATION—PLEASE READ CAREFULLY

1. Only fees pertaining to this application should accompany this application.
2. Please ensure the following:
 - A. All information is printed in ink or typewritten.
 - B. All requested information is provided.
 - C. All questions have been answered.
 - D. All required signatures and dates of signing are in place.
 - E. A single check/money order for the full amount of \$60.00 payable to the Texas Real Estate Commission is enclosed.

If all requirements for license are not met within six (6) months of the filing date, the application terminates. If a license applicant fails the examination three consecutive times in connection with the same application, the application terminates. The applicant must wait for six months from the date the last examination was taken before filing a new License Application with the Commission.



Agenda Item 14:

Discussion regarding comments on the review of:

- a) 22 TAC Chapter 531, Canons of Professional Ethics and Conduct for Real Estate Licensees
- b) 22 TAC Chapter 533, Practice and Procedure
- c) 22 TAC Chapter 537, Professional Agreements and Standard Contracts
- d) 22 TAC Chapter 541, Rules Relating to the Provisions of the Texas Occupations Code, Chapter 53

SUMMARY

Allows for discussion of comments received concerning the rule review.

STAFF
RECOMMENDATION
MOTION

No action required.

No action



2010 TREC RULE REVIEW

Commission Meeting Dates	December 14, 2009	February 8, 2010	May 17, 2010	August 9, 2010	November 15, 2010
Chapters 534, 539, 543	Propose review of Chapters 534, 539, 543	Consider comments and potential rule revisions of Chapters 534, 539, 543	Conclude review and potential rule revisions adoption of Chapters 534, 539, 543		
Chapters 531, 533, 537, 541		Propose review of Chapters 531, 533, 537, 541	Consider comments and potential rule revisions of Chapters 531, 533, 537, 541	Conclude review and potential rule revisions adoption of Chapters 531, 533, 537, 541	
Chapter 535			Propose review of Chapter 535	Consider comments and potential rule revisions of Chapter 535	Conclude review and potential rule revisions adoption of Chapter 535

22 TAC Chapter 531: Canons of Professional Ethics and Conduct for Real Estate Licensees

22 TAC Chapter 533: Practice and Procedure

22 TAC Chapter 534: General Administration

22 TAC Chapter 535: General Provisions

22 TAC Chapter 537: Professional Agreements and Standard Contracts

22 TAC Chapter 539: Provisions of the Residential Service Company Act

22 TAC Chapter 541: Rules Relating to the Provisions of the Texas Occupations Code, Chapter 53

22 TAC Chapter 543: Rules Relating to the Provisions of the Texas Timeshare Act

Contact: Ms. Loretta DeHay, TREC General Counsel
 general.counsel@trec.state.tx.us
 512-465-3966

*subject to final approval at the February 8, 2010 Commission Meeting

**Agenda Item 15:**

Discussion and possible action to adopt the review of:

- a) 22 TAC Chapter 534, General Administration
- b) 22 TAC Chapter 539, Provisions of the Residential Service Company Act
- c) 22 TAC Chapter 543, Rules Relating to the Provisions of the Texas Timeshare Act

SUMMARY

Adopts the review of Chapter 534, General Administration; Chapter 539, Provisions of The Residential Service Company Act; and Chapter 543, Rules Relating to the Provisions of The Texas Timeshare Act in accordance with the Texas Government Code, §2001.039.

The agency made several amendments in conjunction with this review (see agenda items 11 and 12). The agency has determined that the reasons for the adoption of these chapters continue to exist.

STAFF

Approve adoption.

RECOMMENDATION**MOTION**

MOVED, that staff is hereby authorized, on behalf of this Commission, to submit the adoption of the review of Chapter 534, General Administration; Chapter 539, Provisions of The Residential Service Company Act; and Chapter 543, Rules Relating to the Provisions of The Texas Timeshare Act in accordance with the Texas Government Code, §2001.039.

TITLE 22. EXAMINING BOARDS
Part XXIII. Texas Real Estate Commission

Chapter 534 General Administration.
Chapter 539 Provisions of The Residential Service Company Act.
Chapter 543 Rules Relating to the Provisions of The Texas Timeshare Act.

Notice of Adopted Review of Rules

The Texas Real Estate Commission (TREC) adopts the review of Chapter 534, General Administration; Chapter 539, Provisions of The Residential Service Company Act; and Chapter 543, Rules Relating to the Provisions of The Texas Timeshare Act in accordance with the Texas Government Code, §2001.039. The proposed notice of review was published in the December 25, 2009 issue of the *Texas Register* (34 TexReg 9490.)

The agency made several amendments in conjunction with this review. The agency has determined that the reasons for the adoption of these chapters continue to exist.

No comments were received in response to the notice of the proposed rule review as published in the above-referenced issue of the *Texas Register*.

This concludes the review of Chapter 534, General Administration; Chapter 539, Provisions of The Residential Service Company Act; and Chapter 543, Rules Relating to the Provisions of The Texas Timeshare Act.

**Agenda Item 16:**

Discussion and possible action to propose the review of Chapter 535 regarding General Provisions

SUMMARY

Proposes to review Chapter 535 - General Provisions in accordance with the Texas Government Code, §2001.039.

Review of the rules under this chapter will determine whether the reasons for adoption of the rules continue to exist. During the review process, TREC may also determine that a specific rule may need to be amended to further refine TREC's legal and policy considerations, whether the rules reflect current TREC procedures, that no changes to a rule as currently in effect are necessary, or that a rule is not longer valid or applicable. Rules will also be combined or reduced for simplification and clarity when feasible. Readopted rules will be noted in the Texas Register's Rules Review section without publication of the text. Any proposed amendments or repeal of a rule or chapter as a result of the review will be published in the Proposed Rules section of the Texas Register and will be open for an additional 30-day public comment period prior to final adoption or repeal. Approve proposal to review.

STAFF**RECOMMENDATION****MOTION**

MOVED, that staff is hereby authorized, on behalf of this Commission, to submit the proposal of the review of Chapter 535 - General Provisions in accordance with the Texas Government Code, §2001.039.

TITLE 22. EXAMINING BOARDS
Part XXIII. Texas Real Estate Commission

Chapter 535. General Provisions

Notice of Proposed Review of Rules

The Texas Real Estate Commission (TREC) proposes to review Chapter 535 - General Provisions in accordance with the Texas Government Code, §2001.039.

Review of the rules under this chapter will determine whether the reasons for adoption of the rules continue to exist. During the review process, TREC may also determine that a specific rule may need to be amended to further refine TREC's legal and policy considerations, whether the rules reflect current TREC procedures, that no changes to a rule as currently in effect are necessary, or that a rule is not longer valid or applicable. Rules will also be combined or reduced for simplification and clarity when feasible. Readopted rules will be noted in the Texas Register's Rules Review section without publication of the text. Any proposed amendments or repeal of a rule or chapter as a result of the review will be published in the Proposed Rules section of the Texas Register and will be open for an additional 30-day public comment period prior to final adoption or repeal.

TREC invites comments during the review process for 30 days following the publication of this notice in the *Texas Register*. Any questions or comments pertaining to this notice of intention to review should be directed to Loretta R. DeHay, General Counsel, Texas Real Estate Commission. P.O. Box 12188, Austin, Texas 78711-2188 or e-mail to general.counsel@trec.state.tx.us within 30 days of publication.

**Agenda Item****17:**

Discussion and possible action regarding plan to identify savings in priority increments totaling 5% of the general revenue and general revenue-dedicated appropriations for the 2010-11 biennium, pursuant to the request dated January 15, 2010, from Texas Governor Rick Perry, Lieutenant Governor David Dewhurst, and Speaker of the House Joe Straus

SUMMARY

See attached documentation

**STAFF
RECOMMENDATION**

Approve plan to identify savings in priority increments totaling 5% of the general revenue and general revenue-dedicated appropriations for the 2010-11 biennium.

MOTION

MOVED, that Commission does hereby approve the plan, as presented by staff and with changes as approved by the Chairman, to identify savings in priority increments totaling 5% of the general revenue and general revenue-dedicated appropriations for the 2010-11 biennium authorized, pursuant to the request dated January 15, 2010, from Texas Leadership.

TEXAS



REAL ESTATE COMMISSION

APPRAISER LICENSING & CERTIFICATION BOARD

TREC Commissioners

April 7, 2010

John D. Eckstrum
Chair

Avis G. Wukasch
Vice-Chair

Joanne Justice
Secretary

Adrian A. Arriaga

Troy C. Alley, Jr.

Tom C. Mesa, Jr.

Robert C. (Chris) Day

Jaime Blevins Hensley

Dona Scurry

Douglas E. Oldmixon
Administrator

The Honorable Rick Perry
Governor, State of Texas
P.O. Box 12428
Austin, Texas 78711

The Honorable David Dewhurst
Lieutenant Governor, State of Texas
P.O. Box 12068
Austin, Texas 78711-2068

The Honorable Joe Straus, III
Speaker of the House, Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

TALCB Board Members

James B. Ratliff
Chair

Mark A. McAnally
Vice Chair

Luis F. De La Garza, Jr.
Secretary

Walker R. Beard

Robert D. Davis, Jr.

Danny R. Perkins

Clinton P. Sayers

Bill F. Schneider

Donna J. Walz

Douglas E. Oldmixon
Commissioner

Re: TREC & TALCB Budget Cuts Request for Exclusions/Exemptions and
Amendment to Plan for Programs to be Reduced

Dear Sirs:

The Texas Real Estate Commission (TREC) and Texas Appraiser Licensing & Certification Board (TALCB) respectfully disagree with the initial method of calculation to arrive at the 5% reduction and request an adjustment that exempts certain funds from consideration. There are three categories of expenses that we believe are not valid to be considered as apart of the agency's "operating revenue." These are matters fully beyond the control of the agency and should be excluded from the baseline calculation before applying the 5% target for operating expense reduction. The details of these matters are below:

1. Long-term Debt Repayment Items

The Legislative Budget Board (LBB) has recognized that items in the nature of long-term debt repayment should not be included as part of the baseline "operating funds" subject to the 5% cut. Specifically, it has excluded from the calculation the funds needed to meet obligations related to the purchase of the agency's current mainframe computer system and an upgrade of the telephone system. \$83,400 was approved for exclusion under the category "Master Lease Purchase Payments." Thank you for this recognition and

categorization. The agency believes that its current office space rental obligations fall into this same category. As a contractual obligation for the provision of building space, the agency has no discretion to reduce this amount. It is booked as a long-term obligation and the funds are restricted for this purpose. The amount of the obligation on the lease for the biennium is \$914,690. This represents almost 6 % of our general revenue appropriation and should be excluded from the baseline operating expense calculation before determining the 5% reduction.

Even more importantly, the agency has been offered and has accepted space in the Stephen F. Austin state office building starting as early as June 2011. This move will free up almost \$1 million per biennium for general revenue (GR) by TREC not having to pay rent to a third party. Without a fee reduction, revenue will continue to be collected and the resulting “excess” will go directly to GR. In order to realize the most efficiency from this move and save additional funds, it is crucial that the agency accelerate the imaging project without delay to reduce the need to pack, move, and store paper files which currently occupy almost 6,000 square feet of space. It would be an enormous waste of resources to design a 6,000 square foot file storage area in the agency’s new state office building space, when this could be avoided by approving this exemption request. The short-term cost will result in long-term savings to the state.

2. Pass-Through Funds

Both TREC & TALCB collect estimated appropriated "pass-through" funds that are statutorily not available for operations and accordingly should be exempt from the basis of calculation. Those funds are: FBI Criminal History Background Checks (\$2,539,075 estimated appropriation for the biennium); Texas Online Fees (\$644,000 estimated appropriation for the biennium); and Federal Appraiser Registry fees (\$240,000 estimated appropriation for the biennium). The total amount of the pass-throughs is \$3,423,075 (over 21% of all appropriated funds). In all instances, the expenditure of such items is based exactly on the revenue collected for that purpose. The agency does not collect any “administrative fee” nor may it retain any percentage of the funds collected to defray the cost of collection.

“Pass-Through” Funds with Legal Cites	Biennial Amount
FBI Criminal History Background Checks (Art VIII Special Provisions Relating to all Regulatory Agencies, Section 6)	\$2,539,075
TexasOnline Authority Appropriation (Art VIII, Special Provisions Relating to all Regulatory Agencies, Section 6; and Strategy A.1.2 in the bill pattern)	\$644,000
Appraiser Federal Registry (GR Dedicated) Art VIII, Rider 4	\$240,000
Total Pass-Throughs	\$3,423,075

3. Capital Expenditure Items

Lastly, we request that all capital rider funds described here be excluded from the baseline operating expense calculation. These consist of the following: \$275,000 for Core Application Conversion; \$150,000 for TALCB License Automation; and \$546,000 for Imaging System Implementation - totaling \$971,000 (or over 6% of all appropriated funds). If timely implemented, these items will produce significant efficiencies in agency operations, reduce future expenditures for outdated system maintenance, and positively affect future budgets. Since these amounts represent the initial capital outlay, only a portion of these funds will be needed for future continuation of these programs.

These three categories of requested exemptions combined represent 33% of the agency’s appropriated funds, but their exemption offers a true picture of the operating funds available to the agency. The following table summarizes the effect of these requests on the budget cuts:

	<u>FY2010</u>	<u>FY2011</u>	<u>Total</u>
5% based on 100% agency appropriation	285,019	530,040	815,059
5% of proposed exemption total	(115,185)	(150,253)	(265,438)
Revised 5% Reduction Target (excluding proposed exemptions)	169,834	379,787	549,621

As detailed on the attached detailed explanation of specific proposed cuts, excluding the Imaging Project (now to be accelerated), the agency had previously identified \$344,791 in proposed budget cuts available from both efficiencies planned for and accelerated, as well as true cuts to needed programs which make the agency more accessible (e.g. toll-free long distance numbers) and efficient (e.g. substituting paper and postage for electronic communications).

In order to reach the required target of 5% of true operating revenue, the agency has no other place to turn at this time and will pledge to cut salary expenses by \$204,830 in order to reach this target. The only condition we'd like to have recognized on this commitment is to reserve the right to substitute funds saved from any additional efficiencies that result from further technology streamlining to offset payroll reductions where appropriate. This will result in a staggered drawdown of up to 7 full time employees (FTEs) staged over the next 16 months, a substantial personnel reduction that is only possible if all of our technology projects advance.

And finally, because of the severe impact of these latest plans upon the agency, we would ask to be exempt from any additional budget cuts that might be planned for the 2010-11 biennium.

We request that this common sense, long range efficiency approach be approved and adopted so that funds available for agency operations are not impacted in a highly inequitable manner. This request is made with full knowledge of the overall revenue forecast which made the request necessary in the first place. However, the agency has always been a net revenue producer, collecting more in revenue than it costs to operate.

We respectfully request a response at least 10 days prior to our next Commission meeting on May 17, 2010 (and Board meeting on May 21) at which we must present our Strategic Plan for fiscal year 2011-2015. The ability of the Commission and Board to adequately plan for the long-range effectiveness of the agency, and the specific recommendations contained in that plan, will be significantly affected by the outcome of this request. Once approved, TREC and TALCB will resubmit the revised plan in Automated Budget & Evaluation System of Texas (ABEST).

Sincerely,



Douglas E. Oldmixon
 Administrator, Texas Real Estate Commission
 Commissioner, Texas Appraiser Licensing & Certification Board

enclosures

Cc: Mr. John O'Brien, Director, Legislative Budget Board

Texas Real Estate Commission & Texas Appraiser Licensing & Certification Board (#329)

Proposed 5% GR/GR Dedicated Reduction

FY2010 - 2011 Proposed 5% GR/GR Dedicated Reduction

	FY2010			FY2011			Biennial Total
	TREC	TALCB	Total	TREC	TALCB	Total	
Basis of Reduction							
General Revenue per GAA	6,999,678	1,013,673	8,013,351	7,293,001	838,233	8,131,234	16,144,585
TX Online	(22,000)	22,000	0	(22,000)	22,000	0	0
GR Dedicated	0	120,000	120,000	0	120,000	120,000	240,000
Less Master Lease Purchase Payments	(68,700)		(68,700)	(14,700)		(14,700)	(83,400)
Less Pass through Items:							
FBI Criminal History Background Checks	(1,089,550)		(1,089,550)	(1,449,525)		(1,449,525)	(2,539,075)
TX Online	(300,000)	(22,000)	(322,000)	(300,000)	(22,000)	(322,000)	(644,000)
Federal Appraiser Registry		(120,000)	(120,000)		(120,000)	(120,000)	(240,000)
Core Application Conversion	(275,000)		(275,000)	0	0	0	(275,000)
TALCB Licensee Automation		(150,000)	(150,000)	0	0	0	(150,000)
Image System Implementation	(156,000)	(40,000)	(196,000)	(300,000)	(50,000)	(350,000)	(546,000)
Rent - Building (@ FY2010 rates)	(421,441)	(35,904)	(457,345)	(421,441)	(35,904)	(457,345)	(914,690)
Total GR & GR Dedicated	4,666,987	787,769	5,454,756	4,785,335	752,329	5,537,664	10,992,420
x 5% = GR/GRD Reduction	233,349	39,388	272,738	239,267	37,616	276,883	549,621
Proposed Reductions:							
1. Building Remodeling Eliminated				43,000		43,000	43,000
2. Eliminate Bandwidth Increase	10,800		10,800	10,800		10,800	21,600
3. Eliminate Furniture/Equipment for Unfilled FTE Positions	8,860	26,580	35,440				35,440
4. DIR Controlled Penetration Study	16,000		16,000	16,000		16,000	32,000
5. Deliver Licenses Electronically	8,750	1,000	9,750	21,000	2,400	23,400	33,150
6. Deliver Renewal Notices Electronically	10,000	750	10,750	24,000	1,800	25,800	36,550
7. Other Miscellaneous Postage Reduction	10,500	100	10,600	11,200	240	11,440	22,040
8. Deliver Complaint Status Letters Electronically	1,665		1,665	4,000		4,000	5,665
9. Eliminate Contract Computer Programmer	9,200		9,200				9,200
10. Eliminate Information & Technology Services Training	3,000		3,000	3,000		3,000	6,000
11. Reduce PC Refresh	10,000		10,000	10,000		10,000	20,000
12. Reduce Travel	8,600		8,600	8,600		8,600	17,200
13. Salary Lapses in FY2010 Due to Employee Turnover	27,246		27,246				27,246
14. Salary Savings from FTE Reductions	0	6,283	6,283	173,415	25,132	198,547	204,830
15. Eliminate Toll-free Lines	10,000	500	10,500	24,000	1,200	25,200	35,700
Total Proposed Savings	134,621	35,213	169,834	349,015	30,772	379,787	549,621

**5% Budget Reduction
FY2010 – 2011
April 7, 2010**

Priority	Item	Biennial Reduction	Comment
1	Building Remodeling Eliminated	\$43,000	TREC currently has a master file room in excess of 5,000 square feet. Through imaging, TREC planned to reduce square footage by the date of lease expiration, which is August 31, 2011. This was to be accomplished by moving the Communications Center into the space currently occupied by master files. At the current lease rate, this would save \$43,125 annually in lease costs. \$43,000 had been budgeted in FY2011 for construction costs to reconfigure existing space to accommodate the Communications Center and for movers. Moving to the Capitol Complex in June 2011 will eliminate this problem.
2	Eliminate Bandwidth Increase	\$21,600	TREC currently has limited bandwidth for internet connectivity and has been seeking an affordable solution. Moving to the Capitol Complex in June 2011 will eliminate this problem.
3	Eliminate Furniture/ Equipment for Unfilled FTE Positions	\$35,440	Due to a reorganization of existing staff and an emphasis on more innovative approaches to resolving complaints, not all FTE positions are currently filled. Savings will be achieved by not purchasing furniture and equipment for those FTE positions.
4	DIR Controlled Penetration Study	\$32,000	For the past 3 years, the Department of Information Resources (DIR) has conducted a controlled penetration study at TREC to test security of computer systems in accordance with 1 TAC Section 202.22. TREC was advised that DIR could potentially begin charging for the study in the FY2010-2011 biennium and secured funding for that purpose. DIR did not charge for the study in FY2010. Lapse of the funds for FY2011 assumes that DIR will not charge in FY2011. If DIR charges for the study in FY2011, reduction of budget will lead to non-compliance with 1 TAC §202.22

**5% Budget Reduction
FY2010 – 2011
April 7, 2010**

5	Deliver Licenses Electronically (Begin 4/1/2010)	\$33,150	Delivering licenses electronically would result in savings of printing, toner, postage and mail pre-sort services of approximately \$23,400 annually. Upon renewal, licenses for salespersons must be sent not only to the salesperson, but to the sponsoring broker as well. Efficient and dependable electronic delivery assumes that members of the professions licensed by TREC & TALCB will keep their individual e-mail addresses current on an ongoing basis. Licensees renewing online (89% for TREC and 76% for TALCB) will be asked to provide current e-mail addresses at the time of renewal. To achieve savings as identified, this must begin by April 1, 2010.
6	Deliver License Renewal Notices Electronically (Begin 4/1/2010)	\$36,550	Delivering license renewal notices electronically would result in decreased expenditures for printing, postage, and mail pre-sort services of about \$25,800 annually. License renewal notices for salespersons must be sent not only to the salesperson, but to the sponsoring broker as well. Efficient and dependable electronic delivery assumes that members of the professions licensed by TREC & TALCB will keep their individual e-mail addresses current on an ongoing basis. Licensees renewing online (89% for TREC and 76% for TALCB) will be asked to provide current e-mail addresses at the time of renewal. To achieve savings as identified, this must begin by April 1, 2010.
7	Other Miscellaneous Postage Reduction	\$22,040	TREC will begin using electronic return receipt mail resulting in an estimated savings of \$1,440 annually. TREC will evaluate other correspondence that is appropriate to be sent electronically. Estimated savings is \$10,000 annually.
8	Deliver Complaint Status Letters Electronically	\$5,665	Complaint status letters are currently sent by TREC four times annually to the complainant, the respondent, and the respondent's sponsoring broker, if applicable. By delivering the letters electronically and eliminating costs for supplies, printing, postage and pre-sort services, TREC would realize estimated savings of \$4,000 annually. To achieve savings as identified, this must begin by April 1, 2010.

**5% Budget Reduction
FY2010 – 2011
April 7, 2010**

9	Eliminate Contract Computer Programmer	\$9,200	TREC currently contracts with a computer programmer with knowledge of the computer language that the current legacy system (TRELIS) uses. While a new computer system is being developed with a target completion date of September 1, 2010, we are currently using a contract programmer to make programming changes in TRELIS. Without the contract programmer, staff members less proficient in that computer language will be required to perform those changes, or such changes will not be completed. Utilizing staff members who are less proficient in the development environment may place conversion of the TRELIS application at risk.
10	Eliminate Information & Technology Services Training	\$6,000	Eliminating Information & Technology Services (ITS) training would prevent any training for staff members other than that essential for the new licensing system. This will result in gaps in up-to-date knowledge of ITS staff in other areas of computer technology.
11	Reduce PC Refresh	\$20,000	TREC currently budgets \$12,000 annually for PC refresh. By reducing the refresh budget, we are committing to replacing computers/servers only when breakage occurs. This puts the agency at risk for having computer outages. By not routinely replacing aging computers, there is an impact to staff efficiencies. As computers age, staff members will be required to devote more and more time to keeping older computers in operable condition.
12	Reduce Travel	\$17,200	Travel would be reduced for advisory committees, administration and enforcement. Reducing travel for advisory committees could potentially reduce the number of meetings or reduce participation by the members. Reducing travel for administration would reduce ability to meet and network with member groups and with other regulators. Reducing travel for enforcement could result in more investigative interviews being conducted via telephone.

**5% Budget Reduction
FY2010 – 2011
April 7, 2010**

13	Salary Lapses in FY2010 due to Employee Turnover	\$27,246	TREC anticipates lapsing \$27,246 of the salary budget from FY2010 funds due to temporary vacancies from employee turnover, most of which occurred as a result of the Director of Enforcement position being vacant for two months and an attorney position being vacant for three months.
14	Salary Savings from FTE Reductions	\$204,830	This amount represents a staged reduction of up to 7 FTEs over the next 16 months. The agency reserves the right to substitute other savings realized from technology improvements or other sources to substitute for any portion of this commitment.
15	Eliminate Toll-Free Lines	\$35,700	Eliminating toll-free lines into the Communications Center could potentially reduce access by consumers and licensees to necessary information concerning the practice of the real estate professions. To achieve savings as identified, this must begin by June 1, 2010.
	Total Reduction	\$549,621	



Agenda Item
18:

Discussion and possible action regarding the Texas Real Estate Commission Strategic Plan for the fiscal years 2011-2015

SUMMARY

See attached documentation

STAFF
RECOMMENDATION
MOTION

Approve strategic plan for the fiscal years 2011-2015

MOVED, that the Board does hereby approve the strategic plan for fiscal years 2011-2015 as submitted with non-substantive changes as appropriate and necessary, and with any substantive changes as approved by the Chair, and with the addition of the updated Appendix D once the performance measure definitions as approved by the Legislative Budget Board have been received, and authorizes staff to submit the final plan to the appropriate state agencies, and hereby directs staff to explore the feasibility of the relevant suggestions received in the strategic planning public input sessions and to present findings and recommendations at the next meeting.

Draft

**STRATEGIC PLAN
2011-2015**

Texas Real Estate Commission

*Texas Appraiser Licensing
and Certification Board*

July 2, 2010

Draft

Draft

Texas Appraiser Licensing and Certification Board

Texas Real Estate Commission

*Texas Appraiser
Licensing and Certification Board*

COMMISSION MEMBERS

Troy C. Alley, Jr.
Broker Member/Arlington
Term Expires 2011

Joanne Justice
Broker Member/Arlington
Term Expires 2015

Adrian A. Arriaga
Broker Member/McAllen
Term Expires 2013

Tom C. Mesa
Public Member/Pasadena
Term Expires 2011

Robert C. (Chris) Day
Public Member/Jacksonville
Term Expires 2013

Dona Scurry
Public Member/El Paso
Term Expires 2015

Jaime Blevins Hensley
Broker Member/Lufkin
Term Expires 2015

Avis G. Wukasch
Broker Member/Round Rock
Term Expires 2013

John D. Eckstrum
Broker Member/Chair/Conroe
Term Expires 2011

BOARD MEMBERS

Walker R. Beard
Appraiser Member/El Paso
Term Expires 2011

Danny R. Perkins
Public Member/Houston
Term Expires 2011

Robert D. Davis, Jr.
Public Member/Bedford
Term Expires 2010

Clinton P. Sayers
Appraiser Member/Austin
Term Expires 2010

Luis F. De La Garza, Jr.
Appraiser Member/Laredo
Term Expires 2010

Bill F. Schneider
Public Member/Austin
Term Expires 2010

**Mark McAnally, Ex Officio
VLB Designee**
Austin

Donna L. Walz
Public Member/Lubbock
Term Expires 2011

James B. Ratliff
Appraiser Member/Chair/Garland
Term Expires 2011

Approved: John D. Eckstrum, Chairman

Approved: James B. Ratliff, Chairman

Signed: Douglas E. Oldmixon, Administrator/Commissioner

Draft

*Texas Real Estate Commission
Texas Appraiser Licensing and Certification Board*

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Director of Reception & Communication Services:	Lorie DeAnda
Director of Education & Licensing Services:	Gwen Jackson
Director of TREC Standards & Enforcement Services:	Kerri Galvin
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Director of Information & Technology Services:	Tom Watson
Director of Staff & Support Services:	Karen Alexander

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Vision Texas

The Statewide Strategic Planning Elements for Texas State Government

March 2010

Fellow Public Servants:

Since the last exercise in strategic planning began in March 2008, much has changed in the national economic picture. States across the nation have struggled with severe budget shortfalls and the national economy has yet to rebound as many hoped and predicted. Texas, however, has weathered the economic downturn better than other states and been recognized as an example for other states to follow.

Our position relative to other states is not by accident. Texas has demonstrated the importance of fiscal discipline, setting priorities, and demanding accountability and efficiency in state government. We have built important reserves in our state's "Rainy Day Fund," cut taxes on small businesses, and emphasized a stable and predictable regulatory climate in an effort to show that the Lone Star State is a great place to build a business and raise a family.

Over the last year, families across this state and nation have tightened their belts in response to the economic challenges. Government should be no exception. As we begin this next round in our strategic planning process, we must critically reexamine the role of state government by identifying the core programs and activities necessary for the long-term economic health of our state, while eliminating outdated and inefficient functions. We must set clear priorities that will help maintain our position as a national leader now and in the future by:

Ensuring the economic competitiveness of our state by adhering to principles of fiscal discipline, setting clear budget priorities, living within our means, and limiting the growth of government;

Investing in critical water, energy, and transportation infrastructure needs to meet the demands of our rapidly growing state;

Ensuring excellence and accountability in public schools and institutions of higher education as we invest in the future of this state and ensure Texans are prepared to compete in the global marketplace;

Defending Texans by safeguarding our neighborhoods and protecting our international border; and

Increasing transparency and efficiency at all levels of government to guard against waste, fraud, and abuse, ensuring that Texas taxpayers keep more of their hard-earned money to keep our economy and our families strong.

I am confident we can address the priorities of our citizens with the limited government principles and responsible governance they demand. I know you share my commitment to ensuring that this state continues to shine as a bright star for opportunity and prosperity for all Texans. I appreciate your dedication to excellence in public service and look forward to working with all of you as we continue charting a strong course for our great state.

RICK PERRY
GOVERNOR

The Mission of Texas State Government

TEXAS STATE GOVERNMENT MUST BE LIMITED, EFFICIENT, AND COMPLETELY ACCOUNTABLE. IT SHOULD FOSTER OPPORTUNITY AND ECONOMIC PROSPERITY, FOCUS ON CRITICAL PRIORITIES, AND SUPPORT THE CREATION OF STRONG FAMILY ENVIRONMENTS FOR OUR CHILDREN. THE STEWARDS OF THE PUBLIC TRUST MUST BE MEN AND WOMEN WHO ADMINISTER STATE GOVERNMENT IN A FAIR, JUST, AND RESPONSIBLE MANNER. TO HONOR THE PUBLIC TRUST, STATE OFFICIALS MUST SEEK NEW AND INNOVATIVE WAYS TO MEET STATE GOVERNMENT PRIORITIES IN A FINANCIALLY RESPONSIBLE MANNER.

AIM HIGH . . . WE ARE NOT HERE TO ACHIEVE INCONSEQUENTIAL THINGS!

The Philosophy of Texas State Government

The task before all state public servants is to govern in a manner worthy of this great state. We are a great enterprise, and as an enterprise, we will promote the following core principles:

- First and foremost, Texas matters most. This is the overarching, guiding principle by which we will make decisions. Our state, and its future, is more important than party, politics, or individual recognition.
- Government should be limited in size and mission, but it must be highly effective in performing the tasks it undertakes.
- Decisions affecting individual Texans, in most instances, are best made by those individuals, their families, and the local government closest to their communities.
- Competition is the greatest incentive for achievement and excellence. It inspires ingenuity and requires individuals to set their sights high. Just as competition inspires excellence, a sense of personal responsibility drives individual citizens to do more for their future and the future of those they love.
- Public administration must be open and honest, pursuing the high road rather than the expedient course. We must be accountable to taxpayers for our actions.
- State government has a responsibility to safeguard taxpayer dollars by eliminating waste and abuse and providing efficient and honest government.
- Finally, state government should be humble recognizing that all its power and authority is granted to it by the people of Texas, and those who make decisions wielding the power of the state should exercise their authority cautiously and fairly.



Regulatory Benchmarks

Benchmark:

**Percent of state professional licensee population
with no documented violations**

Priority Goal:

**Percent of Licensees with no recent violations
Percent of complaints resulting in disciplinary action**

Benchmark:

Percent of new professional licensees as compared to the existing population

Priority Goal:

**Percent of New Licenses Issued to Individuals
Percent of Licenses Renewed**

Benchmark

**Percent of documented complaints to licensing agencies
resolved within six months**

Priority Goal:

Percent of documented complaints resolved within six months

Benchmark:

**Percent of individuals given a test for licensure
who received a passing score**

Priority Goal:

Pass Rate

Benchmark:

**Percent of new and renewed licenses
issued via Internet**

Priority Goal:

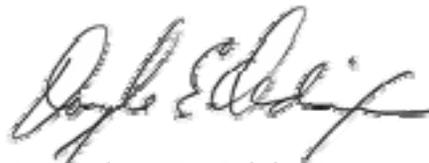
**Percent of Licensees who renew online
Percent of new individual licenses issued online**

FOREWORD

Prior to 2008, the Texas Real Estate Commission (TREC) and the Texas Appraiser Licensing and Certification Board (TALCB) had prepared, approved, and submitted separate strategic plans, but a single legislative appropriations request. Beginning in 2008, the agency's unified strategic plan included both entities. TALCB is an independent subdivision of TREC, overseen by its own independent board appointed by the Governor. The 80th Legislature adopted the Sunset Commission's recommendation to integrate TREC and TALCB to the fullest extent possible while preserving TALCB's identity as a separate regulatory body. Great strides have been taken to implement this directive, promoting greater efficiency, but vital safeguards have also been put in place to assure TALCB's independence.

The portions of this plan dealing with those operational aspects which are fully integrated, or which are primarily support functions, include the activities of the entire agency. Where appropriate in certain areas, especially enforcement, TREC and TALCB are treated separately.

By creating a unified document, the inter-relationship of this strategic plan to the legislative appropriations request will be clearer, more manageable, and easier to understand.



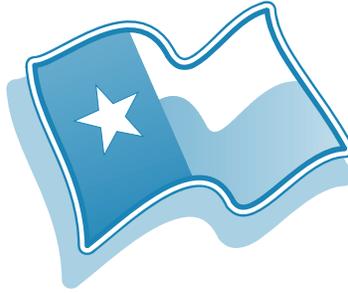
Douglas E. Oldmixon

TREC Administrator and
TALCB Commissioner



**Mission
of
The Texas Real Estate
Commission and Texas Appraiser
Licensing and Certification Board**

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 opportunity and growth in Texas.



**Philosophy of
The Texas Real Estate
Commission and Texas
Appraiser Licensing and
Certification Board**

To achieve its mission, the agency embraces these core values:

- Provide exceptional customer service that is accessible, responsive and transparent;
- Demand integrity, accountability and high standards, both of licensees and ourselves;
- Strive continuously for excellence and efficiency.

Strategic Plan 2011-2015

Texas Real Estate Commission/
Texas Appraiser Licensing and Certification Board



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A. SCOPE AND FUNCTION

With the advent of the GI Bill providing unprecedented education opportunities for a new generation and the VA Home Loan Guaranty program enabling home mortgage loans with a federal insurance feature, the nation dramatically shifted to a substantial increase in home-ownership potential after World War II.

Created in 1949 to establish safeguards for the rapidly growing field of real estate brokerage, the Texas Real Estate Commission (TREC) administers four laws: The Real Estate License Act (Texas Occupations Code, Chapter 1101), license laws for Home Inspectors (Texas Occupations Code, Chapter 1102), The Residential Service Company Act (Texas Occupations Code, Chapter 1303), and The Texas Timeshare Act, (Texas Property Code, Chapter 221). TREC regulates :

- real estate brokers and salespersons;
- real estate inspectors;
- education providers for real estate and home inspection courses;
- residential service companies;
- timeshare developers; and
- easement or right-of-way agents.

The TREC Commission is composed of nine members - 6 licensed real estate brokers and 3 members of the general public - appointed by the Governor with the concurrence of the Senate. The members are appointed for six-year terms, with the terms of three members expiring every two years.

In 1989 the Financial Institutions Regulatory Reform and Enforcement Act (FIRREA) became federal law. Title XI of FIRREA addressed weaknesses in the way real property was valued in connection with federally insured mortgage loans (sometimes called “federally-related transactions” or “FRTs”) by creating a system under which individual states would implement their own programs for the licensing and oversight of licensed and certified appraisers. Only appraisers licensed or certified under a certified state program may appraise real property in connection with FRTs. FIRREA further provides for federal oversight

of the states’ regulatory programs through the Appraisal Subcommittee (ASC).

The Texas Appraiser Licensing and Certification Board (TALCB) was created in 1991 to enable Texas to implement such a program. TALCB regulates real estate appraisers and administers the Texas Appraiser Licensing and Certification Act (Texas Occupations Code, Chapter 1103). TALCB is an independent subdivision of TREC with its own nine-member board.

The TALCB Board is composed of nine members - 4 licensed real estate appraisers and 4 members of the general public - appointed by the Governor with the concurrence of the Senate, and the Executive Secretary of the Texas Veterans Land Board as an ex-officio member. The appointed members serve two-year terms, with the terms of four members expiring every year. No appointed member may serve more than six years.

The ASC reviews the TALCB’s program on a regular basis to ensure compliance with federal law. If the review identifies deficiencies, the ASC may decertify the program, resulting in Texas appraisers not being allowed to perform appraisals in connection with FRTs. As FRTs comprise the vast majority of the mortgage market, decertification of the Texas program could have grave impact on the Texas real estate economy.

The ASC audited the Texas program in October 2008 and has just completed an audit in May 2010. [Insert results of May 2010 audit.](#)

The ASC audit focused on the timeliness with which TALCB addresses and resolves complaints. ASC Policy Statement 10 requires state appraiser regulatory agencies to process complaints in a timely manner and provides that, absent special circumstances, final state administrative action regarding complaints should occur within one year of the complaint filing date. Due to the criminal nature of some complaints, State Office of Administrative Hearings (SOAH) procedures and resource restrictions, this is not always possible., however, a new agency organizational structure has assisted with the internal backlog.

The agency serves as a licensing agency for real estate service providers in Texas. In addition to

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Texas Appraiser Licensing and Certification Board



monitoring education requirements and licensing standards, TREC and TALCB have distinct enforcement divisions which separately handle enforcement cases based on complaints filed with the agency. In this manner, the agency works in parallel fields to ensure the integrity and honesty of licensees.

While the agency's primary responsibility is to protect the public by providing qualified licensees into the market-place, a high volume of phone calls are received from home-buyers who have questions about the home-buying process in general. The agency has a role in providing this type of consumer information via its websites in addition to capitalizing on the partnership with other entities, like the Real Estate Center (REC) at Texas A&M University, for example.

The relationship with the REC is statutory – market-place and economic trends research and education – but it has potential to be a great deal more. Renewed efforts are already underway to work more closely with REC and provide a better and more comprehensive public service to Texans.

In addition to this partnership, the agency is also a member of the state's Mortgage Fraud Task Force which also includes the Texas Department of Public Safety (DPS), the Texas Department of Insurance (TDI), the Office of Consumer Credit Commissioner (OCCC), the Texas Department of Banking, the Credit Union Department, the Department of Savings and Mortgage Lending (TDSML), and the Office of the Attorney General (OAG). Because of the limited size of the agency, opportunities for efficiencies and enhanced relations with other entities are always on the top of the priority list. The agency must continue to seek out and nurture these relationships in order to provide the absolute best service to the consumer.

B. ORGANIZATION

The agency functions as one entity comprised of a Commission and a Board. In September 2009 the TREC Commissioners hired a new agency-head, who created an Administration & Management Services Division, designated the General Counsel to serve as the Deputy Administrator for TREC, appointed a General Counsel to the Board, and hired a Public Affairs Specialist. After an important functional reorganization, the agency-head now has six other direct reports:

- Reception & Communication Services (RCS) Division Director;
- Education & Licensing Services (ELS) Division Director;
- TREC Standards & Enforcement Services (TREC SES) Division Director;
- TALCB Standards & Enforcement Services (TALCB SES) Division Director;
- Information & Technology Services (ITS) Division Director; and
- Staff & Support Services (SSS) Division Director.

TREC SES and TALCB SES handle discretionary enforcement matters and act as the staff legal arm of TREC and TALCB, respectively. Aside from this critical distinction, employees in the four remaining divisions all work on both TREC and TALCB matters.

The offices of the agency are located in Austin, Texas, on the first floor of rented office space at 1101 Camino La Costa, Austin, Texas 78752. There are no field offices, however TREC has 9 investigators who are located individually in Pflugerville, Canton, Humble, San Antonio, Sherman, Kingwood, Beeville, Lindsay, and Magnolia, Texas. The investigators are supplied with essentials for home offices and are assigned to work on TREC enforcement cases in their surrounding areas.

The relationship between TREC and TALCB is formalized by a Memorandum of Understanding which was most recently updated in May 2010.

Administration & Management Services (AMS) Division

The agency has many divisions, roles, and responsibilities. And while the appointed members of the Commission and the Board determine the overall policy direction, the AMS Division, led by the agency-head, oversees and provides agency-wide support and day-to-day management.

In protecting the consumers of real estate services, AMS performs several important functions to further the agency's programs of education, licensing, and industry regulation.

These include:

- cooperating with consumer groups, industry trade associations, real estate service provider educators, and other regulatory agencies;
- serving as a liaison with oversight bodies and public officials;
- providing administrative supervision of the staff responsible for carrying out the functions of the agency;
- serving as the agency's hub for open records requests;
- assisting the public desiring to legally access monies from the Real Estate Recovery Trust Account and Real Estate Inspection Recovery Fund (Recover Fund);
- drafting proposed rules for consideration by the appropriate body;
- distributing information about the agency's functions and activities to the public and the media, including publication of the online newsletter: *TRECAdvisor/TALCBBulletin*;
- coordinating and providing staff support to the advisory committees, working groups, and task forces; and
- overseeing the administration of all statutory requirements.

Overall agency direction is provided by the Administrator of TREC/Commissioner of TALCB. This person serves in a dual role as the agency-head and is the main representative of TREC and TALCB to other agencies, organizations, and to the public.

General legal advice to the TREC Commissioners is provided by the TREC General Counsel and TREC Deputy General Counsel. These individuals serve as staff liaisons to the Texas Real Estate Broker-Lawyer Committee and are responsible for drafting proposed rules and statutory clarifications. The TREC Deputy General Counsel reviews and responds to claims by consumers for payment of judgments against licensees from the Real Estate Recovery Trust Account and Real Estate Inspection Recovery Fund. General legal advice to the TALCB Board Members is provided by the TALCB's own General Counsel.

AMS is responsible for coordinating the agency's publications and communications, including the online *TRECAdvisor/TALCBBulletin* newsletter, published eight times per year, and the Strategic Plan Annual Report, as well as periodic news releases to the media, consumers, and license holders.

Two advisory committees authorized by the TREC Commission's enabling legislation consist of individuals who volunteer their time to assist TREC in critical areas. Both of these committees meet on an as-needed basis in Austin to review proposed forms and rules and make recommendations to the Commission.

One advisory committee, The Texas Real Estate Broker-Lawyer Committee (Broker-Lawyer Committee), develops standard contract forms and addenda which are recommended to the Commission and promulgated for mandatory use by real estate brokers and sales licensees. The committee is composed of six brokers appointed by the Commission, six attorneys appointed by the President of the State Bar of Texas, and a public member appointed by the Office of the Governor.

By utilizing the varied interests and points of view of its members, the Broker-Lawyer Committee helps to ensure that the contract forms promulgated by the Commission balance the interests of the parties, reduce controversy and misunderstanding, and contain adequate safeguards for all involved. On a regular basis, the Broker-Lawyer Committee reviews and revises all contract forms to ensure that these documents are usable in the current market and that they address any significant new issues in a timely manner.

The Texas Real Estate Inspector Committee (Inspector Committee) provides recommendations and assistance to the Commission on matters relating to the licensing and regulation of real estate home inspectors. It consists of six licensed professional inspectors and three public members who are appointed for six-year terms by the Commission. The Inspector Committee is authorized to review and revise the inspection standards of practice and make recommendations to the Commission for changes in licensing and education rules and procedures.

In addition, the Commission appoints working groups as deemed necessary to collect and analyze information on a variety of specific

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topics and report to the Commission its findings and any recommendations for policy review by the Commission. Currently two working groups are examining issues involved in Education and Broker Responsibility. Final reports from these groups are due to the Commission by November 2010, though interim progress reports are also accepted.

Reception and Communication Services (RCS) Division

RCS is the agency's centralized customer service department. As such, it is the primary point of contact for all telephone, e-mail, and walk-in inquiries. Additionally, RCS handles all website customer survey responses for the agency. The division has 14 staff.

RCS answers all local and toll-free lines for the Commission and the Board, and is available weekdays from 7:00 a.m.-6:00 p.m., an expansion begun in October 2009 from the prior 8:00 a.m. to 5:00 p.m. schedule. The Communication Section answers four toll free and four local lines for TREC and one toll free and one local line for TALCB. Staff are carefully trained and kept up to date on TREC and TALCB laws, rules, policies, procedures, forms, and processes. Furthermore, all division staff have access to the agency's licensee database and assist callers with information on the status of their applications, education requirements, etc. RCS also helps callers navigate the agency's websites and download specific forms, information and data files. The walk-in reception area is staffed weekdays from 8:00 a.m.-5:00 p.m. and staff is available to serve the public directly with any inquiries and offer additional assistance with online services on the agency's two reception area computers.

Education and Licensing Services (ELS) Division

The primary role of ELS is to ensure that education, experience, examination and license application requirements are satisfied before a license or registration is issued to real estate brokers or salespersons, appraisers, inspectors, and easement or right-of-way registrants. The division has 18 staff.

Education Section

The Education Section ensures that education and experience requirements are satisfied for the various license types. This section is

responsible for the review and accreditation of approved proprietary schools (as providers of core education), approval of Mandatory Continuing Education (MCE) providers, and approval of MCE and core courses, as well as course instructors. The Education section is also responsible for ensuring that qualifying exams are administered without problems and that results are posted accurately to the agency's database system.

The division is responsible for oversight of many aspects of real estate education, including the registration of broker and salesperson real estate education providers, instructors, and courses for both pre-licensure and continuing education. While accredited colleges and universities in Texas can provide pre-licensure real estate courses without agency pre-approval, any proprietary school or association wishing to offer pre-licensure courses must obtain approval from the agency. All continuing education providers, including accredited colleges and universities, must obtain agency approval as a provider and for each continuing education course they wish to offer. At the end of Fiscal Year (FY) 2009 there were 56 approved providers of pre-licensure education in Texas and 313 approved continuing education providers. These totals reflect a consistent increase in the number of approved continuing education providers who offer MCE elective courses, as there were only 236 MCE providers at the end of FY 2005.

ELS also approve education courses, both pre-licensure and continuing education, for appraisers. The agency maintains a current list on its website to ensure that licensees have immediate access to current information. The list is updated continuously and as of print, 155 pre-licensure classes and 477 continuing education classes were on the approved list.

First Time Pass Rates		
	FY 2007	FY 2009
Brokers	69.4%	69.7%
Salespersons	55.6%	61.3%
Inspectors	35.6%	38.95%
Appraisers	52.5%	67.6%

Pursuant to a legislative requirement, the TREC Commissioners have established accreditation standards and adopted rules that require an approved proprietary school to certify that at least 55% of their graduates have passed

the licensing exam on their first attempt. The Commission must consider this in addition to a variety of other factors in determining whether a school qualifies for reaccreditation.

From FY 2007 to FY 2009, first time pass rates for all licensees have increased:

Licensing Section

The Licensing section reviews and processes applications, renewals, information changes, and histories for all license types. This section is responsible for ensuring that applications and renewals contain all required information, assist walk-in customers upon request, and proof certain license documents before release. The Licensing staff also provide primary assistance in preparing files and performing data entry for the imaging and electronic storage of over 200,000 licensee master files.

At the conclusion of FY 2009, the agency licensed a total of 144,219 brokers and salespersons, 3,533 inspectors, 1,932 easement or right-of-way registrants, and 6,305 appraisers. There has been an increase in the number of real estate brokers from 42,261 in FY 2007 to 43,036 in FY 2009 while the number of salespersons has decreased from 110,810 in FY 2007 to 101,183 in FY 2009.

License renewal rates are lower than in previous years with 81.7% of brokers choosing to renew their licenses timely. Approximately 20% of all real estate licensees (28,380) are “inactive,” held by those who wish to retain a license for possible future use.

The following table depicts the trends in real estate licensees over the past five years.

	FY05	FY06	FY07	FY08	FY09
<i>Transcript Evaluations</i>	31,421	31,890	30,229	20,214	16,326
<i>Original Applications</i>	21,556	25,733	23,877	17,165	13,068
<i>Individuals Examined</i>	23,440	24,557	21,302	16,140	12,009
<i>Licensed Salespersons</i>	97,126	106,597	110,810	105,618	101,183
<i>Licensed Brokers</i>	40,437	41,335	42,351	42,809	43,036
<i>Licensed Inspectors</i>	4,037	4,093	4,260	4,018	3,533
<i>Licensed Appraisers</i>	6,774	6,805	6,807	6,758	6,305

TREC Standards and Enforcement Services (TREC SES) Division

TREC SES ensures that consumers are protected by providing timely, fair, and consistent enforcement of The Real Estate License Act, Rules of the Commission, Chapter 1102 of the Texas Occupations Code regarding Real Estate Inspectors, the Texas Timeshare Act, and the Residential Service Company Act. TREC SES staff also implement standards and review applications for licensure and make determinations of moral character to assess the honesty, trustworthiness, and integrity of applicants. In addition, TREC SES oversees the sanctions of licensees who have violated various legal requirements. The division has 32 staff.

TREC SES handles a high volume of signed written complaints from the public and licensees concerning alleged violations of legal requirements primarily by brokers and salespersons. During FY 2009, the division received 993 complaints from the public, and closed 1,671 complaints after review and resolution (more complaints were closed than open due to carryover from the previous fiscal year). While most complaints relate to the purchase, lease, or inspection of a home, they may also include charges ranging from misleading advertising to unlicensed activity. Some complaints are closed with no action taken, because of a lack of jurisdiction or lack of evidence. Once it is determined that the complaint is within the agency’s jurisdiction, the licensee will be notified, given an opportunity to respond, and the complaint is investigated. For those complaints where evidence suggests a violation has occurred, attempts will first be made to resolve the complaint through alternative dispute resolution (ADR) methods, such as informal settlement discussions or mediation. When ADR is not effective or appropriate, TREC SES will pursue formal disciplinary action and a hearing will be set at the State Office of Administrative Hearings (SOAH).

The division reviews license applications as well as requests for moral character determinations. In FY 2009, the division reviewed 1,454 applications and moral character determinations. The division also addresses administrative violations committed by licensees such as failure to provide requested information to the agency, presenting a check with insufficient funds, or committing a criminal offense. In FY 2009, TREC SES opened 587 and closed 659 of these matters.

TREC SES is also responsible for the administration of the Texas Timeshare Act and the Residential Service Company Act. Entities that desire to offer timeshare interests for sale to Texas residents are required to register such projects with the agency regardless of the location of these projects. Any company wishing to offer home warranties which cover existing residential properties must be licensed with the agency.

TREC SES currently monitors 26 residential service companies licensed to conduct business in this state on an ongoing basis to ensure compliance with the Residential Service Company Act, including the companies' ability to meet financial obligations to Texas contract holders. The division also reviews timeshare registrations and amendment applications submitted by timeshare registrants currently operating in Texas to ensure that the requirements of the Texas Timeshare Act are met.

TALCB Standards & Enforcement Services (TALCB SES) Division

TALCB SES ensures that the public is protected by providing timely, fair, and consistent enforcement of the Texas Appraiser Licensing and Certification Act. Division staff also reviews applications for licensure and moral character determination to assess the honesty, integrity and trustworthiness of appraiser applicants. Staff review applicants' criminal history and oversee the sanctions of licensees who have violated various legal requirements. The division has 10 staff.

TALCB SES impartially investigates complaints and imposes discipline as deemed necessary to ensure high standards of appraiser competence. Licensed or certified appraisers who violate the law are typically sanctioned with monetary fines, educational requirements, and, if warranted, suspension or revocation of their licenses. In addition, the division provides assistance to law enforcement and prosecutors upon request through the Texas Mortgage Fraud Task Force.

The Division processes and investigates a high volume of signed written complaints from consumers, financial institutions, licensees and other state and federal agencies alleging violations and/or inappropriate valuations. In addition to staff investigators, Peer Investigative Committees—made up of two licensees who are certified Uniform Standards of Professional Appraiser Practice (USPAP) instructors and a

TALCB Appraiser Board member—have also been introduced to assist with the complaint load and provide insight into real-world appraisal circumstances. In FY 2009, the division received 321 complaints and after review and investigation, 244 cases were dismissed or resolved with disciplinary action. From FY 2007 to FY 2009, the number of complaints increased more than 50%, and the TALCB SES is on pace to receive twice as many complaints in FY 2010 as in FY 2007. The majority of the complaints relate to the allegations of mortgage fraud and violations of USPAP.

Approximately 60% of the complaints are closed with no action taken because of a lack of jurisdiction or lack of evidence supporting any actionable violations. Upon receipt of a complaint, the licensee is notified and requested to respond in writing and submit their work files (unless fraud is alleged, in which case those complaints are handled covertly as required by the Texas Penal Code, Chapter 32, Section 32). When an agreement cannot be reached between staff and the respondent, TALCB SES pursues formal disciplinary action via the contested case hearing process at SOAH.

In accordance with HB 716, 80th Legislative Session, TALCB SES has been assisting and participating actively in the Mortgage Fraud Task Force. Since September 2008, 71 requests for assistance from state and federal law enforcement and prosecutorial agencies have been received, 14 of these have been resolved. This assistance has led to several indictments and/or convictions of certified or licensed appraisers for criminal conduct incident to allegations of mortgage fraud.

The division is also charged with conducting experience audits and reviewing work product for compliance with USPAP. All applications for a certified residential and general appraiser license are audited. Typically, two properties from the applicants experience log are requested and reviewed by a staff investigator for compliance with USPAP. Fiscal year-to-date, 90 experience audits have been processed, with 13 resulting in application denials and/or complaints.

Information and Technology Services (ITS) Division

ITS develops and maintains the technical infrastructure that supports the agency's business requirements, adheres to the Texas Department of Information Resources (DIR) standards, and utilizes industry best practices to ensure utility,

reliability and security. ITS supports agency initiatives by managing the technical infrastructure for application development, network management, application and technical support, website services, and records management. The division has 12 staff.

ITS offers comprehensive public access to information through internet services including licensee search, online renewal and application submission, data downloads and forms and newsletter publications. Internet technology has enabled the agency to expand the hours of availability for certain operations while reducing costs for those services.

ITS creates and maintains custom business applications which fulfill legislative mandates, respond to public inquiries, and support employee productivity.

Examples of these software systems include:

- license issuance and renewal;
- submitting of education;
- education evaluations;
- fee receipts;
- open records access;
- education provider approval systems; and
- complaint tracking.

The technical infrastructure is the foundation for the agency's continued productivity and must allow for an expansion of automation and services. As the dependency on technology increases due to the agency's needs and the expectations of the public and licensees, the necessity to maintain a high level of availability, security, and integrity is paramount and essential. An ever growing risk to delivering these services is technology obsolescence. TREC's core system, Texas Real Estate Licensing Information System (TRELIS), is substantially outdated as it was built in the 1980s, and is based on a computer programming language no longer in widespread use. As a result, the core system poses a significant vulnerability to the agency and its processes. Similarly, much of the agency's hardware and software is at or beyond its anticipated life, especially critical servers.

The agency has contracted for and is in the midst of a conversion to a new core licensing database product to support its many vital functions. This VERSA Regulation system was chosen after a thorough functionality and value analysis of available options. The agency is scheduled to complete this conversion in FY

2010.

To help fulfill its agency goals and mission, ITS has established a relationship with the following entities:

- Texas Online in the electronic process of applications and renewals;
- The Texas Guaranteed Student Loan Corporation (TGSLC) in the collection of delinquent student loans;
- OAG in the collection of delinquent child support;
- DPS in background checks of applicants;
- REC in licensee demographic and address data;
- TDSML on issues affecting real estate licensees and mortgage brokers; and
- DPS, TDI, OCCC, the Texas Department of Banking, the Credit Union Department, and TDSML for the Mortgage Fraud Task Force.

The agency takes advantage of services offered by DIR that allow for expanded and shared technical resources that would otherwise be unattainable. The utilization of their standard contracts and security team can provide a cost and time saving to the agency.

Due to increased reliance on electronic storage and delivery technology, agency records management programs were consolidated in the ITS division. A major initiative to digitize millions of pages of agency records is under way. Resource limitations due to state budget cut guidelines could cause a significant delay in this program.

Staff and Support Services (SSS) Division

The SSS Division performs all of the accounting, purchasing, mail and cash handling functions, human resources administration, and property management for the agency. The division provides these support services to the Commissioners, Board Members and agency staff, and is the center of day-to-day monetary and budget operations. The division has 14 staff.

The Accounting Section provides services in the areas of accounting, payroll, revenue forecasting and tracking, and all budgeting functions - responsible for controlling an annual budget of \$8 million dollars. This section also maintains the statutory recovery funds which are used to pay certain judgments against licensees. The Purchasing Section purchases goods and services in compliance with all state regulations,

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and provides equipment and facilities management services. Emphasis is placed on utilizing Historically Underutilized Businesses when possible, and use of recycled goods. The Cashier Section receives and distributes incoming mail and processes revenue received. The Human Resources Section plans, develops, reviews, and implements human resources policies, directives, and procedures while ensuring that state and federal guidelines are followed. This section also compiles and analyzes human resources reports. The Director of SSS serves as the investment officer for the recovery funds in accordance with the Public Funds Investment Act.

The Commission's independent auditor, Garza-Gonzalez & Associates, reviewed the agency's compliance with the Public Funds Investment Act. In its FY 2009 report to the State Auditor's Office (SAO), the independent auditor made no recommendations for modifications related to compliance with the Public Funds Investment Act. In addition, a review by the SAO published March 2010 concluded that the agency had fully complied with provisions in the Public Funds Investment Act.

SSS is also responsible for monitoring the agency space allocation plan. Agency offices are currently in leased space. The current lease for 22,832 square feet was renewed effective September 1, 2006, for five years with an option to renew for an additional five year period. The cost per square foot is \$16.85. Due to increases in full time employees granted by the 80th Legislature, the agency amended the lease to add 2,984 square feet on October 1, 2007. The current rate for that space is \$14.45 per square foot. The current lease is a turn-key lease wherein the lessor pays for lease services such as utilities, janitorial services, security, and pest control.

The lease expires August 31, 2011. The Texas Facilities Commission (TFC) has notified the agency that space in the Stephen F. Austin Building in the Capitol Complex will be available to house the agency. At the current time, TFC is working with staff to identify space requirements and configuration needs. The space will be designed and constructed with a projected completion date of June 2011. It is anticipated that the agency will be requesting a supplemental appropriation at the beginning of the 82nd Legislative Session to cover moving costs.

C. FISCAL ASPECTS

Appropriations

The agency is authorized to make expenditures consistent with the General Appropriations Act. The following totals reflect the amounts appropriated by strategies:

From 1991 forward, TALCB's appropriations have been listed as "Goal D" in the Legislative Appropriations Request of TREC.

Fees Collected

TREC and TALCB receive funding from fees submitted by licensees and applicants. An appropriations bill rider (Article VIII, Rider 2, 81st Legislature) requires revenue to cover all appropriations plus other direct and indirect costs. Other direct and indirect costs cover employee benefit costs appropriated to other agencies and a pro rata share of support agencies, such as the Comptroller. The amount is designated in the appropriation bill pattern, which is allocated between TREC and TALCB based on budgeted employee salaries. Although the amount of revenue may vary each year due to the number of individuals who renew or obtain a new license, the agency is appropriated a fixed sum of money by the General Appropriations Act and cannot spend beyond that amount.

In FY 2009, TREC collected revenue of \$18,559,909. Of this amount, \$2,806,863 was collected for operations of the REC; \$7,059,600 was collected in professional fees imposed on brokers, and \$450,873 was revenue dedicated to the Real Estate Recovery Trust Account and Real Estate Inspection Recovery Fund. The remaining revenue supported appropriations of \$5,772,698 plus other direct and indirect costs in the amount of \$1,285,581. In FY 2010, revenue of \$9,352,858 is projected to support appropriations of \$7,167,178 plus other direct and indirect costs of \$1,251,242.

In FY 2009, TALCB collected revenue of

Appropriations by Strategy

	FY2008	FY2009	FY2010	FY2011
Ensure Standards	1,578,207	1,493,728	2,779,835	3,300,562
Enforce Regulations	1,835,580	1,832,593	1,785,342	1,78,382
Provide Education	733,933	739,741	828,606	859,777
Indirect Administration	1,396,894	1,706,636	1,773,377	1,519,780
TALCB	879,372	826,362	1,156,673	981,233
Subtotal	6,424,046	6,599,060	8,323,851	8,441,734
Other Direct and Indirect Costs	1,432,790	1,460,852	1,449,875	\$1,501,566
TOTAL	\$7,856,836	\$8,059,912	\$9,773,726	\$9,943,300,

\$1,050,629. Of the amount appropriated, \$146,150 was collected for the Appraiser National Registry and \$26,650 was collected for TexasOnline, resulting in 83.5% of fees being deposited to the general revenue fund.

By both statute and federal law, TALCB collects fees for the Appraiser National Registry of twenty-five dollars (\$25) per year per certified and licensed appraiser. These fees are submitted to the ASC, deposited in a separate General Revenue Dedicated account (Appraiser Registry Account 0028 General Revenue Fund), and are not available for any other use.

Employees

The agency must administer salaries in accordance with the SAO salary administration structure. The state salary administration structure tends to lag behind the private sector in large part because of other benefits associated with government employment. As a result, the agency competes with other state agencies for many of its employees. Although the agency received appropriations to gradually move toward pay equity in the current biennium, the agency's salaries, with very few exceptions, are below midpoint of the applicable SAO mandated salary ranges. Also, the agency has not been able to budget for merit-based salary increases for employees. Since base salary directly impacts the level of a state employee's pension, this places the agency at risk of losing employees, especially in its more senior positions, who are increasingly mindful of the need to prepare for retirement.

Staffing needs must be assessed on a regular basis to ensure that appropriated FTEs, salary, and other financial appropriations are sufficient to address planned operations. All positions at the agency are evaluated and documented on a current basis to ensure that they are correctly classified under the SAO classification guidelines.

The agency's legislative appropriation request (LAR) will include a request for funds to upgrade seven FTEs to a level that meets the current staffing needs. In addition, the LAR will request additional funds to raise the agency-head's salary to a level that is commensurate with other state agencies with similar missions, licensee populations, and responsibilities. This is imperative not only to retain existing leadership skills and abilities, but also to reduce the likelihood of turnover in agency management.

White Female	Hispanic Female	Black Female	Hispanic Male	Black Male	White Male	Total New Hires
2	0	1	0	1	2	6
22%	0%	17%	0%	17%	33%	100%

The agency continues to strive for diversity in its workforce. Currently, the agency's workforce is appropriated 110.50 full time equivalent (FTE) employees. The preceding chart shows the result of agency hiring practices from January 1, 2009 to December 31, 2009.

The following table compares the percentage of African-American, Hispanic and female employees to the state-wide availability of African-Americans, Hispanics, and females in the civilian workforce.

Job Category	African-American		Hispanic		Female	
	Texas	Agency	Texas	Agency	Texas	Agency
Administration	9%	16%	23.7%	32%	38.8%	83%
Professional	11.7%	7%	19.9%	15%	54.5%	51%
Technical	17%	0%	27%	0%	55.6%	0%
Para-Professional	12.8%	29%	44.8%	27%	39.7%	86%
Admin. Support	13.2%	64%	31.9%	9%	66.2%	82%

D. HISTORICALLY UNDERUTILIZED BUSINESS PLAN

The agency is committed to making a good faith effort to increase business with Historically Underutilized Businesses (HUBs). Staff actively encourages purchasing from HUBs to provide goods and services for the agency's operations. The agency's goal is to award 30% of its overall expenditures to HUBs. Agency good faith efforts to promote HUB participation include the following:

- Utilizing HUB vendors for non-competitive spot purchases of \$5,000 or less whenever possible; Soliciting a minimum of three bids from certified HUB vendors for purchases over \$5,000;
- Attending HUB related meetings and forums to network with vendors and gain new knowledge of HUB vendors;
- Encouraging and assisting vendors who

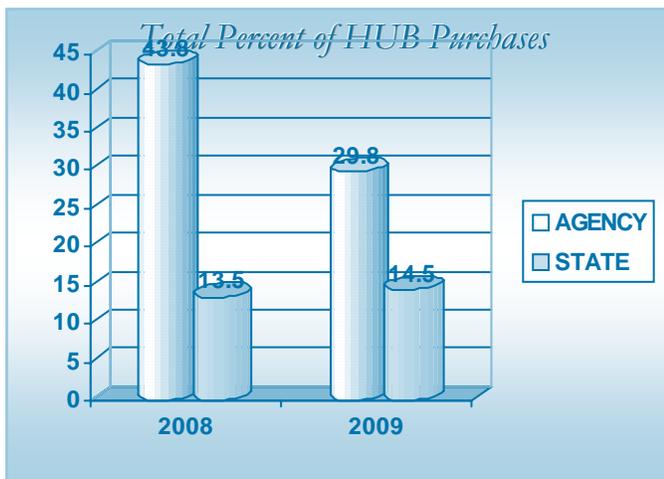
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qualify as HUB vendors to become HUB certified by the Texas Procurement and Support Services Division of the Comptroller's office and to maintain their HUB certification;

- Encouraging non-HUB vendors to sub-contract with certified HUB vendors; pairing mentors with protégés;
- Exceeding the bid advertisement requirement of obtaining more than two HUB bids from the CMBL on purchases over \$2,000; and
- Maintaining positive working relationships with current HUB vendors.

The following figure reflects the overall HUB performance of FY 2008 and 2009:



E. SERVICE POPULATION DEMOGRAPHICS

A state economy as large and as diverse as Texas' presents special challenges for an agency that is charged with serving over 150,000 licensees across 268,820 square miles. The two primary ways that the agency interacts directly with its stakeholders are in the license application and renewal process, and in the complaint resolution process, as the agency's investigators and lawyers gather relevant information. Licensing examinations are administered by agency-approved test providers at 25 locations around the state.

Because of the large number of Texans who are Spanish speaking, the Agency has a number of bilingual staff to assist with questions. The agency encourages the development of Spanish language skills.

As more individuals enter the profession, the ethnic, racial, and gender diversity of real estate licensees are projected to continue increasing, falling more in line with the overall population. The racial breakdown of licensees is provided in the following table:

Ethnic, Racial and Gender Characteristics of Licensees as of December 31, 2009

Race	Broker and Salesperson	Inspector	Easement and Right-of-way	Appraisers
Anglo	76.2%	85.8%	92.8%	92.2%
Hispanic	11.3%	7.0%	3.9%	5.1%
African-American	7.2%	4.6%	2.2%	3%
Asian	4.0%	1.9%	0.1%	1.2%
Other	1.3%	.07%	1.0%	.8%
Gender				
Male	46.2%	96.0%	82.4%	80.12%
Female	53.8%	4.0%	17.6%	19.78%

F. TECHNOLOGICAL DEVELOPMENTS

The agency utilizes technology in virtually every aspect of its operations and has adopted and implemented systems and procedures based upon DIR and industry standards. Employees have electronic access to vital licensee and applicant information directly from their workspace.

Public Access Initiatives

1. World Wide Web Services

The agency's websites are often the first point of contact for customers. It is the agency's philosophy to make available as much useful information as possible on its website in order to provide services on demand through a self service initiative. With this goal in mind the websites allow for renewal and application submission, general information, contact information, FAQ's, forms, laws, policies, procedures, customer surveys and a wealth of other useful information.

The most frequently used pages on both websites include:

- **Licensee Look Up**-Real estate professionals and the public can verify information on salespersons, brokers, inspectors and ERW registrants through use of the "Licensee Look Up" function at TREC's web site. Verification of an appraiser can be done through the ASC's website which is directly linked to the TALCB website. Through this feature one can verify that an individual has an active real estate license, determine a sponsoring industry

mentor,, and check the permanent mailing address of the licensee.

- **E-Government Services**-Using the TexasOnline Authority as a payment portal, the agency currently provides for online license renewals for real estate salespersons, real estate brokers, apprentice inspectors, real estate inspectors, professional inspectors, and easement or right-of-way (ERW) agents, and general certified, residential certified and apprentice appraisers. Individuals may make application for a broker and salesperson license online as well.
- **Forms and Contracts**-Forms and contracts are made available for download. On the TALCB website, fillable Experience Log forms are also available.
- **Customer Feedback**- Website visitors can complete a Customer Service Survey online. The web site also allows e-mail access to TREC Commissioners, TALCB Board Members, and the agency-head.

In addition, on the TREC website, the following pages are also helpful to visitors:

- **Disciplinary Action Update**-Individuals have the ability to search for TREC disciplinary actions by specific type of offense, by name or by month.
- **Licensee Education Records**-Up-to-date information on the core real estate and continuing education completed by all real estate licensees is available to the public at TREC's web site.
- **Permanent Mailing Address** - All TREC licensees can correct and update their permanent mailing address online at no charge ensuring more accurate data entry.
- **Primary Email Address** – All TREC licensees can correct and update their primary email address online at no charge facilitating the convenient electronic delivery of information and services to them.

2. E-Government Services

The agency is pleased to have been the first licensing agency to provide online license renewals in the State of Texas.

During FY 2009, 75% of applications were processed online, as were 86% of license renewals. Licensees make payment for all online transactions by credit card.

3. Electronic Mail Services (Email)

All general email inquires to agency are routed through RCS for efficiency and consistency. Email has become a major information delivery mechanism expanding the public's access to the agency. On average, the agency receives 370 emails a week and responds to all of them within 24 hours.

4. File Transfer Protocol (FTP)

The TREC and TALCB FTP sites allow for the downloading of files for storage and viewing. In addition, TREC utilizes FTP to exchange data with many other state agencies and receives daily the results of the real estate and inspector examinations from the contracted vendor. Licensee database information is also shared with the REC. TALCB uses the FTP site most specifically for their Peer Investigative Committee work so that all participants can have access to the same large files simultaneously and at their leisure.

5. Licensing Management System

The agency selected a DIR approved licensing management system in FY 2009 to replace the existing application that is no longer flexible enough to support the agency strategies.

The implementation of the new licensing management system is expected to be completed by the end of FY 2010. The new product is expected to offer the agency a stronger technical foundation that will allow it to adjust initiatives which bring efficiencies to employees and conveniences to the license holders and to the public. With the new application additional services may be available to the public that have not been an option in the past.

Additionally, the agency is dependent upon significant paper files that do not allow for efficiencies and expose information of licensees to risk of loss. TREC will expand the use of imaging as a primary document management tool. TREC's hard copy licensing files currently fill an approximately 6,000 square foot file room. As data management system has been identified, and these files are being reviewed individually as all licensees undergo the two year renewal cycle. As they are pulled and reviewed they will be purged of unneeded items and



scanned. The planned move to the Capitol complex in June 2011 has made this project a much higher priority than previously and work is being accelerated to avoid the need to plan for and store these files at the new office location.

It is anticipated that the licensing management system and the document management system will work together allowing full access of a licensee to all employees from their desk.

Future Technological Advancements

TREC has long been dedicated to providing as many services as possible on the Internet; and as TALCB and the TREC have been integrated over the years, that same focus and dedication to online services has been extended to the TALCB website.

In FY 2009, thousands of transactions were conducted online by individuals seeking to apply or renew a license with the agency. Moreover, more than 28 million TREC web pages and 1.2 million TALCB web pages were viewed by licensees and the public.

Over two hundred and thirty thousand e-mail addresses are now maintained on the TREC e-mail notification system. Truly, the Internet has changed the means by which the agency can communicate - both in providing information and in receiving requests and transactions. Expanding additional online services to licensees is a major strategic initiative.

In 2010 the agency began an initiative which emphasized electronic communication through the utilization of e-mail versus United States postal mail. A four month trial was conducted and currently the agency has received very positive comments from our licensees on this initiative and plan to continue the expansion of this service. Not only is it more convenient for the license holders, but it also has the potential to save the agency significant expenses for printing and postage. The long range vision is to provide all services online and handle all official communications in an electronic format. To do this will require a change to the law which will authorize the agency to make maintenance of an active primary business e-mail account a requirement for all license holders.

Currently 86% of TREC license renewals and 65% of TALCB license renewals are completed over the Internet, and more than 75% of all initial license applications come to the agency via

the Internet and the TexasOnline system. As more transactions become available and more individuals become familiar with the process, we anticipate that these percentages will increase substantially, providing both additional convenience and reducing processing time and manual data input effort by staff.

G. ECONOMIC AND LEGAL VARIABLES

Key Economic Variables

The overall state of the economy is reflected in such things as housing prices, demand for housing, and the availability of financing at reasonable rates. A strong and stable economy, as reflected in a strong and stable housing market, is the primary economic factor that impacts people in their decision to enter and pursue a career in the real estate service profession. Although no state can ever be wholly immune to national concerns about the economy and mortgage markets, Texas has remained quite strong and stable by comparison with other leading markets. As a result the number of real estate licensees in Texas has not fluctuated dramatically.

Compared to many other states, the "affordability index" for housing in Texas remains favorable. Nonetheless, an increased emphasis on credit quality has been reflected in Texas mortgage markets, offsetting to a degree the beneficial effect of historically low interest rates. The combination of strong performance of the Texas economy, as reflected in low levels of unemployment and solid job growth, coupled with the continuation of low interest rates, supports Texas mortgage and real estate markets.

Legal Issues

All Divisions of the agency monitor changes in state and federal law to ensure that the agency identifies and, to the extent possible, is proactive with respect to changes which will impact licensees and services.

Federal law provides oversight or regulation in these areas:

- real estate appraiser licensing and certification, Title XI of FIRREA;

- discrimination in housing, the Federal Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988;
- services provided in connection with the closing of the sale, the Real Estate Settlement Procedures Act of 1974 (RESPA), as amended;
- anti-competitive real estate industry practices, the Sherman Anti-Trust and Clayton Anti-Trust Acts;
- discrimination based on disability, the Americans with Disabilities Act of 1990 (ADA); and
- protection from lead based paint, the Residential Lead-Based Paint Hazard Reduction Act.

The national mortgage crisis also led to reforms requiring most appraisal work to be contracted through appraisal management companies (AMCs), which are currently unregulated in Texas. While intended to prevent undue influence over the appraisal by parties with a financial interest in the transaction, similar problems have arisen at the AMC level. Many states have begun licensing AMCs in an effort to ensure that appraisals are performed in accordance with federal and state laws. It is anticipated that proposals will be introduced at the next legislative session to address this large gap in this otherwise heavily regulated industry.

Real Estate Recovery Trust Account and Real Estate Inspection Recovery Fund

TREC maintains two Recovery Funds that are used to pay judgments obtained by consumers against its licensees or registrants. The Real Estate Recovery Trust Account is available to consumers harmed by brokers, salespersons, or registered easement or right-of-way agents. The Real Estate Inspection Recovery Fund provides a similar remedy for consumers holding an unsatisfied judgment against a real estate inspector.

H. SELF EVALUATION AND OPPORTUNITIES FOR IMPROVEMENT

TREC and TALCB have embraced needed change. Starting with a comprehensive status review in September 2009 that included a short written survey and a personal interview between the agency-head and every staff member, a

functional reorganization was accomplished by the end of October. A formal Bottom-Up Review was then initiated in November, 2009. At that time, the agency-head asked staff to identify obstacles hindering the agency's effectiveness and efficiency, suggest remedies, select solutions, and prioritize them for completion. Over 250 limitations and solutions were received, and within three months staff had already implemented 100 of them. Staff is encouraged to continually evaluate agency policies and procedures to find opportunities for improvement. Staff is empowered to identify solutions and take the necessary steps towards implementation at the appropriate level of authority and responsibility. It is clear that the agency is undergoing a culture change. Staff's willingness to continuously re-evaluate, and their dedication to service excellence, allows the agency to continue to evolve toward more effective and efficient program services.

To further reinforce the culture change, staff was invited to participate in the Strategic Plan process, and provide input on how the agency can continue to improve. Their suggestions, along with comments received from licensees, stakeholders and the public, either in person at one of the Strategic Plan Meetings held around the state or via electronic submission on the agency's website, together form the basis for the following section's analysis and recommendations.

Strategic Planning inputs were collected and discussed using these ten questions as a guide:

1. Are the consumers of real estate services adequately protected by state law and the manner in which the agency administers the law? How can this be improved?
2. Are consumers satisfied with the services they receive from real estate service providers? Are providers seen as educated, skilled, trustworthy and their services valuable?
3. Are there certain practices in any of these industries which are not currently regulated, but perhaps should be because of the potential to mislead or harm consumers?
4. Are the real estate service providers receiving pre-license education sufficient to their responsibilities? Are the continuing education requirements

adequate to remain qualified?

5. Are sponsors of new licensees or trainees fulfilling their duty to train and supervise licensees they sponsor? How can this be improved?
6. Are consumers satisfied with the agency's current oversight role in monitoring license holders? Does the agency have the legal tools it needs to be effective?
7. Is the agency making good use of available technology to deliver its services? How can this be improved?
8. Is the agency operating at a high level of transparency and accountability? How can this be improved?
9. Are there any additional services that the agency should be providing to consumers?
10. Are there any additional services that the agency should be providing to its licensees?

There were a number of key issues that continued to be brought up at each meeting:

- **AMCs**

Despite the federal government's stated intentions with adoption of the Home Valuation Code of Conduct (HVCC) and related regulations, the general consensus is that AMCs are insufficiently regulated and represent a significant gap in the generally consistent regulation of the federally related appraisal industry. The same type of inappropriate relationships that allowed lenders to unduly pressure appraisers – and prompted HVCC - now have simply shifted to AMCs being in a position to unduly pressure appraisers. With no effective oversight, an issue that was a contributing factor in the national housing market crash has now been transferred to a new responsible party but not effectively addressed or eliminated.

- **Property Management Companies (PMCs)**

TREC's current jurisdiction is very limited with regard to regulating Property Management Companies. With no license required, anyone may engage in this business that requires a high degree of expertise and accountability. At a time when more individuals are choosing to keep their home as a rental property while awaiting an improvement in market values,

the potential for abuse of consumers due to practices that do not meet legal or ethical standards is high. TREC only regulates any associated property leasing activity, which must be done through licensed individuals. If TREC is not given authority to regulate PMCs, then another state agency should be empowered to do so. With little or no oversight, the public is not being adequately protected and there is no agency for them to turn to for assistance.

- **Salesperson and Broker Education requirements**

A significant number of comments were received that suggested both pre-licensure and continuing education requirements should be increased for salespersons and brokers. In addition, with more advances in technology and the increase in online courses, the face-to-face classroom experience is being lost. And while the agency approves online courses and thinks that they are a good way to reach those in remote areas of Texas and those busy individuals who can schedule them at their convenience, there is a lack of depth and accountability in many of these course content delivery experiences. The education structure needs to be reevaluated and redesigned for today's licensee. To that end, the Commission has formed an Education Working Group to study these issues.

- **Adequacy of Training and Supervision by Sponsoring Brokers**

While both real estate inspectors and appraisers have implemented successful "trainee/apprentice" programs within their industry, the adequate training and supervision of salespersons by their sponsoring brokers do not have the same level of substantive requirements. Broker responsibility for training and supervision should be more clearly defined to coincide with the clear legal responsibility brokers have for the actions of their sponsored agents. These crucial responsibilities should be more clearly defined and regulated. To that end, the Commission has formed a Broker Responsibility Working Group to study these issues.

Furthermore, staff is working on a number of internal efficiency and effectiveness improvements while it continues to combat one of the most prevalent obstacles of the day facing

small agencies: budgetary constraints. While license fees collected by the agency are more than sufficient to fund needed agency functions, the agency has not been appropriated an adequate percentage of that revenue. This has hindered the agency in upgrading its communications and information technology operations, as well as modernizing its licensee record-keeping system. The agency is literally doing by hand tasks that should long ago have been accomplished by technology. This not only is a missed opportunity for efficiency, but also represents a failure of service to licensees and to the public. The agency is on-track to replace its seriously outdated core licensing database system by the end FY 2010.

The agency has also already begun an orderly transition to scanning files, although fiscal constraints continue to threaten this necessary process. Hard copy files currently fill an approximately 6,000 square foot file room. Opportunities to leverage technology with a new agency culture include the ability of licensees to conduct virtually all business online and to verify and maintain their information themselves and readily access their imaged records. Working with DIR, the agency continues to be a leader as it pertains to online transactions and electronic communications and service delivery. The addition of a “My Page” feature and the ability for licensees to update, access, and connect with the agency through electronic media continues to be a primary goal. Requiring a primary email address for all license holders – much like the current requirement for a principal mailing address – is a necessary step to moving the agency to its full e-commerce potential.

In addition, the agency works closely with the Federal Bureau of Investigation (FBI) and DPS as the fingerprinting requirement for salespersons and brokers is continually implemented. Furthermore, staff has outstanding relationships with federal law enforcement and United State District Attorney’s offices as they collaborate on mortgage fraud cases. Increased use of secure distance conferencing and meeting technology saves travel expenses and allows the more frequent collaboration with these important partners, as well as with agency field investigators, and advisory and working group participants. While the agency strives to maintain those partnerships, it is with the protection of the public and the citizens of the great state of Texas in mind.

Recommendations, Opportunities &

Obstacles

The following lists detail some of the more serious and substantive comments received and recommendations made during the public input process. As proposed, not all are endorsed by the agency, but several are fully consistent with agency long-range goals. Some of these recommendations could be enacted immediately, while others will require a longer period of time. Likewise, some policy or procedural changes could be made at the staff level while others would require modification of rules by the Commission or the Board, statutory changes, or additional appropriations. A number of comments suggesting good recommendations that were consistent with existing rules or policies and which could be completed by staff in short order have already been done, or are in the process of being completed.

Education

- Require better pre-licensure education and MCE for salespersons and brokers, especially for those brokers who sponsor agents.
- Repeal or reevaluate and modify the prior MCE exemption for certain brokers.
- Add more or better mandatory classes regarding contracts for salespersons.
- Online courses are a great convenience for licensees, but one-on-one attention and education is lost in the virtual classroom. Certain core classes should be required to be taken in a classroom setting for all license types.
- Certain core courses for sales and broker licenses have approvals that last beyond the course’s effective usefulness. Once approved by TREC, the course is never reviewed for currency. All courses should have a certain period of approval and then be reviewed periodically to be sure they reflect the laws and the market as it exists today.
- Real estate inspectors should have specific MCE requirements.
- Post-course evaluation should be required in all cases so students can evaluate both the course and the instructor. This information should be provided to both the school and the agency.

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Public Trust and Protection

- Complaints should be accepted anonymously if the allegation is made that a law was broken that would, if proven, rise to a felony offense.
- All single family (1-4 unit) residential properties should have a mandatory inspection, and especially for all sales where the seller is a TREC licensee.
- Require salespersons, brokers and appraisers to include their license number on all advertising, websites, business cards, communication, etc (much like inspectors), so that the public knows they are working with a licensed person.
- Advertising by salespersons and “teams” is often misleading to consumers. Require all such ads to have the broker’s name and license number displayed at least as prominently as that of the salesperson or team name.
- Intermediary law is confusing for the public and for licensees. The forms and subsequent information are also confusing. Consumers do not realize that they could be agreeing to a “no advice or opinion” status or representation. The law should be modified and simplified, and disclosures strengthened and written in simple words.
- Property Managers and Property Management Companies should be licensed by TREC.
- AMCs should be regulated by TALCB. While undue pressure from lenders toward appraisers is no longer a concern, many of those issues have shifted now to AMCs, which are not licensed or regulated by any governmental agency.
- Third party websites which advertise property for sale but for which the advertiser has no written agreement with the seller are misleading and provide a hotbed for real estate sales scams. It is criminal when the site is run by unlicensed persons. The rights of consumers to be represented by licensees should be strengthened.
- Create an Ombudsman program in the agency to assist consumers and the public with outreach and education.

Industry

- Getting a salesperson license currently requires insufficient education; requirements to enter and renew should be more meaningfully related to the seriousness of the transactions. For example, salespersons who do not practice real estate, but meet the two year active license requirement, can obtain a broker’s license and then sponsor new salespersons without ever having completed a real estate transaction. Require a certain number of transactions to qualify for upgrade to broker.
- Currently, more than two years of active practice should be required as a salesperson before being eligible to apply for a broker license. This should be raised to four or five.
- Inspectors are required to have Errors & Omissions (E&O) Insurance; although they have a recovery fund. Raise the limit on the recovery fund and eliminate or reduce the E&O limits.
- Brokers, especially those who have no meaningful financial interest in corporate licensees for which they act as designated officers, should be required to have E&O insurance. It is the riskiest area for lax oversight and a remedy is in the best interest of both the consumer and the professional.
- Inspectors, salespersons and brokers all have a late license renewal grace period, but appraisers are not currently offered that option. This should be remedied.
- Broker responsibility expectations are too low; sponsoring brokers sometimes have never met the salespersons whom they are sponsoring. Salespersons and brokers need a structured training/mentorship program, perhaps similar to those that appraisers and inspectors are currently required to undergo.
- Home builder sales contracts should perhaps be brought under TREC’s jurisdiction. Most contracts are not promulgated and vary from builder to builder.
- A single level of licensure (vs. separate salesperson and broker) should be considered for all who sell real estate; certainly if broker supervision standards remain lax.

- Consider promulgated forms for commercial real estate vs. residential real estate.
- Stronger enforcement authority is needed to educate and discipline those who negligently or intentionally harm consumers.

Technology

- The TREC website allows for licensees to check their education status to date, but the TALCB website does not provide this option for appraisers. Add this feature.
- Salesperson sponsorship transfers between brokers should be able to be made online instead of on paper and through the United States Postal mail.
- Add FAQ page to the TALCB website.
- Post a current list of approved education providers and courses on website.
- Make all licensee files available online.
- Webcast the Commission and Board meetings and post online.
- Doing Business As (DBAs) names should show up online when you search a licensee.
- Require all MCE course completion rosters to be submitted electronically and automatically post to the licensee record.

Agency

- Adopt rule to add TREC Motion for Rehearing (MFR) option.
- Allow staff to take credit card information over the telephone so licensees can pay fees without having to use TexasOnline.
- Process for collecting on bad checks is cumbersome and takes way too long. Simplify the rules and the process.
- Create rules/form regarding appraiser experience audit logs.
- Create probationary/conditional license categories.
- Eliminate the \$2 separate charge for the TREC *Advisor*.
- Obtain TALCB Commissioner delegated authority to sign agreed orders.
- Change statute to reflect requirements for

“custody” and “surrender” of licenses in an era of electronic license delivery.

- Allow staff to obtain and hold licenses issued by agency, but only as inactive and certainly not eligible to practice.
- Allow appointed Commission and Board members and agency staff to teach mandatory continuing education classes with content written by the agency so long as no additional compensation is received for teaching.
- Clarify advertising rules for all ads by all licensees.
- Do not charge the “occupation tax” on brokers renewing in “inactive” status. They are not collecting fees and should not be paying a tax. Most other professional license holders do not pay a tax for “inactive” licenses, but only when returned to “active” status.



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Goals

- I. To determine that applicants for licensure meet legal requirements for real estate license issuance. [Texas Occupations Code, Chapters 1101, 1102 and 1103 and Texas Property Code, Chapter 221]
- II. To act promptly and aggressively to enforce the laws and rules of the Commission in a fair and evenhanded manner. [Texas Occupations Code, Chapters 1101, 1102 and 1103 and Texas Property Code, Chapter 221]
- III. To communicate effectively with the public and licensees concerning matters within the Commission's jurisdiction. [Texas Occupations Code, Chapters 1101, 1102 and 1103 and Texas Property Code, Chapter 221]
- IV. To protect the public and ensure the availability of qualified appraisers by implementing and enforcing the Texas Appraiser Licensing and Certification Act and by providing information to appraisers and to the general public for the maintenance of high professional standards and informed consumer decisions in real estate transactions in all areas of Texas. (Texas Occupations Code, §1103.156)
- V. To establish and implement policies governing purchasing that foster meaningful and substantive inclusion of historically underutilized businesses (HUBs). [Government Code, §2161.123]

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Objectives / Outcome Measures

Goal I Ensure Standards

To determine that applicants for licensure meet legal requirements for real estate license issuance. [Texas Occupations Code, Chapter 1101, 1102, 1303 and Texas Property Code, Chapter 221]

Objective 01-01

To maintain procedures to evaluate applicants for honesty, integrity, trustworthiness, competency and legal qualifications

Outcome Measures:

- Percent of licensees with no recent violations
- Percent of licensees who renew online
- Percent of new individual licenses issued online

Goal II Enforce Regulations

To act promptly and aggressively to enforce the laws and rules of the Commission in a fair and evenhanded manner. [Texas Occupations Code, Chapter 1101, 1102, 1303 and Texas Property Code, Chapter 221]

Objective 02-01

To resolve 85% of documented complaints within six months.

Outcome Measures:

- Percentage of complaints resolved resulting in disciplinary action
- Percentage of documented complaints resolved within six months

Goal III Communicate Effectively

To communicate effectively with the public and licensees concerning matters within the Commission's jurisdiction. [Texas Occupations Code, Chapter 1101, 1102, 1303 and Texas Property Code, Chapter 221]

Objective 03-01

To maintain a communications center that is available via telephone ten hours daily Monday through Friday and responds to e-mails promptly; produce a minimum of eight newsletters annually, and maintain a website that provides clear, concise information

Outcome Measures:

- None

Goal IV Ensure Availability of Qualified Appraisers

To protect the public and ensure the availability of

qualified appraisers by implementing and enforcing the Texas Appraiser Licensing and Certification Act and by providing information to appraisers and to the general public for the maintenance of high professional standards and informed consumer decisions in real estate transactions in all areas of Texas. [Texas Occupations Code, §1103.156]

Objective 04-01

To maintain procedures to evaluate applicants for honesty, integrity, trustworthiness, competency and legal qualifications such that a sufficient number of qualified real estate appraisers are available.

Outcome Measures:

- Percent of licensed or certified appraisers with no recent violations.
- Percent of licensees who renew online.
- Percent of new individual licenses issued online.

Objective 04-02

To enforce the provisions of the Texas Appraiser Licensing and Certification Act and the Uniform Standards of Professional Appraisal Practice by resolving 50% of complaints within six months by 2015

Outcome Measures

- Percent of Complaints Resulting in Disciplinary Action
- Recidivism Rate for Those Receiving Disciplinary Action
- Percent of Documented Complaints Resolved Within Six Months

Goal V Working with HUBs

To establish and implement policies governing purchasing that foster meaningful and substantive inclusion of historically underutilized businesses (HUBs). [Texas Government Code, § 2161.123]

Objective 04-01

To include historically underutilized businesses (HUBs) in at least 30 percent of the total value of contracts and subcontracts awarded annually by the agency in purchasing.

Outcome Measures:

- Percent of Total Dollar Value of Purchasing Contracts Awarded to HUBs

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Strategies and Output, Efficiency and Explanatory Measures

**Strategy 01-01-01
Real Estate Licensing**

Perform the Commission’s licensing function by: reviewing applications; processing criminal records checks; issuing exam eligibility letters; and issuing licenses.

Output Measures:

- Number of new licenses issued to individuals
- Number of licenses renewed (individuals)

Efficiency Measures:

- Average time for individual license issuance (days)
- Average time for individual license renewal
- Percentage of new individual licenses issued within 10 days
- Percentage of individual license renewals issued within 7 days

Explanatory Measures:

- Total number of individuals licensed

**Strategy 02-01-01
Real Estate Enforcement**

Administers an effective system of enforcement and adjudication which includes investigating and resolving valid complaints.

Output Measures:

- Number of complaints resolved
- Number of orders issued by the commission

Efficiency Measures:

- Average time for complaint resolution (days)

Explanatory Measure:

- Jurisdictional complaints received

**Strategy 03-01-01
Real Estate Public Education**

Maintain a communications center, produce newsletters, and provide an informative website.

Output Measures:

- Number of calls received

**Strategy 04-01-01
Provide Sufficient Qualified Real Estate Appraisers**

Process appraiser license applications; issue licenses and renewals; approve appraisal educational coursework offered by proprietary schools, appraisal organizations, and colleges and universities; and develop standards and agreements for reciprocity with other states for appraiser licensing and certification.

Output Measures:

- Number of new licenses and certifications issued to individuals
- Number of individuals licenses and certifications renewed

Efficiency Measures:

- Percentage of new individual licenses issued within 10 days
- Percentage of individual license renewals issued within 7 days

Explanatory Measures:

- Total number of individuals licensed

**Strategy 04-02-01
Resolve Complaints in a Timely Manner**

Resolve TALCB complaints in a timely manner.

Output Measures:

- Number of complaints resolved

Efficiency Measures:

- Average time for complaint resolution (days)

Explanatory Measure:

- Jurisdictional complaints received

**Strategy 05-01-01
Historically Underutilized Businesses**

Implement the Commission’s plan aimed at increasing the amount of HUBs through purchasing contracts and subcontracts.

Output Measures:

- Number of HUB contractors contacted for Bid Proposals
- Number of HUB Contracts Awarded
- Dollar Value of HUB Contracts Awarded

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Technology Resource Planning

The licensees, potential licensees and public are becoming very comfortable in the use of technology. As such, they are expecting the Commission to offer services that are routinely common in their daily life. With this and the agency's commitment to improving customer service, employee efficiency, and the security of information, the use of technology will expand and continue to advance. The agency will continue to adopt and implement technology based upon DIR, industry standards, and best practices to meet these demands.

Technology Assessment Summary

Customer Service

Implementation of additional self service tools.

As the first agency to utilize the Texas Online Services TREC understands the impact that this service can have on our licensees and employees. The expansion of the tools using the Texas Online service will allow the agency the ability to increase its self service offerings. Thus providing more convenience to customers and providing efficiencies within the agency.

- Improvement and expansion of communication channels to the licensee and public to ensure the agency message is being effectively distributed.
- Expanding communication to outside parties encourages better interaction with agency.
- Expansion of access with trading partners allowing for more prompt receipt and delivery of information supporting licensing activities.
- Sharing of information with other agencies increases the convenience to customers when working with the agency and promotes additional employee productivity.

Employee Efficiency

Continued focus in reducing the receipt of paper and converting paper into electronic content. Utilizing this electronic content to then drive the automation of manual process through workflow, Optical Character Recognition (OCR) and image.

- The elimination of paper allows for significant workplace efficiencies as resources can be shared effectively across multiple locations, manual processes can become automated, and service to the customer can become more efficient.
- Expansion of reliable and secure remote access to our internal network and applications allowing employees full access to agency tools remotely.
- The remote access provide significant workplace efficiencies as agency resources can be shared effectively across multiple locations.
- VERSA customizations and interfaces – application modernization.

Data Protection

Continued focus of ensuring technical security to protect agency assets.

- Utilizing annual security audits allows the agency to ensure the safety of data and the consistent availability of services. Implementation of security recommendations allows the agency to strengthen the data environment and align with statewide standards.

Continued focus on the upgrading of obsolete and undersized infrastructure including networking, telephone, computer hardware and software.

- Utilization of DIR contracts and technical network at the capital complex will allow the agency the ability to upgrade underperforming technologies.

Expansion of virtualization to increase flexibility and availability of technical infrastructure.

- Taking advantage of virtualization allows the agency to deploy technical tools with much more flexibility while allowing scalability and expanding recovery options.

Technology Alignment

Technology Initiative	Related Agency Objective	Related SSP Strategy/ (IES)	Status	Anticipated Benefits	Innovation, Best Practice, Benchmarking
Implementation of additional self service tools.	01-01 04-01	1.1 3.1 4.1	Planned	Expand service levels to licensee and potential licensee base.	
Improvement and expansion of communication channels to the licensee and public to ensure the agency message is being effectively distributed.	03-01	3.1 4.1	Current	Provide information more timely to licensees while reducing cost of communication.	
Expansion of access with trading partners allowing for more prompt receipt and delivery of information supporting licensing activities.	01-01 04-01	3.1 4.1 4.4	Planned	Receive information for licensee more timely thus processing transactions faster.	
Continued focus in reducing the receipt of paper and converting paper into electronic content. Utilizing this electronic content to then drive the automation of manual process through workflow, OCR and image.	01-01 04-01	4.1	Current	Reduction of storage cost of paper. Provide access to file information to those employees not within the main office. Create backup which will reduce risk of loss or destruction of document.	
Expansion of reliable and secure remote access to our internal network and applications allowing employees full access to agency tools remotely.	01-01 02-01 04-01 04-02	2.1 4.1	Current	Allow employees residing outside of the main office to tools available to those at the office. Enhanced communication within agency teams.	
Continued focus of ensuring technical security to protect agency assets	01-01 02-01 03-01 04-01 04-02	2.1	Current	Protect agency from harmful activities which may destroy or compromise agency electronic assets.	
Continued focus on the upgrading of obsolete and undersized infrastructure including networking, telephone, computer hardware and software.	01-01 02-01 03-01 04-01 04-02	1.3	Current	Better integration of technical tools. Remain on support for core components of network.	
Expansion of virtualization to increase flexibility and availability of technical infrastructure	01-01 02-01 03-01 04-01 04-02	2.1 4.2	Current	Provide flexibility of technical servers where they are not dependant upon a specific piece of hardware. Improve recoverability if failure occurs, reduce cost for shared equipment.	

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APPENDIX A Strategic Planning Process

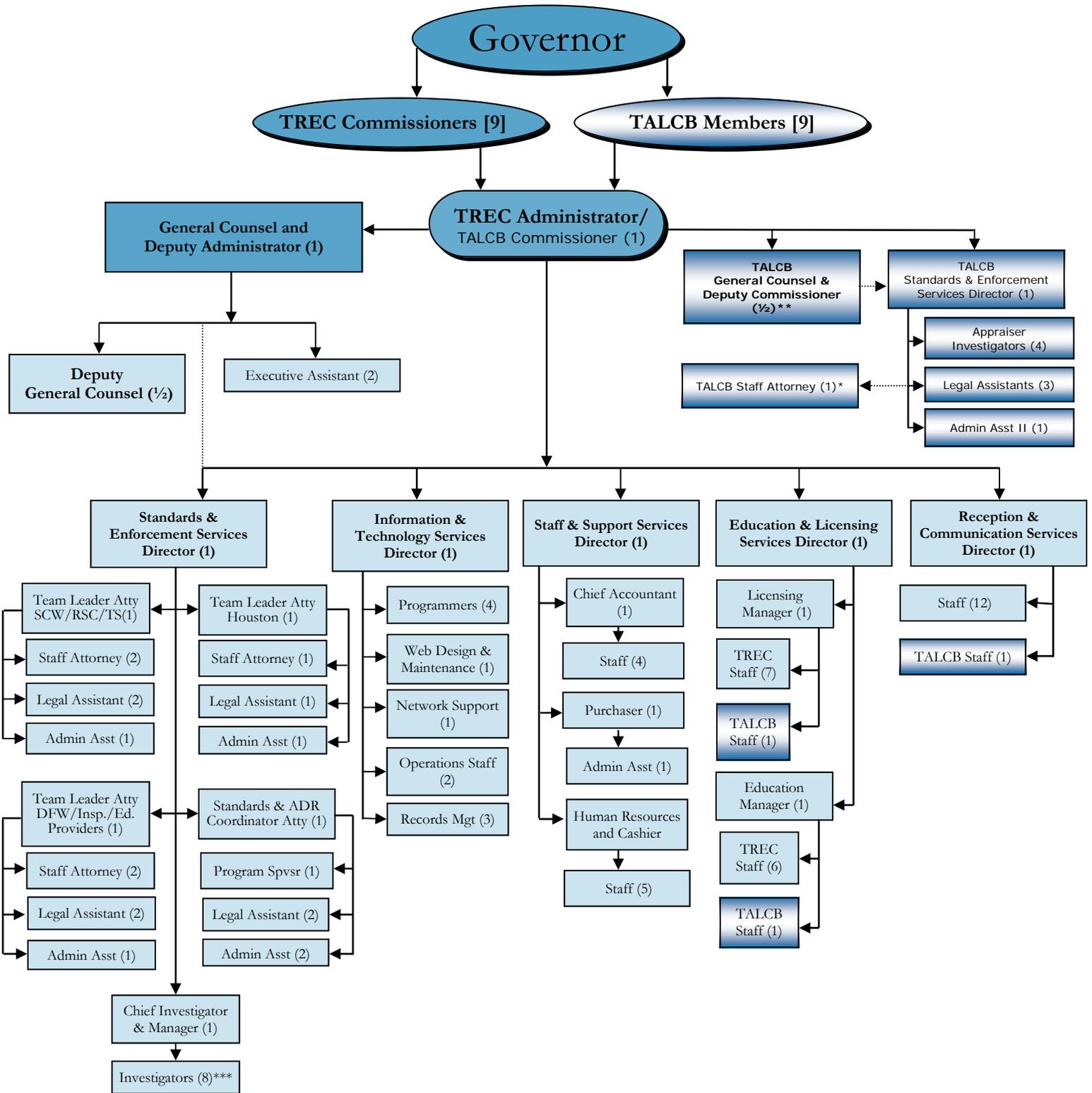
Texas state agencies are asked to review and update their five-year Strategic Plan every two years. The Strategic Plan becomes a road map for the direction in which the agency intends to proceed over the next five years. Much of the outline and the contents of the Strategic Plan are dictated by requirements set forth by the Legislative Budget Board and the Governor's Office of Budget, Planning and Policy. However, to ensure the development of a meaningful Strategic Plan which reflects the needs and desires of both consumers and licensees, the Texas Real Estate Commission (TREC) and Texas Appraiser Licensing and Certification Board (TALCB), together referred to as the "agency", undertook an active program of outreach to seek public input from all concerned and interested stakeholders.

In 2010, the agency embarked on an extensive outreach effort to ensure an opportunity for all interested parties to participate and submit recommendations. Notification of the strategic planning process was posted in the March issue of the *TREC Advisor/TALCB Bulletin*, on the TREC and TALCB websites, and a press release was issued March 3, 2010 noting the process and dates/locations for upcoming Strategic Plan Input Meetings throughout the state. The Real Estate Center at Texas A&M University and professional associations of several groups of license holders voluntarily advertised these sessions also.

Four public forums were held during March 2010 in Austin, San Antonio, Fort Worth, and Houston. Various Commissioners, Board members, Inspector Committee members and staff participated in these forums and catalogued all recommendations, suggestions and comments, whether requiring statutory, rule, or policy changes. In addition, two internal "town hall" sessions were held to gather input directly from agency staff. After collecting recommendations from a wide range of sources, the staff prepared a proposed list of action items for review and approval by the Commission at its meeting on May 17, 2010, and by the Board on May 21, 2010. This report is the result of this carefully considered process.



APPENDIX B TREC/TALCB Organization Chart



* TALCB staff attorney is administratively supervised by TREC Director of Enforcement.

** TREC Deputy General Counsel/TALCB Deputy Commissioner & General Counsel positions are held by same person

*** Investigators are assigned to work with one or more of the three geographic and topic area teams

APPENDIX C
Texas Real Estate Commission
Projection of Outcomes for Five-Year Planning Horizon

Texas Real Estate Commission Outcomes 2011-2015					
Outcome	2011	2012	2013	2014	2015
Percentage of Licensees With No Recent Violations	99%	99%	99%	99%	99%
Percent of Licensees Who Renew Online	82%	83%	83%	85%	85%
Percent of New Individual Licenses Issued Online	73%	75%	75%	77%	77%
Percentage of Complaints Resolved Resulting in Disciplinary Action	30%	30%	30%	30%	30%
Percent of Documented Complaints Resolved Within Six Months	70%	80%	85%	85%	85%
Percentage of Total Dollar Value of Purchasing Contracts Awarded to HUBs	30%	30%	30%	30%	30%

Texas Appraiser Licensing and Certification Board
Projection of Outcomes for Five-Year Planning Horizon

Texas Appraiser Licensing and Certification Board Outcomes 2011-2015					
Outcome	2011	2012	2013	2014	2015
Percentage of Licensees With No Recent Violations	99%	99%	99%	99%	99%
Percent of Licensees Who Renew Online	65%	65%	65%	65%	65%
Percent of New Individual Licenses Issued Online	10%	25%	50%	60%	75%
Percentage of Complaints Resolved Resulting in Disciplinary Action	37%	40%	40%	45%	45%
Recidivism Rate for Those Receiving Disciplinary Action	25%	26%	28%	30%	30%
Percent of Documented Complaints Resolved Within Six Months	35%	35%	40%	45%	50%

At this time, outcome projections do not take into consideration a reduction in workforce. Targets for fiscal year 2011 are at the legislative appropriation level. Targets for fiscal years 2012 through 2015 are estimated.



APPENDIX D Performance Measure Definitions

Goal 01: Determine the Eligibility of TREC Applicants for Licensure

Outcome Measures:

(Key) Percent Of Licensees With No Recent Violations

Definition: The percent of the total number of licensed, registered, or certified individuals at the end of the reporting period who have not incurred a violation within the current and preceding two years (three years total).

Purpose: Licensing, registering, or certifying individuals helps ensure that practitioners meet legal standards for professional education and practice which is a primary agency goal. This measure is important because it indicates how effectively the agency's activities deter violations of professional standards established by statute and rule.

Data Source: Data are derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (PPLRECIDVM Report and Licensee Type/Status Report). The Director of Enforcement is responsible for this measure. Data is stored in the Enforcement Division.

Methodology: The total number of individuals currently licensed, registered, or certified by the agency who have *not* incurred a violation within the current and preceding two years (numerator) is divided by the total number of individuals currently licensed, registered, or certified by the agency (denominator). The numerator for this measure is calculated by subtracting the total number of licensees with violations during the three-year period from the total number of licensees at the end of the reporting period. The denominator is the total number of licensees at the end of the reporting period. The result is multiplied by 100 to achieve a percentage. **The period included must be through the last date of the fiscal year being reported.** The period goes back two full fiscal years from the beginning of the current fiscal year. (Example: FY 2008, PPLRECIDVM's inception date must be September 1, 2005.) This would include all of FY 2006, all of FY 2007 and all of FY 2008.

Data Limitation: Economic conditions sometimes impact the number of violations of the License Act and Commission Rules.

Calculation Type: Non-cumulative

New Measure: No

Desired Performance: Higher than Target (Targets for Fiscal Year 2008 and 2009: 99% and 99%)

(Key) Percent of Licensees Who Renew Online

Definition: Percent of the total number of licensed, registered or certified individuals that renewed their license, registration, or certification online during the reporting period.

Purpose: To track use of online renewal technology by the licensee population.

Data Source: Data are derived from the Commission's Texas Real Estate Licensing and Information System (TRELIS) which produces reports of online

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renewal transactions. The Director of Technology Services is responsible for this measure. Data are stored in the Director of Technology Services' office.

Methodology:	Total number of licenses, registrations, or certifications renewed online divided by the total number of corresponding licenses, registrations, or certifications renewed during the reporting period. The result is multiplied by 100 to achieve a percentage.
Data Limitation:	Factors beyond the agency's control may affect this measure
Calculation Type:	Non-cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 80% and 80%)

(Key) Percent of New Licenses Issued Online

Definition:	Percent of all new licenses, registrations or certifications issued online to individuals during the reporting period.
Purpose:	To track use of online license issuance technology by the licensee population.
Data Source:	Data are derived from the Commission's Texas Real Estate Licensing and Information System (TRELIS) which produces reports of online license issuance transactions. The Director of Technology Services is responsible for this measure. Data are stored in the Director of Technology Services' office.

Methodology:	Total number of new licenses, registrations, or certifications issued online divided by the total number of corresponding new licenses, registrations, or certifications issued during the reporting period. The result is multiplied by 100 to achieve a percentage.
Data Limitation:	Factors beyond the agency's control may affect this measure
Calculation Type:	Non-cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 70% and 70%)

Output Measures:

(Key) Number of New Licenses Issued To Individuals

Definition:	The number of licenses issued during the reporting period to previously unlicensed individuals and to previously licensed individuals who did not renew timely.
Purpose:	A successful licensing structure must ensure that legal standards for professional education and practice are met prior to licensure. This measure is a primary workload indicator which is intended to show the number of unlicensed persons and previously licensed persons who did not renew timely who were documented to have successfully met all licensure criteria established by statute and rule as verified by the agency during the reporting period.
Data Source:	Data are derived from Texas Real Estate Licensing and Information

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System (TRELIS) automated records (AVGTIMEAPP Report). The Director of Licensing Services is responsible for this measure. The data is stored in the Licensing Services Division.

Methodology:	This measure counts the total number of licenses issued to previously unlicensed individuals and to previously licensed individuals who did not renew timely during the reporting period, regardless of when the application was received. Licenses are counted as new for persons who were previously licensed whose license expired.
Data Limitation:	Economic conditions and other factors beyond the agency's control may affect the number of individuals desiring to enter the real estate industry for the first time or return to the industry if previously licensed.
Calculation Type:	Cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 30,000 and 30,000)

(Key) Number of Licenses Renewed (Individuals)

Definition: The number of licenses issued during the reporting period to licensed individuals who renewed timely.

Purpose: License renewal is intended to ensure that persons who want to continue to practice in their respective profession satisfy current legal standards established by statute and rule for professional education and practice. This measure is intended to show the number of licenses issued during the reporting period to individuals who currently held a valid license and renewed timely.

Data Source: Data are derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (AVGTIMEREN Report). The Director of Licensing Services is responsible for this measure. The data is stored in the Licensing Services Division.

Methodology:	This measure is calculated by querying the Texas Real Estate Licensing and Information System (TRELIS) automated records to produce the total number of licenses issued to individuals who currently held a valid license and renewed timely.
Data Limitation:	Economic conditions and other factors beyond the agency's control may affect the number of individuals desiring to remain in the real estate industry.
Calculation Type:	Cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 77,000 and 77,000)

Efficiency Measures:

(Key) Average Time for Individual License Issuance (Days)

Definition: Average number of calendar days for a license to be issued during the reporting period.

Purpose: This measure is intended to show how effectively the agency processes new license applications for individuals and the average time period for the issuance of a license from the time the application is received until a license is issued.

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Data Source:	Data are derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (AVGTIMEAPP Report). The Director of Licensing Services is responsible for this measure. The data is stored in the Licensing Services Division.
Methodology:	Total number of days involved with each application from date of receipt of the application until a license is issued (numerator) is divided by the total number of licenses issued (denominator) during the reporting period. The total number of days begins when an application is received and ends when the examination is passed and a license is issued.
Data Limitation:	This measure is directly affected by how quickly an applicant passes the examination. The agency can not control how many times or how soon applicants take an exam. Applicants have six months to complete the examination requirement.
Calculation Type:	Non-cumulative
New Measure:	No
Desired Performance:	Lower than Target (Targets for Fiscal Year 2008 and 2009: 42 and 42)

Average Time for Individual License Renewal

Definition:	Average number of calendar days for a renewal license to be issued during the reporting period.
Purpose:	This measure is intended to show how effectively the agency processes renewal license applications for licensees and the average time period for the issuance of a license from the time the renewal application is received until a license is issued.
Data Source:	Data are derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (AVGTIMEREN Report). The Director of Licensing Services is responsible for this measure. The data is stored in the Licensing Services Division.

Methodology:	Total number of days involved with each renewal application from date of receipt of the application until a license is issued (numerator) is divided by the total number of renewal licenses issued (denominator) during the reporting period. The total number of days begins when a renewal application is received and ends when a license is issued.
Data Limitation:	There are few influencing factors beyond the agency's control that would affect this measure. A power failure or other catastrophic occurrence could cause a delay in the issuance of licenses.
Calculation Type:	Non-cumulative
New Measure:	No
Desired Performance:	Lower than Target (Targets for Fiscal Year 2008 and 2009: 3 and 3)

(Key) Percentage of New Individual Licenses Issued within 10 Days

Definition:	The percentage of initial individual license applications that were processed during the reporting period within 10 days measured from the time in days elapsed from receipt of the initial completed application until the date the license is mailed.
Purpose:	This measures the ability of the agency to process new applications in a timely manner and its responsiveness to applicants.

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Data Source:	Data are derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (ORGUNDER10 Report). The Director of Licensing Services is responsible for this measure. The data is stored in the Licensing Services Division.
Methodology:	This measure counts the number of days elapsed from the date each completed application is received by the agency until the license is issued to the individual. Examination requirements must be satisfied before an application is deemed complete. Any licenses issued after 10 days are noted. The number of completed applications where the license is issued within 10 days is divided by the total number of completed applications received to obtain a percentage. The result should be multiplied by 100 to achieve a percentage.
Data Limitation:	There are factors beyond the agency's control that would affect this measure. A system failure or other catastrophic occurrence could cause a delay in the issuance of licenses.
Calculation Type:	Non-cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 95% and 95%)

(Key) Percentage of Individual License Renewals Issued within 7 Days

Definition:	The percentage of individual license renewal applications that were processed during the reporting period within 7 days of receipt, measured from the time (in calendar days) elapsed from receipt of the renewal application until the date the renewal license is issued.
Purpose:	This measure assesses the ability of TREC to process renewal applications in a timely manner and its responsiveness to its licensees.
Data Source:	Data are derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (RENUNDER 7X Report). The Director of Licensing Services is responsible for this measure. The data is stored in the Licensing Services Division.
Methodology:	This measure counts the number of days elapsed from the date each completed renewal application is received by the agency until the license is issued to the individual. Any licenses issued after 7 days are noted. The number of completed renewal applications where the license is issued within 7 days is divided by the total number of completed applications received to obtain a percentage. The result should be multiplied by 100 to achieve a percentage.
Data Limitation:	There are factors beyond the agency's control that would affect this measure. A system failure or other catastrophic occurrence could cause a delay in the issuance of licenses.
Calculation Type:	Non-cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 97% and 97%)

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Explanatory Measures:

Total Number of Individuals Licensed

Definition:	Total number of individuals licensed (brokers, salespersons, inspectors, easement or right-of-way agents) at the end of the reporting period.
Purpose:	The measure shows the total number of individual licenses currently issued which indicates the size of one of the agency’s primary constituencies.
Data Source:	Data are derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (TYPESTATUS Report). The Director of Licensing Services is responsible for this measure. The data is stored in the Licensing Services Division.
Methodology:	This measure identifies the number of licensees (brokers, salespersons, inspectors, easement or right-of-way agents) at the end of the reporting period. The totals are obtained directly from TRELIS reports.
Data Limitation:	Economic conditions and other factors beyond the agency’s control may affect the number of individuals desiring to remain in the real estate industry.
Calculation Type:	Non-cumulative
New Measure:	No

Desired Performance: Higher than Target (Targets for Fiscal Year 2008 and 2009: 140,000 and 140,000)

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Goal 02: Enforce the TREC laws and rules in a fair and evenhanded manner

Outcome Measures:

Percent Of Complaints Resulting In Disciplinary Action

Definition:	Percent of complaints which were resolved during the reporting period that resulted in disciplinary action.
Purpose:	This measure is intended to show the extent to which the agency exercises its disciplinary authority in proportion to the number of complaints received. It is important that both the public and licensees have an expectation that the agency will work to ensure fair and effective enforcement of the act and this measure seeks to indicate agency responsiveness to this expectation.
Data Source:	Data are derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (PPLCTREPRI Report and CASECLSDT Report). The Director of Enforcement is responsible for this measure. The data is stored in the Enforcement Division.
Methodology:	The total number of complaints resolved during the reporting period that resulted in disciplinary action (numerator) is divided by the total number of complaints resolved during the reporting period (denominator). The result is multiplied by 100 to achieve a percentage. Disciplinary action includes agreed orders, reprimands, advisory letters, suspensions, probation, revocation, restitution, administrative penalties and/or fines agreed to by the licensee. Complaints determined to be non-jurisdictional are not resolved

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complaints for purposes of this measure, and application inquiries and moral character determination related closings are not considered for purposes of this measure.

- Data Limitation: Economic conditions may affect the number and type of complaints filed.
filed.
- Calculation Type: Non-cumulative
- New Measure: No
- Desired Performance: Higher than Target (Targets for Fiscal Year 2008 and 2009: 3% and 3%)

(Key) Percent Of Documented Complaints Resolved Within Six Months

- Definition: The percent of complaints resolved during the reporting period that were resolved within a six month period from the time they were initially received by the agency.
- Purpose: This measure is intended to show the percentage of complaints which are resolved within a reasonable period of time. It is important to ensure swift enforcement of the Real Estate License Act which is an agency goal.
- Data Source: Data are derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (COMPRES180 Report). The Director of Enforcement is responsible for this measure. The data is stored in the Enforcement Division.

- Methodology: The number of complaints resolved within a period of six months or less from the date of receipt (numerator) is divided by the total number of complaints resolved during the reporting period (denominator). The result should be multiplied by 100 to achieve a percentage. Complaints determined to be non-jurisdictional are not resolved complaints for purposes of this measure, and application inquiries and moral character determination related closings are not considered for purposes of this measure.

- Data Limitation: Workloads and staffing may affect this measure.
- Calculation Type: Non-cumulative
- New Measure: No
- Desired Performance: Higher than Target (Targets for Fiscal Year 2008 and 2009: 85% and 85%)

Output Measures:

(KEY) Number of Complaints Resolved

- Definition: The total number of complaints resolved during the reporting period.
- Purpose: This measure shows the workload associated with resolving complaints.
- Data Source: Data are derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (CASECLSDT Report). The Director of Enforcement is responsible for this measure. The data is stored in the Enforcement Division.
- Methodology: The total number of complaints during the reporting period upon which final action was taken by the Commission or for which a

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after preliminary investigation, is determined to be non-jurisdictional is not a resolved complaint. Application Inquiries and Moral Character Determinations are not complaints for purposes of this measure. This measure is derived from a manual calculation whereby the number of 'non-jurisdictional cases closed' are subtracted from the total closed cases to arrive at the total jurisdictional cases closed. Cases entitled "Request for More Information" and "RSC Request for More Information" are opened on the day received and the file is held open for pending receipt of said information. If the information is not received within 30 days then the case is closed as a failure of the complainant to prosecute the case which is a valid and recognized resolution.

Data Limitation: Workloads and staffing may affect this measure.
 Calculation Type: Cumulative
 New Measure: No
 Desired Performance: Higher than Target (Targets for Fiscal Year 2008 and 2009: 3,520 and 3,520)

Number of Orders Issued by the Commission

Definition: The total number of orders issued by the Commission during the reporting period.

Purpose: This measure indicates the number of complaints that require the issuance of orders by the Commission. These complaints generally indicate more serious violations of the Real Estate License Act.

Data Source: Data are derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (PLC ADMIN Report). The Director of Enforcement is responsible for this measure. The data is stored in the Enforcement Division.

Methodology: This measure identifies the number of orders issued by the Commission during the reporting period. This measure is comprised of orders issued by the Commission as a result of an administrative hearing, such as a proposal for decision, or other matter brought before them for resolution or by an order executed by the administrator, including an agreed order, or default order. This measure includes application and moral character determination cases as well.

Data Limitation: Types (degree of severity) of complaints may affect this measure.
 Calculation Type: Cumulative
 New Measure: No
 Desired Performance: Higher than Target (Targets for Fiscal Year 2008 and 2009: 285 and 285)

Efficiency Measures:

(Key) Average Time For Complaint Resolution (Days)

Definition: The average length of time to resolve a complaint, for all complaints resolved during the reporting period.

Purpose: This measure shows the agency's efficiency is resolving complaints.

Data Source: Data are derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (EFRESOLVTI Report). The

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Director of Enforcement is responsible for this measure. The data is stored in the Enforcement Division.

Methodology:	The total number of calendar days per complaint resolved, summed for complaints resolved during the reporting period, that elapsed from the receipt of a request for agency intervention to the date upon which final action on the complaint was taken by the Commission (numerator) is divided by the number of complaints resolved during the reporting period (denominator). The calculation excludes complaints determined to be non-jurisdictional of the agency's statutory responsibilities.
Data Limitation:	The complexity of cases and staffing may affect this measure.
Calculation Type:	Non-cumulative
New Measure:	No
Desired Performance:	Lower than Target (Targets for Fiscal Year 2008 and 2009: 115 and 115)

Explanatory Measures:

Jurisdictional Complaints Received

Definition: The total number of complaints received during the reporting period which are within the agency's jurisdiction of statutory responsibility.

Purpose: The measure shows the number of jurisdictional complaints which helps determine agency workload.

Data Source: The number of jurisdictional complaints received is derived from Texas Real Estate Licensing and Information System (TRELIS) automated records (LSTELFAEC Report). The Director of Enforcement is responsible for this measure. The data is stored in the Enforcement Division.

Methodology: The agency sums the total number of complaints received only relative to its jurisdiction. The agency keeps track of the total number of complaints that are not in their jurisdiction but does not use that figure in this calculation. Application inquiries and moral character determination related closings are not considered for purposes of this measure.

Data Limitation:	Funding for educational purposes.
Calculation Type:	Cumulative
New Measure:	No
Desired Performance:	Target (Targets for Fiscal Year 2008 and 2009: 3,300 and : 3,300)

Goal 03: To communicate effectively with the public and licensees

Output Measures:

(Key) Number of Calls Received

Definition: The figure reflects all calls received at TREC headquarters, including local calls and calls received on toll-free telephone lines.

Purpose: This measure indicates the information demand of the public and the real estate industry and the corresponding workload of TREC

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Data Source:	Data are derived from the Commission's call detail recording (CDR) software which produces reports of incoming calls. The Director of Staff Services is responsible for this measure. Data are stored in the Director of Staff Services' office.
Methodology:	This measure identifies all calls received at TREC headquarters, including local calls and calls received on toll free telephone lines. Reports from the call detail recording (CDR) system are manually adjusted to determine the actual reported figure.
Data Limitation:	Factors beyond the agency's control, such as answering questions about new laws, may affect this measure. Calls received by field investigators who work in other locations through out the state are not captured in this measure.
Calculation Type:	Cumulative
New Measure:	No
Desired Performance:	Target (Targets for Fiscal Year 2008 and 2009: 573,000 and 573,000)

Goal 04: Implement and Enforce TALCB and Standards

Objective 01: Provide Sufficient Qualified Real Estate Appraisers

Outcome Measures:

(Key) Percent of Licensed Appraisers with No Recent Violations

Definition: The total number of individuals currently certified, licensed, or provisionally licensed by the agency who have not incurred a violation within the current and preceding two years divided by the total number of individuals currently licensed, or certified by the agency.

Purpose: This measure helps the Board determine if its enforcement activities, including penalties and sanctions, are effective; or if changes are needed.

Data Source: TALCB Access database, manually calculated.

Methodology: The numerator for this measure is calculated by subtracting the total number of licensees with violations during the three-year period from the total number of licensees at the end of the reporting period. The denominator is the total number of licensees at the end of the reporting period. The result is multiplied by 100 to achieve a percentage.

Data Limitation: Licensee integrity and honesty, economic conditions, receipt of written complaints, and investigation and Board activity all impact this measure.

Calculation Type: Non-cumulative

New Measure: No

Desired Performance: Higher than Target (Targets for Fiscal Year 2008 and 2009: 99% and 99%)

(Key) Percent of Licensees Who Renew Online

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Definition:	Percent of the total number of licensed, registered or certified individuals that renewed their license, registration, or certification online during the reporting period.
Purpose:	To track use of online renewal technology by the licensee population.
Data Source:	Data are derived from the Texas Real Estate Licensing and Information System (TRELIS) which produces reports of online renewal transactions. The Director of Technology Services is responsible for this measure. Data are stored in the Director of Technology Services' office.
Methodology:	Total number of individual licenses, registrations, or certifications renewed online divided by the total number of corresponding licenses, registrations, or certifications renewed during the reporting period. The result is multiplied by 100 to achieve a percentage.
Data Limitation:	Factors beyond the agency's control may affect this measure.
Calculation Type:	Non-cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 55% and 55%)

Percent of New Licenses Issued Online

Definition:	Percent of all new licenses, registrations or certifications issued online to individuals during the reporting period. Applications for appraisers are not currently available online.
Purpose:	To track use of online license issuance technology by the licensee population.
Data Source:	Data are derived from the Commission's Texas Real Estate Licensing and Information System (TRELIS) which produces reports of online license issuance transactions. The Director of Technology Services is responsible for this measure. Data are stored in the Director of Technology Services' office.
Methodology:	Total number of new licenses, registrations, or certifications issued online divided by the total number of corresponding new licenses, registrations, or certifications issued to individuals during the reporting period. The result is multiplied by 100 to achieve a percentage. Applications for appraisers are not currently available online.
Data Limitation:	Factors beyond the agency's control may affect this measure.
Calculation Type:	Non-Cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 0% and 0%)

Output Measures:

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(Key) Number of New Licenses and Certifications Issued to Individuals

Definition:	The number of new licenses and certifications issued to previously unlicensed and uncertified individuals during the reporting period.
Purpose:	This measure provides data as to the number of individuals who are entering the appraisal profession or upgrading to a higher level of licensure.
Data Source:	Data from the Texas Real Estate Licensing Information System (TRELIS).
Methodology:	Report the number of new licenses, certifications and registrations issued to previously unlicensed, uncertified, or unregistered individuals during the reporting period.
Data Limitation:	Economic conditions, federal requirements and other factors beyond the agency's control may affect the number of individuals desiring to enter the appraiser industry.
Calculation Type:	Cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 500 and 500)

(Key) Number of Licenses and Certifications Renewed (Individuals)

Definition:	The number of licenses, certifications and provisional licenses issued to appraisers renewing their licenses and certifications during the reporting period.
Purpose:	This measure provides data on those keeping their licenses and certification and remaining in the appraiser profession .
Data Source:	Data from the Texas Real Estate Licensing Information System (TRELIS).
Methodology:	Report the number of licensees renewing during the reporting period.
Data Limitation:	Economic conditions, success as an appraiser, and other factors beyond the agency's control affect the renewal of appraiser certification and licensing.
Calculation Type:	Cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 2,200 and 2,200)

Efficiency Measures:

Percentage of New Individual Licenses Issued within 10 days

Definition:	Percentage of new licenses and certifications issued within ten calendar days.
Purpose:	This measure indicates the relative efficiency of the TALCB and its service to applicants.
Data Source:	Data from the Texas Real Estate Licensing Information System

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(TRELIS).

Methodology:	The number of new certifications and licenses issued within ten calendar days divided by the total number issued.
Data Limitation:	The counting of calendar days will begin when the application is completed, not when it is received. The definition of "completed" is when all requirements for licensure have been completed (education requirements, DPS report received, examination passed, required experience accepted, and all curative issues resolved.)
Calculation Type:	Non-Cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 80% and 80%)

Percent of Individual License Renewals Issued within 7 Days

Definition:	Percentage of license and certification renewals issued within seven calendar days.
Purpose:	This measure indicates the relative efficiency of the TALCB and its service to applicants.
Data Source:	Data from the Texas Real Estate Licensing Information System (TRELIS).
Methodology:	The number of renewed certifications and licenses issued within seven calendar days divided by the total number of renewals issued.
Data Limitation:	The counting of calendar days will begin when the application is completed, not when it is received. The definition of "completed" is when all requirements for renewal have been completed including acceptable appraiser continuing education and all curative issues are resolved.
Calculation Type:	Non-Cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 95% and 95%)

Explanatory Measures:

Total Number of Individuals Licensed

Definition:	The unduplicated total number of individuals currently actively licensed, certified, or registered by the TALCB.
Purpose:	This measure identifies the total number of individual appraiser licenses, certifications, and registrations currently issued which indicates the size of the TALCB's constituencies.
Data Source:	Data from the Texas Real Estate Licensing Information System (TRELIS).
Methodology:	Report the total number of individuals currently actively licensed, certified, or registered (General Certified, Residential Certified, State Licensed, Trainees, and Provisional Licensees, and Non-resident

Registrations) by the TALCB. Persons with more than one license or certification are counted in each category.

Data Limitation:	Economic conditions, federal requirements and other factors beyond the agency's control may affect the number of individuals who seek an appraiser license, certification, or registration.
Calculation Type:	Non-cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 5,000 and 5,000)

Goal 04: Implement and Enforce TALCB and Standards
Objective 02: Resolve TALCB Complaints in a Timely Manner

Outcome Measures:

Percent of Complaints Resulting in Disciplinary Action

Definition: The number of complaints resolved during the reporting period that resulted in disciplinary action divided by the total number of documented complaints resolved during the reporting period. Non-jurisdictional complaints are not included in this calculation.

Purpose: Measures the effectiveness of the enforcement process and the seriousness of the jurisdictional complaints being received.

Data Source: Data from TALCB records (Access database), manually calculated.
Methodology: The number of complaints resolved during the reporting period that resulted in disciplinary action divided by the total number of documented complaints resolved during the reporting period. The result is multiplied by 100 to achieve a percentage. Disciplinary action includes agreed orders, reprimands, suspensions, probation, revocation, restitution, and/or fines on which the board has acted. Non-jurisdictional complaints are not included in this calculation.

Data Limitation: Staffing, data sources and equipment availability, complexity of the complaints, mortgage fraud, legal representation by the respondent, SOAH findings, and Board action all affect this measure.

Calculation Type:	Non-cumulative
New Measure:	No
Desired Performance:	Higher than Target (Targets for Fiscal Year 2008 and 2009: 35% and 35%)

Recidivism Rate for Those Receiving Disciplinary Action

Definition: The number of repeat offenders as a percentage of all offenders during the most recent three-year period.

Purpose: Measures the effectiveness of the enforcement process and of the penalties and sanctions imposed. It may also indicate if changes are needed.

Data Source: Data from TALCB records (Access database), manually calculated.
Methodology: The number of individuals against whom two or more disciplinary

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actions were taken by the board within the current and preceding two fiscal years divided by the total number of individuals receiving disciplinary actions within the current and preceding two fiscal years . The result is multiplied by 100 to achieve a percentage. Non-jurisdictional complaints are not included in this calculation.

- Data Limitation: Licensee integrity, honesty and education, economic conditions (mortgage fraud), receipt of written complaints, and investigation and board activity all impact this measure.
- Calculation Type: Non-cumulative
- New Measure: No
- Desired Performance: Higher than Target (Targets for Fiscal Year 2008 and 2009: 2.3% and 2.3%)

(Key) Percent of Documented Complaints Resolved within 6 Months

- Definition: The number of complaints resolved within a period of six months or less from the date of receipt. Non-jurisdictional complaints are not included in this calculation.
- Purpose: This is another measure of the effectiveness and efficiency of the enforcement and complaint resolution process.
- Data Source: Data from TALCB records (Access database), manually calculated.

Methodology: The number of complaints resolved within a period of six months or less from the date of receipt divided by the total number of complaints resolved during the reporting period. Non-jurisdictional complaints are not included in this calculation. The result is multiplied by 100 to achieve a percentage.

Data Limitation: Complexity of the complaints, board meeting schedules, SDAH scheduling and reporting, total number of complaints, backlog of complaints, number of staff members investigating complaints, and Peer Investigate Committees all affect this measure.

- Calculation Type: Non-cumulative
- New Measure: No
- Desired Performance: Higher than Target (Targets for Fiscal Year 2008 and 2009: 60% and 60%)

Output Measures:

(Key) Number of Complaints Resolved

- Definition: The total number of complaints resolved during the reporting period, regardless of the period in which the complaint was received, upon which final action was taken by the board or for which a determination is made that a violation did not occur.
- Purpose: This measure assists in determining the effectiveness and efficiency of the enforcement and complaint resolution process.
- Data Source: TALCB records, manually calculated.
- Methodology: Count the total number of complaints during the reporting period, regardless of the period in which the complaint was received, upon which final action was taken by the board or for which a determination is made that a violation did not occur. A complaint that, after preliminary investigation, is determined to be non-jurisdictional is not a resolved complaint.

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Data Limitation: Complexity of the complaints, Board meeting schedules, SOAH scheduling and reporting, the total number of complaints and available staff all affect this measure.

Calculation Type: Cumulative

New Measure: No

Desired Performance: Higher than Target (Targets for Fiscal Year 2008 and 2009: 225 and 225)

Efficiency Measures:

(Key) Average Time for Complaint Resolution (Days)

Definition: The number of calendar days per complaint resolved during the reporting period, summed for all complaints resolved, that elapsed from receipt of a request for agency intervention and date of final disposition of the complaint divided by the number of complaints resolved during the reporting period. Non-jurisdictional complaints are not included in this calculation.

Purpose: Measures the efficiency and effectiveness of the enforcement and complaint resolution and investigative process.

Data Source: Data from TALCB records (Access database), manually calculated.

Methodology: The number of calendar days per complaint resolved during the reporting period, summed for all complaints resolved, divided by the number of complaints resolved during the reporting period. The number of days for complaint resolution runs from receipt of a request for agency intervention to the final disposition of the complaint. Non-jurisdictional complaints not included in this calculation.

Data Limitation: The number of pending cases, complexity of the complaints, available staff, Board meeting schedules, SOAH scheduling and reporting, and funding all may impact this measure.

Calculation Type: Non-cumulative

New Measure: No

Desired Performance: Higher than Target (Targets for Fiscal Year 2008 and 2009: 220 and 220)

Explanatory Measures:

Jurisdictional Complaint Received

Definition: The written complaints received during the reporting period which are within the agency's jurisdiction of statutory responsibility.

Purpose: Measures the efficiency and effectiveness of the enforcement and complaint resolution and investigative process.

Data Source: Data from TALCB records (Access database), manually calculated.

Methodology: Report the number of written complaints received during the reporting period which are within the agency's jurisdiction of statutory responsibility.

Data Limitation: TALCB does not control who files complaints or the type of complaints filed, and may only react to written and signed complaints.

Calculation Type: Cumulative

New Measure: No

Desired Performance: Higher than Target (Targets for Fiscal Year 2008 and 2009: 200 and 200)

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Appendix E

Texas Real Estate Commission

Texas Appraiser Licensing and Certification Board

Fiscal Year 2011-2015 Workforce Plan

I. Agency Overview

With the advent of the GI Bill providing unprecedented education opportunities for a new generation and the VA Home Loan Guaranty program enabling home mortgage loans with a federal insurance feature, the nation dramatically shifted to a substantial increase in home-ownership potential after World War II.

Created in 1949 to establish safeguards for the rapidly growing field of real estate brokerage, the Texas Real Estate Commission (TREC) administers four laws: The Real Estate License Act (Texas Occupations Code, Chapter 1101), license laws for Home Inspectors (Texas Occupations Code, Chapter 1102), The Residential Service Company Act (Texas Occupations Code, Chapter 1303), and The Texas Timeshare Act, (Texas Property Code, Chapter 221). TREC regulates :

- real estate brokers and salespersons;
- real estate inspectors;
- education providers for real estate and home inspection courses;
- residential service companies;
- timeshare developers; and
- easement or right-of-way agents.

The TREC Commission is composed of nine members - 6 licensed real estate brokers and 3 members of the general public - appointed by the Governor with the concurrence of the Senate. The members are appointed for six-year terms, with the terms of three members expiring every two years.

In 1989 the Financial Institutions Regulatory Reform and Enforcement Act (FIRREA) became federal law. Title XI of FIRREA addressed weaknesses in the way real property was valued in connection with federally insured mortgage loans (sometimes called “federally-related transactions” or “FRTs”) by creating a system under which individual states would implement their own programs for the licensing and oversight of licensed and certified appraisers. Only appraisers licensed or certified under a certified state program may appraise real property in connection with FRTs. FIRREA further provides for federal oversight of the states’ regulatory programs through the Appraisal Subcommittee (ASC).

The Texas Appraiser Licensing and Certification Board (TALCB) was created in 1991 to enable Texas to implement such a program. TALCB regulates real estate appraisers and administers the Texas Appraiser Licensing and Certification Act (Texas Occupations Code, Chapter 1103). TALCB is an independent subdivision of TREC with its own nine-member board.

The TALCB Board is composed of nine members - 4 licensed real estate appraisers and 4 members of the general public - appointed by the Governor with the concurrence of the Senate, and the Executive Secretary of the Texas Veterans Land Board as an ex-officio member. The appointed members serve two-year terms, with the terms of four members expiring every year. No appointed member may serve more than six years.

The Agency’s mission is carried out through broad regulatory functions that include issuing licenses, registrations, and certificates and related activities; investigating and resolving complaints; participating in administrative disciplinary actions against licensees and others who may violate any of the laws under its jurisdiction; overseeing aspects of real estate education, including the registration of real estate providers, instructors and courses for both pre-licensure and continuing education; and communicating regularly with licensees and the general public to educate them about the many programs administered by the agency.

The Agency’s main office is located in Austin, Texas. Nine TREC Standards & Enforcement

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Services investigators are located throughout the state. The agency currently has 110 authorized full time equivalent employees. One hundred percent of the funds needed to finance the agency's activities come from fees paid by licensees.

A. Agency Mission and Philosophy

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

To achieve its mission, the agency embraces these core values:

- Provide exceptional customer service that is accessible, responsive and transparent;
- Demand integrity, accountability and high standards, both of licensees and ourselves;
- Strive continuously for excellence and efficiency.

B. Strategic Goals and Objectives

The TREC and the TALCBoard share two main goals and each entity has a distinct third primary goal:

Goal 1: Ensure Standards

Objective To determine that applicants for licensure meet legal requirements for real estate license issuance.

Strategies Perform the Commission's licensing function by:

- Reviewing applications
- Processing criminal records checks
- Issuing candidate information brochures to take competency exams

Goal 2: Enforce TREC Regulations

Objective To act promptly and aggressively to enforce the laws and rules of the Commission in a fair and evenhanded manner.

Strategies Investigate and resolve complaints by reviewing complaints for validity, opening complaint files as indicated, and by reviewing investigative reports.

Goal 3: Communicate Effectively

Objective To communicate effectively with the public and licensees concerning matters within the Commission's jurisdiction.

Strategies Maintain a communications center, produce newsletters, and provide an informative website.

Goal 4: Enforce TALCB Regulations & Standards

Objective Ensure availability of qualified Real Estate Appraisers

Strategies Perform the Board's licensing function by:

- Reviewing applications
- Processing criminal records checks

Objective Resolve TALCB Complaints in a timely manner

Strategies Investigate and Resolve Complaints & failures of USPAP standards
Impose Penalties as Appropriate

C. Core Business Functions

The Agency licenses and regulates real estate brokers, salespersons, home inspectors, appraisers and easement or right-of-way agents. It also regulates timeshares and residential service companies. Its core functions are to issue licenses, registrations and certificates; and to accept and process complaints from consumers against persons regulated by the agency.

D. Anticipated Changes in Strategies

Based on information gathered during the strategic planning process that included feedback from persons subject to the agency's jurisdiction as well as the general public, a number strengths and weaknesses were identified. The agency's strengths with respect to workforce planning include:

- a set of deeply held core values founded on consumer protection and effective personal service;
- the knowledge, experience, and dedication of an exceptional staff;
- policies, processes and procedures which have been developed over many years and have come to be accepted by its licensees; and
- open channels of communication with its stakeholders.

The agency's weaknesses include:

- historic commitment to personalized service, which is of tremendous value when it can be achieved without compromising efficiency, but now is undergoing review as the agency strives to become more efficient in order to meet stakeholder expectations;
- staffing that does not include many of the "support" functions one would expect to find in an agency overseeing such large and important fields of activity, such as a dedicated staff training function to enhance increasing technical requirements of the agency, a robust staff development effort led by Human Resources function, and a dedicated planning function;
- processes which require the full-time involvement of management in variables arising in day-to-day operations, meaning that strategic initiatives, process improvements, and the like may be given lower priority than they merit; and
- in the areas of TALCB Standards & Enforcement Services, Information & Technology Services, Reception & Communication Services, and Administration & Management Services, the adequacy of staffing. The issue of adequacy involves both the number of qualified individuals appropriated to carry out differing duties and the ability to attract and retain those individuals who possess the skills and knowledge that are essential tools for change.

II. Current Workforce Profile (Supply Analysis)

A. Critical Workforce Skills

Staff must possess the following critical skills in order to provide basic business functions successfully, in no particular order:

- Regulatory process experience
- Public speaking
- External customer service/communications
- Conducting Investigations
- Interpreting legal statutes
- Familiarity with administrative law
- Litigation experience
- Information systems development, programming and maintenance
- Internet systems development and maintenance
- Network support
- Computer data center operations support
- Data Entry
- Clerical, including administrative support
- Computer literacy
- Accounting
- Purchasing
- Human resources
- Mail processing
- Education evaluation skills
- Agency planning
- Public relations
- Government relations

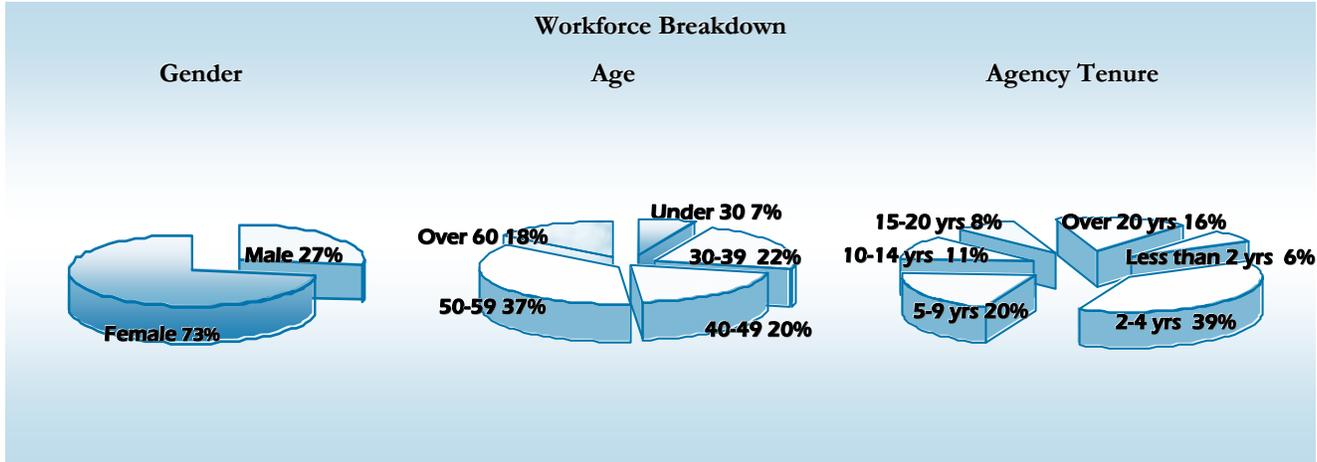
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B. Workforce Demographics

The following chart profiles the agency's workforce as of December 31, 2009 and includes both full-time and part-time employees. The agency's workforce is comprised of 73% females and 27% males. Approximately 79% of employees are over age 40. Almost 55% have more than five years of agency service.



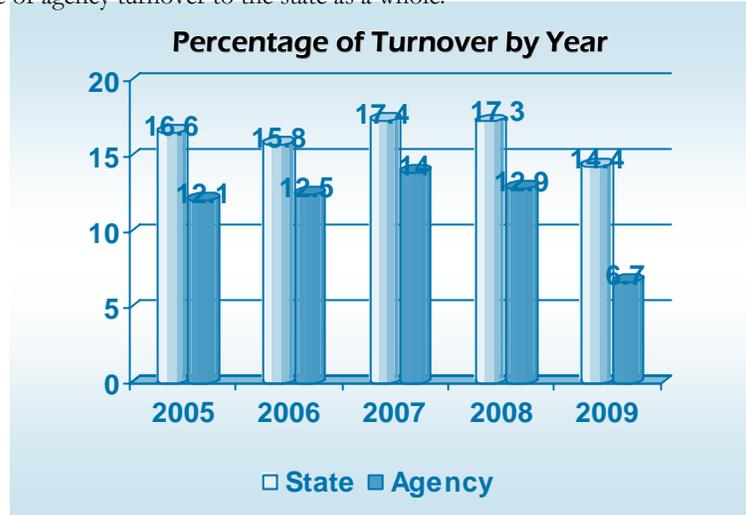
The following table compares the percentage of African American, Hispanic and Female agency employees (as of December 31, 2009) to the statewide civilian workforce, as reported by the Texas Commission on Human Rights.

The agency's minority staffing patterns deviate only slightly from the minority staffing patterns in the state. Any deviations will be addressed in the recruiting process.

Characteristics of Agency Employees to Texas Civilian Workforce December 31, 2009						
Job Category	African-American		Hispanic		Female	
	State %	Agency %	State %	Agency %	State %	Agency %
Administration	9%	16%	23.7%	32%	38.8%	83%
Professional	11.7%	7%	19.9%	15%	54.5%	51%
Technical	17%	0%	27%	0%	55.6%	0%
Para-Professional	12.8%	29%	44.8%	27%	39.7%	86%
Administrative Support	13.2%	64%	31.9%	9%	66.2%	82%

C. Employee Turnover

Turnover is an important issue in any organization, and TREC/TALCB is no exception. The biggest workforce challenge facing the agency in the five years is the retention of qualified and experienced staff. The major cause of staff turnover has been employees leaving the agency for more lucrative positions within state government. The agency's turnover has not occurred in any particular occupational class. The turnover in the Standards & Enforcement Services Division has impacted the agency the most. The following graph compares the average of agency turnover to the state as a whole.



During the last five years the agency has seen an improvement in turnover from 12.1% in FY 2005 to 6.7% in FY 2009. Based on the turnover rate from the last five years, the projected employee turnover rate for the next five years will be 10%.

D. Retirement Eligibility

Currently 9% of the agency's workforce is eligible to retire. An additional 1% will be eligible to retire in the next two years. With the retirement of these employees, TREC and TALCB will lose institutional knowledge and expertise.

Length of Service for Employees Who have Left the Agency	
January-December 2009	% of Total
Less than 2 yrs	0%
2-4 yrs	60%
5-9 yrs	0%
10-14 yrs	0%
15 Years +	20%

Length of service:

The greatest area of turnover is with employees with less than nine years of experience. An average of 80% of the agency's employees who enter the agency do not make it to 9 years.

Ages of Employees Who Have Left the Agency	
January-December 2009	% of Total
30 yrs and under	0%
30-39 yrs	20%
40-49 yrs	40%
50-59 yrs	0%
60 and older	40%

Age:

The Agency's turnover is higher in the 60 and older age group.

III. Future Workforce Profile (Demand Analysis)

The changing demands for licensing, enforcement and communicating with licensees and the public regarding the licensees subject to its jurisdiction within the real estate industry call for the following changes in TREC and TALCB's future workforce:

A. Critical Functions

- Technical skills in computer and web based application development
- Enforcement legal skills, especially in mediation and alternative dispute resolution
- External communications, especially in outreach to and education of consumers

B. Expected Workforce Changes

Given the Agency's strategic plan priorities, it is anticipated that the workforce would require the addition of funding for seven new FTEs in the areas of Information Technology, Staff Services, Enforcement, and Administration. The Agency has available FTEs to convert, but no funding to upgrade these FTEs to the required appropriate professional skill levels.

C. Anticipated increase/decrease in number of employees needed to do the work

- 1 FTE for Information Technology (Web applications developer)
- 1 FTE for Administration (Consumer Affairs Specialist) (Professional)
- 2 FTE for TREC Enforcement (1 mediator and 1 admin tech) (Professional and administrative)
- 2 FTE for TALCB Enforcement (1 attorney, 1 appraiser investigator) (Professional)
- 1 FTE for Staff Services (Accountant for budgeting and efficiency analysis) (Professional)

D. Future Workforce Skills Needed

- Technical skills with computers and web based service delivery systems
- Excellent oral and writing skills for external communications with consumers
- Customer service skills for effective handling of inquiries and complaints
- Legal expertise especially in alternative dispute resolution methodologies

E. Outsourcing

The subject of outsourcing is always appropriate as a tool for exploring efficiencies or as a means to quickly access needed skills until an effective internal capacity is developed. It has been suggested that TALCB explore the concept of contracting with private appraisers as an alternative to or in conjunction with the hiring of additional staff as a means by which to promptly resolve complaint cases in the Enforcement Division. The revitalization of the Peer Investigative Committee function has allowed TALCB to access this talent on a volunteer basis. Other suggestions involve the outsourcing of certain aspects of information technology services, which the Agency will continue to explore in connection with the future development of its new core operating database system.

IV. Gap Analysis

Anticipated Surplus or Shortage of Workers or Skills

Given the Agency's current priorities and goals, the agency has been successful in recruiting and hiring qualified employees in professional and clerical positions. There is, however, an ongoing concern regarding turnover and retention. Similarly, an analysis of TREC and TALCB's 2009-2013 strategic plan reflects a gap in professional skills necessary to address the Agency's critical functions and FTEs.

The primary concerns articulated by the public and the regulated industry address the Agency's ability to communicate effectively with its stakeholders and to promptly resolve complaints filed

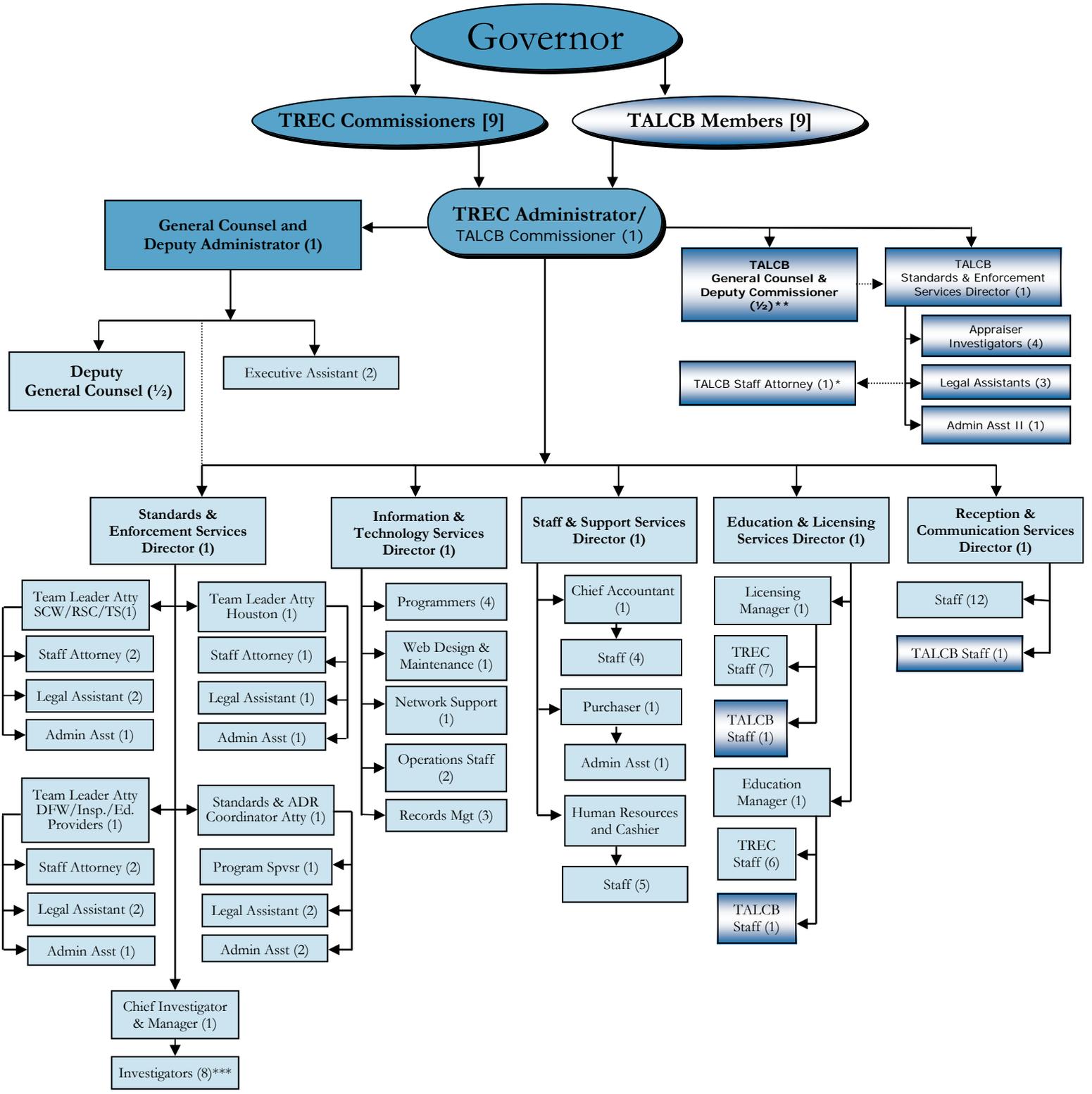
with both TREC and TALCB. To that end, the Agency intends to request additional funding and FTE's to fulfill the Agency's enforcement mission and goals and to communicate more effectively with the public, regulated industries and other state agencies.

V. Strategy Development

In order to address many of the deficits between the current workforce and future demands, the Agency has developed several goals for the current workforce plan. These are based on a range of factors identified by analyzing the agency and its workforce. TREC and TALCB's future workforce requirements can be grouped into three key areas.

Gap	The Agency does not have a sufficient funding for the number of higher skilled FTEs needed to address all strategic planning priorities.
Goal	Hire a total of 7 new staff to fill upgraded FTEs during FY 12.
Rationale	Given current workloads, additional staff must be hired to deliver on Enforcement and Administration (including IT and Accounting) priorities articulated in the Agency's 2011-2015 strategic plan.
Action Steps	Request additional funding for FTEs during 2011 legislative session. Recruit for new positions. Hire and train new staff in FY 12.
Gap	Difficulty in retention of new and existing staff
Goal	Retain qualified and experienced staff to ensure excellent customer service.
Rationale	Although the Agency's turnover has been significantly reduced from 12.4% in FY 2005 to 6.7% in FY 2009, turnover remains an issue for the agency. A major cause of this turnover has been employees leaving the Agency for better paid positions both within state government and in the corporate arena.
Action Steps	Request additional appropriation from the legislature during the next session to make salaries comparable with other state agencies. Hire new staff at the first quartile salary level rather than at the minimum for the position. Increase staff education and development resources to allow staff members to receive critical skill and career enhancement training. Give permanent merit raises annually based on performance criteria.

TREC/TALCB Organization Chart



* TALCB staff attorney is administratively supervised by TREC Director of Enforcement.
 ** TREC Deputy General Counsel/TALCB Deputy Commissioner & General Counsel positions are held by same person
 *** Investigators are assigned to work with one or more of the three geographic and topic area teams

APPENDIX F REPORT ON CUSTOMER SERVICE

The agency considers feedback from customers on agency service levels to be of crucial importance to identifying opportunities for improvement. To that end, in October 2009, the Customer Service Survey was revised. The survey is now available to all identified customer groups and to the general public as well. Below is a snapshot of the survey that is available via the Texas Real Estate Commission (TREC) and Texas Appraiser Licensing and Certification Board (TALCB) websites:

TREC/TALCB Customer Service Survey and Comments

Thank You! Here's your page.

Background Information

In the box below choose the option that best describes your relationship with this agency.

- Real Estate Salesperson
- Real Estate Broker
- Real Estate Appraiser
- Real Estate Inspector
- Education Provider or Instructor
- Residential Service Company
- Timeshare Developer
- Easement Or Right-of-Way Agent
- Buyer or Seller of Real Estate
- Real Estate Services Industry
- Mortgage Lending Industry
- Other

How many times have you had contact (including filing for license/renewal) with agency staff in the past 12 months? Please check only one.

- One time
- Two to five times
- More than five times

What was the purpose of your most recent contact with the agency? Please check all that apply.

- License Application Status
- License Renewal Information
- File or Respond to Complaint Against Licensee
- Obtain Forms/Publications
- Name/Address Change
- Public Information About Real Estate Laws
- Problem Dealing With Agency
- Open Records Request
- Inquiry About Obtaining a License
- Interpretation of Law or Rules
- Other



Staff and Communication

Please rate our service in each of these topic areas based on your experience communicating with the agency. Skip a section if it does not apply.

Communications	<input type="text"/> Quality of written materials
	<input type="text"/> Telephone assistance (e.g. time on hold, call transfers)
	<input type="text"/> Email assistance (e.g. time to receive email response)
Customer Service Process	<input type="text"/> Access to toll-free number
	<input type="text"/> Ease of filing a complaint
	<input type="text"/> Ease of bringing concerns to the agency
Timeliness of Response	<input type="text"/> Waiting time in person
	<input type="text"/> Waiting time by letter
	<input type="text"/> Waiting time by email
	<input type="text"/> Waiting time by phone
Resolution of Customer Request	<input type="text"/> Adequacy/Appropriateness
	<input type="text"/> Explanation of Resolution
Staff	<input type="text"/> Knowledge
	<input type="text"/> Courtesy
	<input type="text"/> Follow-through

Facilities

If you have visited or attempted to visit the agency in person, please rate the items to the right.	<input type="text"/> Signage
	<input type="text"/> Accessibility
	<input type="text"/> Cleanliness

Website

General Usefulness of Website	<input type="text"/>	Ease of finding information
	<input type="text"/>	Quality of Information
Comments About Agency Website:		
Please give us any positive or negative comments here about this website. For example, if something is too hard to find, we'd like to know.		
<input type="text"/>		

Additional Comments Regarding this agency

Please tell us about other issues that may help us serve you better. If you would like to share your experience about a particular employee of this agency, please provide that information below.

Response Requested

If you provided comments and would like a response, please provide your name and information for one of the contact methods below so we can respond.

Name

AND at least one of these:

Email address

AND/OR

Area Code & Phone Number

()

The drop down arrows allow consumers to describe a specific service as “excellent, good, fair or poor.” Once consumers hit the “submit survey” button, the Reception & Communication Services (RCS) Division responds directly and individually to any comments, questions or concerns and the Information & Technology Services Division catalogues the responses to be able to run reports on specific data. In addition to the Customer Service Survey, the agency provides the following types of services:

- responding to telephone and walk-in inquiries;
- issuing new and renewal licenses;
- accrediting real estate education providers;
- approving real estate instructor and course content;
- handling written complaints;
- prosecuting administrative hearings;
- monitoring residential service companies and timeshare registrations;
- providing comprehensive public access to information via electronic mail list server, and Internet access;
- processing original and renewal licenses online; and
- providing information through public presentations and news releases.

Analysis of customer service survey response

Beginning October of 2009 (FY 2010), the agency revised the Customer Service Survey to make it simpler and more meaningful, and began sending a link by email to each customer who conducted business (of the like mentioned above) on the website. In addition, links were added to the TALCB website and in six months the agency has received 123 responses from appraiser members of the licensee community. Since beginning this new process, participation has increased dramatically across the board and responses have grown significantly more favorable. In the first six months of FY 2010, the agency has received 2,126 responses to the survey, as opposed to 147 for FY 2008 and 2009. Given TREC's large licensee base (149,684 in FY 2009), this earlier response rate was not statistically meaningful. However, with the new outreach, survey responses have a greater meaning and priority.

Customer service is a main part of the agency's focus in the Compact with Texans. Currently, TALCB and TREC have separate Compacts with Texans, but as part of the agency's integration, a new combined agency Compact with Texans is being drafted and will be sent to the Governor's Office of Budget and Planning and the Legislative Budget Board for approval. The new Compact will focus on not just customer service, but on other results and opportunities for improvement as well.

For the FY 2008-2009 biennium, responses to the Customer Service Survey were generally favorable with respect to written communications, but questions relating to communicating with the agency by telephone elicited neutral to poor responses indicating a difficulty in getting through and a seemingly constant busy signal. To address this concern, on October 17, 2009, RCS extended the telephone hours of the agency from 8:00am-5:00pm previously to expanded hours of 7:00am-6:00pm Monday thru Friday. This added 10 hours per week to the agency's accessibility by phone and has dramatically improved the response time and customer favorability responses in the Customer Service Survey.

Responses to the questions about the website, resolution of customer requests, staff, and facilities were generally favorable. Responses concerning timeliness of responses by staff including waiting time in person, by letter, by e-mail and by telephone were generally neutral indicating that the agency should work on improving its response time in all areas. The expansion of Communications Center hours has vastly improved this access and the favorability response of customers.

The agency is committed to continual improvement in all areas based on input from licensees and members of the public. In November 2009 (FY 2010), agency staff conducted a Bottom Up Review that identified multiple areas for improvement and many of these items were implemented over the last six months. Customer Service Survey responses have taken a markedly positive upward trend in all categories and the agency prides itself on continuing to provide service that exceeds expectations.

As stated above, the agency is now using a new and more comprehensive customer service survey to collect information from consumers. However, the information forth coming is for FY 2008 and FY 2009:

1) TREC's inventory of external customers

- Real Estate Salesperson
- Real Estate Broker
- Inspector
- Education Provider or Instructor
- Residential Service Company
- Timeshare Developer
- Easement or Right-of-Way Agent
- Buyer or Seller
- Areas of Real Estate Industry not regulated by TREC
- Other

Types of services provided to customers

- Responding to telephone and other inquiries
- Issuing new and renewal licenses
- Accrediting real estate education providers
- Approving real estate instructor and course content
- Handling written complaints
- Prosecuting administrative hearings
- Monitoring residential service companies and timeshare registrations
- Providing comprehensive public access to information via electronic mail list server, and Internet access
- Processing original and renewal licenses via Internet access
- Provide information through public presentations and news releases

2) Information-gathering methods

TREC's customer survey is available online at TREC's website and in person at TREC headquarters.

TREC's customer survey form is designed to collect customer satisfaction feedback on seven customer service quality elements:

- Facilities
- Staff
- Communications
- Internet site
- Complaint-handling process
- Service timeliness
- Printed information

Strategic Plan 2011-2015

Texas Real Estate Commission/
Texas Appraiser Licensing and Certification Board

3) Chart of customer –determined service quality: 09/01/2007 - 08/31/2009

Responses by Relationship to TREC	# of Responses	% of Total
R.E. Salesperson	81	55.1%
R.E. Broker	35	23.8%
Inspector	5	3.4%
Education Provider or Instructor	0	0.0%
Residential Service company	0	0.0%
Timeshare Developer	0	0.0%
Easement or Right-of-Way Agent	1	0.7%
Buyer or Seller	6	4.1%
Real Estate Industry (not Regulated by TREC)	2	1.4%
Other	17	11.6%

Number of Contacts with TREC	# of Responses	% of Total
One Time	48	32.7%
Two to Five Times	74	50.3%
More than Five Times	25	17.0%

Source of Responses	# of Responses	% of Total
Renewal Packet Form	0	0.0%
Web-based Survey	147	100.0%

Purpose of Contact	# of Responses	% of Total
Application Status	28	19.0%
License Renewal Information	79	53.7%
File or Respond to Complaint	10	6.8%
Obtain Forms or Publications	13	8.8%
Name or Address Change	14	9.5%
Public Information About R E Laws	9	6.1%
Problem Dealing With TREC	22	15.0%
Open Records Request	6	4.1%
Inquiry About Obtaining a License	14	9.5%
Interpretation of TRELA or TREC Rules	8	5.4%
Other	42	28.6%

Communication	Excellent	Good	Fair	Poor
Accuracy of Written Materials	38.9%	25.0%	13.9%	22.2%
Quality of Written Materials	35.85%	29.9%	16.4%	17.9%
Telephone Assistance	23.3%	7.8%	8.7%	60.2%
Customer Service Process	Excellent	Good	Fair	Poor
Access to 1-800 Number	23.3%	7.8%	8.7%	60.2%
Access to Local Number	25.0%	5.9%	19.1%	50.0%
Ease of Filing a Complaint	16.2%	10.8%	16.2%	56.8%
Ease of Bringing Concerns to TREC	11.9%	70.4%	15.3%	64.4%
Timeliness of Response	Excellent	Good	Fair	Poor
Timeliness of Service	25.3%	18.4%	9.2%	47.1%
Waiting Time in Person	22.2%	29.6%	11.1%	37.0%
Waiting Time by Letter	7.9%	18.4%	13.2%	60.5%
Waiting Time by E-mail	15.9%	18.2%	14.1%	50.0%
Waiting Time by Phone	15.2%	18.5%	14.1%	52.2%
Resolution of Customer Request	Excellent	Good	Fair	Poor
Adequacy/Appropriateness	30.6%	10.6%	5.9%	52.9%
Explanation of Resolution	29.8%	9.5%	7.1%	52.9%
Web Site	Excellent	Good	Fair	Poor
Ease of Use	37.4%	29.7%	18.7%	14.3%
Information on Web Site	25.0%	39.3%	23.8%	11.9%
Links to Other Sites	30.4%	41.1%	14.3%	14.3%
Contact Person	21.9%	15.6%	14.1%	48.4%
Staff	Excellent	Good	Fair	Poor
Knowledge	41.2%	15.3%	17.6%	25.9%
Accessibility	30.4%	11.4%	17.7%	40.5%
Friendliness	39.8%	12.0%	13.3%	34.9%
Courtesy	39.8%	10.2%	12.5%	37.5%
Appearance	36.78%	26.3%	5.9%	31.6%
Follow-Through	22.4%	3.4%	10.3%	63.8%
Facility	Excellent	Good	Fair	Poor
Accessibility	31.3%	37.5%	18.8%	12.5%
Signs	17.6%	41.2%	17.6%	23.5%
Location	12.5%	43.8%	31.3%	12.5%
Cleanliness	35.3%	29.4%	29.4%	5.9%

Strategic Plan 2011-2015

Texas Real Estate Commission/
Texas Appraiser Licensing and Certification Board



4) Performance measures related to customer service standards and customer satisfaction

Performance Measures Related to Customer Service	FY2009	FY2010
Communications		
Outcome Measures		
% of surveyed customer respondents expressing overall satisfaction with services received (excellent/good/fair)	60.5%	65.5%
% of surveyed customer respondents identifying ways to improve service delivery (poor)	39.5%	34.5%
Output Measures		
Number of customers surveyed	134	2000
Number of customers served	149,684	140,000
Number of phone calls received	402,102	400,000
Number of electronic contacts received	28,098,022	25,000,000
Efficiency Measures		
Cost per customer surveyed	\$0.00	\$0.00
Explanatory Measures		
Number of customers identified	200,000	200,000
Number of customer groups inventoried	10	10
Licensing		
Efficiency Measures		
Average time for individual license issuance	36.41	40.0
% of new individual licenses within 10 days	97.87%	95.0%
% of individual license renewals within 7 days	94.21%	95.0%
Explanatory Measures		
Total # of programs/schools licensed	396	225
Total # of individuals licensed	149,319	140,000
Enforcement		
Outcome Measures		
% of documented complaints resolved within 6 months	54.38%	85.0%
Output Measures		
# of complaints resolved	2,138	2,240
Efficiency Measures		
Average time for complaint resolution	224	135
Explanatory Measures		
Jurisdictional complaints	2,776	3,300

APPENDIX G

Survey of Organizational Excellence

Measuring Employee Perceptions

2010

Administered every two years by the School of Social Work at the University of Texas at Austin, the Survey of Organizational Excellence reflects how an agency's staff view the work environment. Since the survey has been given multiple times in past years and is administered to employees at several state agencies, this year's results can be compared with past performance and with the perceptions of staff at other state agencies.

Questions in the Survey of Organizational Excellence are grouped together into Survey Constructs designed to broadly profile organizational strengths and weaknesses. Scores for the constructs range from a low of 100 (negative) to a high of 500 (positive). Thus, scores above 300 suggest that employees perceive the issue more positively while scores below 300 are issues viewed more negatively by employees.

The following areas are especially noteworthy and are coded by the survey as the agency's "areas of strength."

Supervision

Score: 390

Supervision provides insight into the nature of supervisory relationships within the organization, including aspects of leadership, the communication of expectations, and the sense of fairness that employees perceive between supervisors and themselves. This construct indicates that employees view their supervisors as fair, helpful, and critical to the flow of work.

Strategic

Score: 356

Strategic (Strategic Orientation) reflects employees' thinking about how the organization responds to external influences that should play a role in defining the organization's mission, vision, services, and products. Implied in this construct is the ability of the organization to seek out and work with relevant external entities.

Employee Engagement

Score: 355

Employee Engagement measures the degree to which employees feel that they have some control over their jobs and the outcome of their efforts. This construct focuses on the sense of trust and the level of employees' participation in carrying out their work responsibilities towards delivering high quality work.

Diversity

Score: 333

This construct addresses the extent to which employees feel that personal differences, including ethnicity, social class or lifestyle, may result in alienation from the larger organization and missed opportunities for learning or advancement. It examines the extent to which the organization understands and uses diversity in the work force to relate to a complex culture and uses creativity coming from individual differences to improve organizational effectiveness.

Quality

Score: 326

This construct focuses upon the degree to which quality principles, such as customer service and continuous improvement are a part of the organizational culture. This Construct also addresses the extent to which employees feel that they have the resources to delivery quality services.



Agenda Item 19:

Discussion and possible action to approve Memorandum of Understanding with the Texas Appraiser Licensing and Certification Board regarding administrative services provided by TREC staff

SUMMARY

See attached documentation

**STAFF
RECOMMENDATION**

Approve Memorandum of Understanding with the Texas Appraiser Licensing and Certification Board

MOTION

MOVED, that the Commission does hereby approve the Memorandum of Understanding with the Texas Appraiser Licensing and Certification Board as submitted.

Memorandum of Understanding
Texas Real Estate Commission
and
Texas Appraiser Licensing and Certification Board

I. Introduction and Background. The Texas Real Estate Commission (TREC) is an executive branch agency of the State of Texas, and the Texas Appraiser Licensing and Certification Board (TALCB) is an independent regulatory subdivision of TREC. As part of the continuation of TREC for an additional 12-year period, the 80th Texas Legislature in 2007 required that TALCB be integrated with TREC to the fullest extent possible while retaining TALCB's identity as an independent regulatory body. In order to implement that requirement, TREC and TALCB entered into a Memorandum of Understanding in 2007, and updated the same in 2009 (2009 Agreement) to more fully describe the roles and responsibilities of each party. This Memorandum of Understanding (Agreement) terminates and replaces the 2009 Agreement.

II. Parties. The Texas Real Estate Commission (TREC) and the Texas Appraiser Licensing and Certification Board (TALCB) are the parties to this Agreement.

III. Purpose. The purpose of this Agreement is to delineate:

- a. The roles and responsibilities of each party;
- b. The administrative support services that TREC will provide to TALCB at no cost;
- c. The allocation of resources between TREC and TALCB; and
- d. The costs and expenses for which TALCB is directly responsible for payment.

IV. General Agreements. Under Texas Occupations Code Section 1103.101, the TREC administrator serves as the TALCB commissioner. The commissioner is responsible for supervision of all TALCB staff and oversight of all TALCB expenditures within the parameters of a TALCB-approved budget and legislative appropriations. The commissioner reports to and performs these duties under the direction of the TALCB and is ultimately responsible to the TALCB for the operations of the agency. A portion of the administrator/commissioner's exempt salary is allocated from TALCB appropriations as prescribed in the General Appropriations Act for fiscal years 2010 and 2011.

The Texas Real Estate Commission (TREC) and the Texas Appraiser Licensing and Certification Board (TALCB) agree to the following.

A. TREC will provide, at no cost to TALCB, administrative services and support to TALCB, including but not limited to the following.

1. Staff Services in accordance with TREC operating procedures as follows:
 - a) Human Resources;
 - b) Accounting;
 - c) Purchasing;

- d) Cashier and mail room;
 - e) Payroll; and
 - f) Facilities management
2. Technology Services;
 3. Telephone System;
 4. Personnel training programs involving no charges to TREC;
 5. Use of meeting rooms on a space available basis; and
 6. Texas Register Liaison services.

B. TALCB-appropriated FTEs working in Licensing, Education, and Communications are subject to the day-to-day supervision of the TREC Director(s) and Managers who oversee those areas of activity. Non-attorney TALCB Enforcement staff report to the TALCB Enforcement Director supervised by the commissioner or his designee. The TALCB attorney is supervised by the TREC Enforcement Division Director.

C. TALCB bears the lawfully payable or reimbursable amounts of all costs from Goal D of the General Appropriations Act other than those TREC-provided support services enumerated in Part IV.A of this Agreement, including, but not limited to:

1. All direct and indirect costs of TALCB FTEs' salary and benefits;
2. Equipment, supplies, services, or other goods;
3. Telephone system maintenance;
4. Travel, meals, and lodging;
5. Training; and
6. Dues and subscriptions.

D. Portions of staff salaries are allocable and payable as further described in Exhibit A to this Agreement and may be redistributed or reallocated as necessary by the commissioner to ensure the efficient provision of administrative and support services to TALCB.

E. TALCB is allocated its *pro rata* portion of the "Other Direct and Indirect Costs" appropriated elsewhere in the General Appropriations Act.

F. The administrator/commissioner, at his discretion, may determinate that TREC will provide additional administrative support services as necessary to ensure the smooth operation of the entire agency.

V. Term of Agreement. This Agreement become effective on the date signed and remains in effect for fiscal years 2010 and 2011 unless amended by mutual written agreement of the parties. This Agreement terminates and supersedes any other memorandum of understanding or agreement entered into between the parties before the effective date of this Agreement. Either party may withdraw from this Agreement by written notice to the Chair of the other governing body of the other party with 180 days notice.

Texas Appraiser Licensing and Certification Board/
Texas Real Estate Commission
Memorandum of Understanding
Page 3 of 3

The execution and performance of this Agreement has been authorized by each respective governing body.

This Memorandum of Understanding shall not be construed to create any additional liability or obligation for either party.

John Eckstrum
Chair
Texas Real Estate Commission

James B. Ratliff
Chair
Texas Appraiser Licensing and
Certification Board

Date

Date

Exhibit A

Effective March 1, 2010, portions of the following TREC salaries are allocable to and payable by TALCB:

1. TREC Administrator/TALCB Commissioner – 10%
2. TREC Deputy General Counsel/TALCB General Counsel – 50%



Agenda Item 20:

Discussion and possible action to request an Ethics Commission opinion regarding commissioners or staff teaching certain Mandatory Continuing Education courses

SUMMARY

See attached documentation

**STAFF
RECOMMENDATION
MOTION**

Authorize staff to submit request as submitted.

MOVED, that the Commission does hereby authorize staff to request a Texas Ethics Commission opinion regarding commissioners or staff teaching certain Mandatory Continuing Education courses as submitted under this agenda item.

TEXAS



REAL ESTATE COMMISSION

APPRAISER LICENSING & CERTIFICATION BOARD

TREC Commissioners

Heading

John D. Eckstrum
Chair

Avis G. Wukasch
Vice-Chair

Joanne Justice
Secretary

Adrian A. Arriaga

Troy C. Alley, Jr.

Tom C. Mesa, Jr.

Robert C. (Chris) Day

Jaime Blevins Hensley

Dona Scurry

Douglas E. Oldmixon
Administrator

The Texas Real Estate Commission (the Commission or TREC) respectfully requests your opinion whether a member of the Commission and TREC staff may teach certain continuing education courses for current licensees regulated by the Real Estate Commission. Although the Commission asked for an opinion on a similar issue in 1999, and a follow-up regarding its applicability to TREC staff, the circumstances have changed sufficiently that I believe the previous opinion should be clarified.

The specific questions are as follows:

(1) May a member of the commission or agency staff serve as an instructor, with or without compensation, for a Mandatory Continuing Education (MCE) course created by or on behalf of and approved by the commission, and required to be taken by each licensee, and offered by a provider regulated by the commission?

(2) Would the answer to the question vary if the member received reimbursement for travel and lodging expenses from the provider for serving as an instructor?

TALCB Board Members

James B. Ratliff
Chair

Mark A. McAnally
Vice Chair

Luis F. De La Garza, Jr.
Secretary

Walker R. Beard

Robert D. Davis, Jr.

Danny R. Perkins

Clinton P. Sayers

Bill F. Schneider

Donna J. Walz

Douglas E. Oldmixon
Commissioner

As background information for this new request, salespersons and brokers licensed by the commission must take 15 hours of MCE to renew a license on active status. These courses are normally taken for a two-year renewal. Of the 15 hours, 6 hours must consist of a required legal ethics course (3 hours) and a required ethics course (3 hours). The courses are created by an advisory committee to the Real Estate Center at Texas A&M University which has a statutory relationship with TREC. Once the advisory committee creates the course, the Commission approves the course for a two-year period. This requirement was put into the TREC rules and statute several years after the prior 1999 request regarding commissioners teaching courses approved by TREC.

Once the Commission approves these courses, TREC approved providers and instructors who choose to offer the course must teach it in substantially the same form as the course materials approved by the Commission. Instructors must attend a "train the trainer" course before they can teach the course or any course updates.

As you can see from the description above, the Commission has put strict controls in place to make sure that required MCE courses are taught in a manner approved by the Commission. Because of these requirements, the original concerns about the potential conflict of interest in a Commission member or staff employee teaching the course are somewhat alleviated. We would appreciate your opinion on this matter.

Should you have any questions or concerns, or need clarification on any point relevant to this request, please contact me.

Sincerely,

Douglas E. Oldmixon

Administrator



Agenda Item 21:

Discussion and possible action to approve annual audit plan

SUMMARY

See attached documentation.

**STAFF
RECOMMENDATION
MOTION**

Approve annual audit plan.

MOVED, that the Commission does hereby approve the annual audit plan as submitted under this agenda item.

TEXAS REAL ESTATE COMMISSION

Austin, Texas

INTERNAL AUDIT PLAN

Fiscal Year 2010

TEXAS REAL ESTATE COMMISSION
Austin, Texas

Internal Audit Plan
Fiscal Year 2010

I. Purpose

The Texas Real Estate Commission (the Commission) Internal Audit Plan for the fiscal year 2010 reflects the risk assessment results and the identification of the auditable areas. This audit plan is used to communicate the risk assessment, the scope of the engagement, and the recommended internal audit areas. Specific planning for audit procedures is a continual process; therefore the audit plan may be reviewed during the year and revised as necessary.

This plan has been prepared using generally accepted auditing standards and the standards for the Professional Practice of Internal Auditing as determined by the Institute of Internal Auditors.

II. Methodology

In preparing the internal audit plan, certain agency specific documents were reviewed to gain an understanding of the Commission. This documentation included:

- Goals, Objectives and Strategies
- Strategic Plan
- Legislative Appropriation Requests/Operating Budget
- Annual Financial Report
- Policies and Procedures
- Prior external and internal audits

Additionally, interviews with the pertinent management representatives of the various auditable areas were conducted to gain an understanding of each auditable area, the effect on related areas and the impact of each area on the agency as a whole. Topics discussed in the interviews included dollar impact, business process activities, internal controls, personnel changes and past performance. Utilizing information obtained through the inquiries and background information reviewed, audit areas were identified as the potential audit topics for the year. A risk analysis was completed for each auditable area and then compiled to develop an overall risk assessment for the Commission.

TEXAS REAL ESTATE COMMISSION
Austin, Texas

Internal Audit Plan
Fiscal Year 2010

III. Scope

In accordance with the **Standards for the Professional Practice of Internal Auditing**, the audit scope will encompass the examination and evaluation of the adequacy and effectiveness of the Commission's system of internal control and the quality of performance in carrying out assigned responsibilities. The audit scope includes:

- **Reliability and Integrity of Information**
Internal auditors should review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.
- **Compliance with Policies, Plans, Procedures, Laws, and Regulations**
Internal auditors should review the systems established to ensure compliance with those policies, plans, procedures, laws, and regulations, which could have a significant impact on operations and reports and should determine whether the organization is in compliance.
- **Safeguarding of Assets**
Internal auditors should review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
- **Economical and Efficient Use of Resources**
Internal auditors should appraise the economy and efficiency with which resources are employed.
- **Accomplishment of Established Objectives and Goals for Operations or Programs**
Internal auditors should review operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

TEXAS REAL ESTATE COMMISSION
Austin, Texas

Internal Audit Plan
Fiscal Year 2010

IV. Internal Audit Plan

The fiscal year 2010 internal audit plan for the Commission is based on the Risk Assessment performed for the fiscal year ended 2010. The internal audit plan includes two (2) audits to be performed during the fiscal year and other internal audit activities as assigned by the Commissioners. The internal audit plan also includes preparation of the Annual Internal Audit Report for fiscal year 2010.

Risk Assessment

Based on the review of significant documents, inquiries of management and the Commission’s current practices and procedures seventeen (17) audit areas have been identified in the Internal Audit Plan for fiscal year 2010. We performed an assessment of the potential audit areas using risk assessment techniques. Following are the results of the risk assessment performed:

High	Moderate	Low
Residential Service Companies	Performance Measures	Purchasing and Receiving
	Information System	Cash Collection Fee Process/Remittance
Reporting and Budgeting	Fixed Assets	Customer Communications
	Payroll and Personnel Process	License Application & Registration Process
	Cash Disbursement and Travel Processing	Complaint/Investigation Process
	Examination Process	Records Retention
	Education Program	HUB Compliance
	Recovery Fund	

The Risk Factors and the Risk Assessment Summary are included in Attachments A and B, respectively.

TEXAS REAL ESTATE COMMISSION
Austin, Texas

Internal Audit Plan
Fiscal Year 2010

In prior years, the following internal audits were performed:

Fiscal Year 2009

1. Compliance with the Texas Public Funds Investment Act
2. License Application and Registration Process
3. Recovery Fund

Fiscal Year 2008

4. Complaint/Investigation Process
5. Education Program

Fiscal Year 2007

1. Compliance with the Texas Public Funds Investment Act
2. Examination Process
3. Records Retention

Based on the risk assessment process an Internal Audit Plan was developed that includes the following recommended internal audits for fiscal year 2010, the proposed audit procedures are as follows:

Fiscal Year 2010

1. Residential Service Companies

The scope of the audit of compliance with the Residential Service Company Act (RSC) is to determine that the Commission monitors compliance with established policies and procedures of the act and monitors the RSC licensing requirements including the following:

- The utilization of the Texas Administrative Code 539, fee schedule for collecting fees from the Residential Service Companies;
- The information included in the RSC application is timely and efficiently evaluated for accuracy and completeness;
- The Residential Service Contracts and the Annual Report with applicable financial reporting requirements are reported in an accurate and timely manner.
- Disciplinary action/enforcement was efficiently and timely performed when violations occur.

TEXAS REAL ESTATE COMMISSION
Austin, Texas

Internal Audit Plan
Fiscal Year 2010

2. Fixed Assets

The scope of the audit of the Capital Assets audit area is to determine that TREC complies with the policies and procedures for capitalization of assets including:

- Capital Assets represent a complete and valid listing of the total capital cost of assets purchased, constructed or leased and physically on hand
- Capitalized costs associated with all sold, abandoned, damaged, or obsolete capital assets have been removed from the accounts
- Depreciation charged on capital assets has been computed on an acceptable basis consistent with that used in prior periods.

3. Follow-up of Prior Year Internal Audits and Other Agency Audits
Perform follow-up of audits performed by the internal auditor or other State agencies.

4. Other Potential Internal Audit Activities
Perform other audits as may be directed by the Commission during the fiscal year.

**Texas Real Estate Commission
Risk Assessment Summary
August 31, 2010**

	Potential Audit Topic	Risk Factor Scores								Total
		1	2	3	4	5	6	7	8	
High Risk: > 177										
1.	Residential Service Companies	3	3	1	1	1	3	2	2	190.00
2.	Reporting and budgeting	3	1	2	2	1	2	1	2	177.00
Moderate Risk: 164 - 176										
3.	Performance Measures	3	2	2	1	1	2	2	1	172.00
4.	Information Systems	3	2	2	1	1	2	2	1	172.00
5.	Fixed assets	3	2	1	2	1	2	2	1	171.00
6.	Payroll and personnel process	3	2	1	2	1	2	2	1	171.00
7.	Cash disbursement and travel processing	3	2	1	2	1	2	2	1	171.00
8.	Examination process	3	2	1	1	1	3	2	1	168.00
9.	Education program	3	1	1	1	1	3	2	2	166.00
10.	Recovery Fund	3	1	1	1	1	3	2	2	166.00
Low Risk: < 163										
11.	Purchasing and receiving	3	2	1	1	1	3	1	1	160.00
12.	Cash collection fee process / remittance	3	2	1	2	1	1	2	1	159.00
13.	Customer communications	3	2	1	1	1	2	2	1	156.00
14.	License application and registration process	3	1	1	1	1	3	2	1	156.00
15.	Complaint / Investigation process	3	1	1	1	1	3	2	1	156.00
16.	Records retention	2	2	2	1	1	1	1	1	140.00
17.	HUB - compliance	1	3	1	1	1	2	1	1	136.00

Risk Factor Scores

- 1 Low Risk
- 2 Moderate Risk
- 3 High Risk

Average Score 164

**Texas Real Estate Commission
Risk Assessment Weighting**

Risk Factor	Weight
1 Financial Materiality	12.00%
2 Time Since Last Audit or Review	12.00%
3 Results of Last Audit or Review	16.00%
4 Adequacy of Staffing Levels	15.00%
5 Policies and Procedures	15.00%
6 Compliance with Contracts, Laws & Regulations	12.00%
7 Susceptibility of Material Theft or Fraud	8.00%
8 Adverse Issues or Concerns	<u>10.00%</u>
Total Score	<u>100.00%</u>



Agenda Item 22:

Discussion and possible action to appoint members to the Texas Real Estate Inspector Committee

SUMMARY

This item allows for the appointment of public members to the Texas Real Estate Inspector Committee.

STAFF

See attached documentation.

RECOMMENDATION

MOTION

MOVED, that Commission does hereby appoint _____ as a public member of the Texas Real Estate Inspector Committee with a term expiring February, 2011 and _____ with a term expiring February 2015.



TO: Commissioners

FROM: Douglas E. Oldmixon, Administrator

RE: Public Member vacancies on the Inspector Committee

DATE: 7 May 2010

As you know, the Inspector Committee currently has two public member vacancies. Both are seats that became vacant due to these members' poor attendance. (Of these, one of the two was a 2009 replacement of a 2007 appointee who had excessive absences.)

Section 535.206 of the TREC Rules provides that a person cannot serve as a public member on the Committee if he or she is registered, certified, or licensed by an occupational or regulatory agency in the real estate industry. Currently, members serve six-year terms, a factor that may contribute to the difficulty in finding and retaining committed public members. It is anticipated that, at the August meeting, staff will recommend changing the length of the terms to two years as a part of the rule review process.

Staff advertised the vacancies widely and received several applications. The Inspector Committee met on 26 April 2010 and reviewed the applications, selecting as their recommendations the two whom they believed were the most representative of the public at large (those who seemed to have the least connection to the real estate field). The Committee recommends Nancy J. Schriedel of Plano, an attorney for a title company, and Lane Alex Montgomery of Houston, a financial planner who held a real estate salesperson license from 2008 to 2009.

Staff has also reviewed the applications and concurs with the recommendation of appointing Ms. Schriedel to the term ending in February 2015. Instead of Mr. Montgomery, staff recommends that Linda S. Robicheaux of Katy, who conducts education for mortgage loan professionals, be appointed to the term ending in February of 2011. At the April 26 meeting, after some discussion, it appeared from her resume that Ms. Robicheaux may hold a current mortgage loan originator license, thereby disqualifying her from further consideration. Upon further investigation, it was determined that she no longer held that license and would therefore not be disqualified. Prior to her inadvertent disqualification, the Inspector Committee members had favorably considered recommending that she be appointed. Nothing against Mr. Montgomery, but Ms. Robicheaux appears to have a stronger consumer service background, having been in real estate closings, sales and mortgage lending for many years.



Agenda Item 23:

Discussion and possible action to extend contract for examination services with PSI Services, LLC

SUMMARY

See attached documentation.

**STAFF
RECOMMENDATION
MOTION**

Authorize staff to extend contract for examinations services with PSI Services, LLC

MOVED, that the Commission does hereby authorize staff to extend the contract for examination services with PSI Services, LLC as detailed in the drafted letter dated May 24, 2010 submitted under this agenda.

TEXAS



REAL ESTATE COMMISSION

APPRAISER LICENSING & CERTIFICATION BOARD

TREC Commissioners

John D. Eckstrum
Chair

Avis G. Wukasch
Vice-Chair

Joanne Justice
Secretary

Adrian A. Arriaga

Troy C. Alley, Jr.

Tom C. Mesa, Jr.

Robert C. (Chris) Day

Jaime Blevins Hensley

Dona Scurry

Douglas E. Oldmixon
Administrator

May 24, 2010

DRAFT - Official Notice to Follow Agency Approval

Mr. Steve Tapp, President and CEO
PSI Services, LLC
2950 N. Hollywood Way, Suite 200
Burbank, CA 91905

Dear Mr. Tapp,

At its meeting on May 17, 2010, the Texas Real Estate Commission voted to authorize the Administrator to extend the Commission's contract for testing services for an additional two years. The Texas Appraiser Licensing and Certification Board authorized the Commissioner to do the same at its meeting on May 21, 2010.

This is to inform you that I am hereby renewing, extending and modifying the existing contract with PSI Services, LLC for testing services for the period September 1, 2010 to August 31, 2012, consistent with the terms of the original contract with the exception of a modification to Paragraph 5 to provide as follows (new text is underlined):

TALCB Board Members

James B. Ratliff
Chair

Mark A. McAnally
Vice Chair

Luis F. De La Garza, Jr.
Secretary

Walker R. Beard

Robert D. Davis, Jr.

Danny R. Perkins

Clinton P. Sayers

Bill F. Schneider

Donna J. Walz

Douglas E. Oldmixon
Commissioner

5. Financial Ability. PSI represents that it currently has and will maintain for the duration of this Contract, including any renewals, the financial ability to support this Contract and perform the services required under it. PSI shall provide TREC a copy of its audited financial report on an annual basis, no later than May 10 of each year. The report will not be released to the public without an opinion of the Texas Attorney General requiring its release.

Please sign and return the one original to me at the address below indicating your agreement to the modification. Should you have any further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Oldmixon".

Douglas E. Oldmixon

Agreed _____

Date: _____

Steve Tapp
President and CEO
PSI Services, LLC

**Agenda Item 24:**

Discussion and possible action to adopt changes to existing policy statements regarding:

- a) Commissioner Travel Expenses and Per Diem Policy
- b) MCE Exemption if Eligible Broker allows License to Expire for over 364 Days

SUMMARY

See attached documentation.

**STAFF
RECOMMENDATION
MOTION**

Adopt changes to policies as requested.

MOVED, that the Commission does hereby adopt changes to the existing policy statements regarding Commissioner Travel Expenses and Per Diem Policy, and MCE Exemption if Eligible Broker allows License to Expire for over 364 Days as presented under this agenda item.

TEXAS



REAL ESTATE COMMISSION

APPRAISER LICENSING & CERTIFICATION BOARD

MEMORANDUM

TO: TREC/TALCB Staff
FROM: Douglas E. Oldmixon
RE: Commissioner/Board Member Per Diem & Travel Expenses
DATE: November 1, 2009

(A) Compensatory Per Diem Payment

Commissioners/Board Members may request compensatory per diem for any day during which they represent the Commission/Board in an official capacity.

(B) Commissioner/Board Member Travel

In addition to regularly scheduled Commission/Board meetings, travel reimbursement shall be paid to Commissioners/Board Members when on official business. Official business means representing the Commission/Board at a meeting wherein participation has been approved by the Chair and scheduled through the Administration & Management Services Division.

(C) Representation at ARELLO/AARO Meetings

The Chair shall officially represent the Commission/Board at Annual and Mid-Year ARELLO/AARO meetings as necessary and shall vote for the Commission/Board. If the Chair is not able to attend, the Chair may designate an alternate to attend. If the Administrator/Commissioner certifies that sufficient travel funds are clearly available, the Commission/Board may designate additional Commissioners/Board Members to attend and represent the agency at such meetings.

(D) Administrator/Commissioner Attendance

The Administrator/Commissioner or their designee may attend all ARELLO/AARO meetings as necessary to represent the agency. In the absence of the Chair or the Chair's designated alternate, the Administrator/Commissioner shall vote on behalf of the agency.

(E) Out of State Travel

The appropriations act for FY 2010-11 has placed a limit on out of state travel for all state agencies. In addition, all travel reimbursement reports for Commissioners/Board Members which involve out of state travel must be filed with the Ethics Commission prior to payment. Commissioners/Board Members representing TREC/TALCB at meetings and other functions held outside Texas should obtain advance approval of the Commission/Board prior to attending such meetings when they will be submitting a request for reimbursement of travel and related expenses.

TEXAS



REAL ESTATE COMMISSION

APPRAISER LICENSING & CERTIFICATION BOARD

MEMORANDUM

TO: TREC/TALCB Staff
FROM: Douglas E. Oldmixon
RE: MCE Exemption
DATE: October 27, 1992
Signed Date: February 1, 2010

The law states: "A broker who, before October 31, 1991, qualified ...for an exemption from continuing education requirements is not required to comply with the mandatory continuing education requirements of this subchapter to renew the broker's license."

Duration

Under the present statute, the exemption is a "lifetime" exemption while the licensee is a broker, or is applicable to a regained broker license and for the subsequent renewals of a broker license. If a broker has been granted the MCE exemption and is so recorded on the computer records, that exemption continues indefinitely as long as that person holds an active broker license.

Downgrade

Should the broker convert to a sales license there is no exemption for salespersons and MCE requirements will apply. However, should the licensee later regain a broker license, the exemption returns as well.

Expired Status

Proposed: The MCE exemption is good only for the duration of an uninterrupted broker license. A late renewal – after 364 days – is not a renewal, it is an application for licensure. Renewing a license connotes that a broker has held an uninterrupted license; a late renewal is an application in that the broker has allowed their license to expire and is coming back after an interruption in licensure. If that break exceeds the 364 days currently allowed by statute, the broker must comply with the current MCE to return to active status, but thereafter maintains the exemption on subsequent renewals in active status.

Inactive Status

Proposed: A broker with the MCE exemption who maintains an inactive license must comply with the current MCE to return to active status, but thereafter maintains the exemption on subsequent renewals in active status.



Agenda Item 25:

Discussion of Chairman Eckstrum's appointment of new member(s) to a disciplinary panel under Texas Occupations Code, §1101.662.

SUMMARY

Allows for discussion of appointment

STAFF

RECOMMENDATION

MOTION



Agenda Item 26(a):

Consideration and possible action regarding
Proposals for Decision from State Office of
Administrative Hearings

- a) In the Matter of John B. Austin,
SOAH Docket No. 329-10-1578.REC

SUMMARY

See attached

STAFF

See attached

RECOMMENDATION

MOTION



Standards & Enforcement Services
Direct Line: (512) 465-3960
Facsimile: (512) 465-3962

MEMORANDUM

To: THE COMMISSION MEMBERS

From: KERRI T. GALVIN, DIRECTOR OF STANDARDS & ENFORCEMENT SERVICES

Date: APRIL 30, 2010

**Subject: PROPOSAL FOR DECISION
IN THE MATTER OF
JOHN B. AUSTIN**

The enclosed Proposal for Decision has been filed in SOAH Docket No. 329-10-1578.REC. The Proposal for Decision will be considered for Final Order at the meeting of the Commission scheduled for May 17, 2010, at 10:00 a.m. in the Commission Conference Room, Room 235, Texas Real Estate Commission Offices, 1101 Camino La Costa, Austin, Texas.



Kerri T. Galvin
Director of Standards & Enforcement Services

KTG:sm
Enclosure

cc: Douglas E. Oldmixon, Administrator

Loretta R. DeHay, General Counsel & Deputy Administrator

Devon V. Bijansky, Deputy General Counsel

Patricia Holder, Administrative Assistant

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

March 24, 2010

Douglas E. Oldmixon
Administrator
Texas Real Estate Commission
1101 Camino La Costa
Austin, Texas 78752

INTER-AGENCY

RE: Docket No. 329-10-1578.REC; Texas Real Estate Commission v. John B. Austin

Dear Mr. Oldmixon:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy G. Scudday".

Roy G. Scudday
Administrative Law Judge

RGS/ap
Enclosure

xc: Robert Meisel, Staff Attorney, 1101 Camino La Costa, Austin TX 78752 - **VIA INTER-AGENCY**
John B. Austin, 515 E. Nottingham, San Antonio, TX 78209 - **VIA REGULAR MAIL**
Kerri Galvin, Director of Standards & Enforcement Services, TREC, 1101 Camino La Costa, Austin, TX 78752 - (with 1 CD; Certified Evidentiary Record) - **VIA INTER-AGENCY**

SOAH DOCKET NO. 329-10-1578.REC

TEXAS REAL ESTATE COMMISSION,	§	BEFORE THE STATE OFFICE
Petitioner	§	
V.	§	OF
JOHN B. AUSTIN,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Real Estate Commission (Staff/Commission) brought action against John B. Austin (Respondent) seeking to deny Respondent's application for an Inactive Real Estate Salesperson License pursuant to TEX. OCC. CODE ANN. (Code) § 1101.354(2). The Administrative Law Judge (ALJ) recommends that Respondent be granted a probationary license on such terms as the Commission deems appropriate.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The hearing convened on February 16, 2010, before ALJ Roy G. Scudday in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Robert Meisel, Staff Attorney. Respondent appeared on his own behalf.

Staff offered competent evidence establishing jurisdiction and that appropriate notice of the hearing was provided to Respondent. Those matters are set out in the Findings of Fact and Conclusions of Law.

On February 24, 2010, Respondent submitted into evidence an unsigned letter from Dennis DeWine acknowledging the latter's continuing willingness to sponsor Respondent's real estate salesman license. On March 1, 2010, Staff submitted a copy of a pending complaint against Respondent by Texas Appraiser Licensing and Certification Board (Board). On March 3, 2010, Respondent submitted documents regarding payments made to the Board. All these documents are admitted into the record as evidence. The record closed on March 4, 2010.

II. REASONS FOR DECISION

A. Background and Applicable Law

On July 24, 2009, Respondent filed an application with the Commission for an Inactive Real Estate Salesperson License. On October 7, 2009, Staff notified Respondent of the proposed disapproval of his application.

Pursuant to Code § 1101.351, a person is not legally authorized to act or attempt to act as a real estate salesperson unless he is licensed by the Commission. Code § 1101.354(2) provides that an applicant for a salesperson license must satisfy the Commission of the applicant's honesty, trustworthiness, and integrity. 22 TEX. ADMIN. CODE (TAC) § 535.94(b) authorizes the Commission to issue a probationary license.

B. Facts in Evidence

On February 11, 2008, Respondent entered into an Agreed Final Order with the Board, in which Respondent agreed that he had committed acts or omissions from December 2004 through March 2005, that constituted violations of several provisions of the Uniform Standards of Professional Appraisal Practice (USPAP), as well as violations of 22 TAC § 153.20(a)(9) by making material misrepresentations and omissions of material facts in five appraisal reports. The Order provided that Respondent pay an administrative penalty of \$2,000 in four equal monthly installments beginning January 2, 2008, that the suspension of his certification be probated, and that Respondent attend and complete a total of 67 hours of classroom instruction regarding appraisals.

On August 21, 2009, Respondent entered into an Agreed Final Order with the Board, in which the Board found that Respondent had ultimately, albeit belatedly, paid the administrative penalty, but also found that he had not completed the remedial education required by the February 11, 2008 Agreed Order. The Order required Respondent to complete the remedial education requirement within 12 months from the effective date of the order and pay an administrative penalty of \$1,000 in

administrative penalty of \$1,000 in four equal monthly installments beginning September 1, 2009, and provided that the revocation of his certification would be fully probated.

Respondent testified regarding the circumstances surrounding his noncompliance. He testified that his economic hardships caused him to be unable to timely pay the fines and to take the required courses. Respondent asserted that he had not yet paid the fines in full, and that he still could not afford to complete the classes.

Mary Catherine Harvey is the office manger of ERA Colonial Real Estate. She testified that Respondent has been very eager to attend office meetings and learn the real estate business, and that she is of the opinion that he would comply with the requirements if he were issued a license.

At the conclusion of the hearing, Respondent was given the opportunity to secure a letter from Donald DeWine, the managing broker with ERA Colonial Real Estate. Respondent provided an unsigned letter from Mr. DeWine dated February 21, 2010, in which he states that he is aware of the Board orders and is willing to sponsor Respondent, review Respondent's compliance with the Board orders, and review all license requirements of the Commission before submitting a formal request to sponsor Respondent's real estate salesman's license.

In response to the DeWine letter, Staff provided evidence that Respondent had still not paid the administrative penalty as required, citing a February 25, 2010 complaint referred to the Enforcement Division of the Board for Respondent's having failed to pay the administrative penalty as required. In response, Respondent submitted documentation showing that he had made the final payment of the fine by personal check on February 13, 2010, that the Board had returned the check on February 18, 2010, and demanded payment by either cashier's check or money order, and that Respondent had sent the Board a money order for the final payment on March 3, 2010. (In a subsequent filing, Respondent noted that he still owed \$250 of the administrative penalty, which was paid by money order on March 9, 2010.)

C. Analysis and Recommendation

One of the purposes for licensing statutes is to protect the public from unqualified or dangerous individuals. Testing and educational requirements ensure that a registrant or licensee meets minimum qualifications to perform the licensed occupation. A licensing authority also has a duty to protect the public from someone who might pose a risk.

Staff contends that Respondent's continued failure to successfully complete the conditions of his probated appraisal certification and his failure to timely pay the administrative penalty show that he does not possess the requisite honesty, trustworthiness or integrity for holding a real estate salesperson's license.

The original violations of the USPAP certainly brought into question Respondent's honesty, trustworthiness, and integrity. However, the Board has probated the revocation of Respondent's license conditioned on his paying the penalty and attending the required classes. Petitioner has paid the penalty, and is attempting to complete the class requirements despite being hampered by his economic situation in complying timely with that condition of his probated revocation. In addition, ERA Colonial broker Mr. DeWine remains ready and willing to sponsor Respondent as a licensed salesperson. The fact that Mr. DeWine is willing to sponsor Respondent despite his difficulties lends great weight to the conclusion that Respondent does possess the requisite honesty, trustworthiness, and integrity to hold the license.

III. RECOMMENDATION

Based upon the record in this case, the ALJ recommends that the Commission issue Respondent a probationary license with a term of twelve months and including the following condition: that Respondent shall comply with the Real Estate License Act and with the rules of the Commission, and that Respondent fully cooperate with the enforcement division of the Commission in the investigation of any complaint filed against Respondent.

IV. FINDINGS OF FACT

1. On July 24, 2009, John B. Austin (Respondent) filed an application for an Inactive Salesperson License with the Texas Real Estate Commission (Staff/Commission).
2. On October 7, 2009, Staff notified Respondent of the proposed disapproval of his application.
3. On December 7, 2009, Staff mailed its notice of administrative hearing to Respondent.
4. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
5. The hearing on the merits was held on February 16, 2010, before Administrative Law Judge (ALJ) Roy G. Scudday in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. All parties appeared and participated in the hearing.
6. On February 11, 2008, Respondent entered into an Agreed Final Order with the Board, in which Respondent agreed that he had committed acts or omissions from December 2004 through March 2005, that constituted violations of several provisions of the Uniform Standards of Professional Appraisal Practice (USPAP), as well as violations of 22 TAC § 153.20(A)(9) by making material misrepresentations and omissions of material facts in five appraisal reports. The Order provided that Respondent pay an administrative penalty of \$2,000 in four equal monthly installments beginning January 2, 2008, that the suspension of his certification be probated, and that Respondent attend and complete a total of 67 hours of classroom instruction regarding appraisals.
7. On August 21, 2009, Respondent entered into an Agreed Final Order with the Board, in which the Board found that Respondent had ultimately, albeit belatedly, paid the administrative penalty, but also found that he had not completed the remedial education required by the February 11, 2008 Agreed Order. The Order provided that Respondent complete the remedial education requirement within 12 months from the effective date of the order, pay an administrative penalty of \$1,000 in four equal monthly installments beginning September 1, 2009, and that the revocation of his certification be fully probated.
8. Respondent has been unable to complete the remedial education requirements due to his economic situation, but Respondent did make the final payment of the administrative penalty by a money order on March 9, 2010.
9. Respondent has attended sales meetings at ERA Colonial real estate agency, and Dennis DeWine, a broker with that agency, remains willing to sponsor Respondent's license.

V. CONCLUSIONS OF LAW

1. The Texas Real Estate Commission (Commission) has jurisdiction over the licenses of real estate brokers, salespersons, and inspectors, pursuant to the TEX. OCC. CODE ANN. (Code) ch. 1101.
2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a contested case in this matter, including the preparation of a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, under TEX. GOV'T CODE ANN. ch. 2003.
3. Respondent received proper and timely notice of hearing as required by TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
4. An applicant for a salesperson license must satisfy the Commission of the applicant's honesty, trustworthiness, and integrity. pursuant to Code § 1101.354.
5. Based on Findings of Fact Nos. 7-9, Respondent has demonstrated his ability to represent the interests of others with honesty, trustworthiness, and integrity. Code § 1101.354.
6. Based on Findings of Fact Nos. 7-9 and Conclusion of Law No. 5, Respondent should be issued a probationary salesperson license pursuant to 22 TEX. ADMIN. CODE § 535.94(b) with the following conditions: the term shall be for a period of twelve months, Respondent shall comply with the Real Estate License Act and with the rules of the Commission, and Respondent shall fully cooperate with the enforcement division of the Commission in the investigation of any complaint filed against Respondent.

SIGNED March 24, 2010.



ROY G. SCUDDAY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



Agenda Item 26(b):

Consideration and possible action regarding
Proposals for Decision from State Office of
Administrative Hearings

- b) In the Matter of Paul A. Garcia,
SOAH Docket No. 329-10-2384.REC

SUMMARY

See attached

STAFF
RECOMMENDATION
MOTION

See attached

TEXAS



REAL ESTATE COMMISSION

DOUGLAS E. OLDMIXON, ADMINISTRATOR

Standards & Enforcement Services

Direct Line: (512) 465-3960

Facsimile: (512) 465-3962

MEMORANDUM

To: THE COMMISSION MEMBERS

From: KERRI T. GALVIN, DIRECTOR OF STANDARDS & ENFORCEMENT SERVICES

Date: APRIL 30, 2010

**Subject: PROPOSAL FOR DECISION
IN THE MATTER OF
PAUL A. GARCIA**

The enclosed Proposal for Decision has been filed in SOAH Docket No. 329-10-2384.REC. The Proposal for Decision will be considered for Final Order at the meeting of the Commission scheduled for May 17, 2010, at 10:00 a.m. in the Commission Conference Room, Room 235, Texas Real Estate Commission Offices, 1101 Camino La Costa, Austin, Texas.



Kerri T. Galvin
Director of Standards & Enforcement Services

KTG:sm
Enclosure

cc: Douglas E. Oldmixon, Administrator

Loretta R. DeHay, General Counsel & Deputy Administrator

Devon V. Bijansky, Deputy General Counsel

Patricia Holder, Administrative Assistant

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

March 24, 2010

Douglas E. Oldmixon
Administrator
Texas Real Estate Commission
1101 Camino La Costa
Austin, Texas 78752

INTER-AGENCY

RE: Docket No. 329-10-2384.REC; Texas Real Estate Commission v. Paul A. Garcia

Dear Mr. Oldmixon:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy G. Scudday".

Roy G. Scudday
Administrative Law Judge

RGS/ap
Enclosure

xc: Sharon S. Harris, Staff Attorney, 1101 Camino La Costa, Austin TX 78752 – **VIA INTER-AGENCY**
Paul A. Garcia, 727 Cypress Green, San Antonio, TX 78245 - **VIA REGULAR MAIL**
Kerri Galvin, Director of Standards & Enforcement Services, TREC, 1101 Camino La Costa, Austin, TX 78752 - (with
1 CD; Certified Evidentiary Record) – **VIA INTER-AGENCY**

TEXAS REAL ESTATE COMMISSION,
Petitioner

V.

PAUL A. GARCIA,
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Real Estate Commission (Staff/Commission) brought action against Paul A. Garcia (Respondent) seeking to revoke Respondent's real estate salesperson license. The Administrative Law Judge (ALJ) recommends that Respondent's license be revoked.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The hearing convened on March 8, 2010, before ALJ Roy G. Scudday in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Sharon S. Harris, Staff Attorney. Respondent appeared on his own behalf.

Staff offered competent evidence establishing jurisdiction and that appropriate notice of the hearing was provided to Respondent. Those matters are set out in the Findings of Fact and Conclusions of Law.

II. REASONS FOR DECISION

A. Background and Applicable Law

On July 8, 2009, Staff notified Respondent that the judgment creditor in Cause No. 2007CI05381 styled *Emilio Cruz and Jazmin Cruz vs. Eulalio Pedraza, Sandra Pedraza, and William S. Moore* in the 45th Judicial District Court of Bexar County, Texas, had filed with the Court an application for an order directing payment out of the Real Estate Recovery Account of a portion of

of the judgment rendered against Respondent, a defendant and judgment debtor in that case. The letter erroneously stated that no hearing was currently scheduled on the application when one had actually been scheduled for July 9, 2009. The letter stated that Respondent was entitled to file a response to the application if he wished to contest the payment and further stated that Respondent's failure to respond to the notice would result in the Commission's taking action on the application without further notice.

On October 7, 2009, an Order Directing Payment of \$50,000 from the Real Estate Recovery Account to the judgment creditors was issued by the Court. On October 16, 2009, the judgment creditors issued a Partial Assignment of Judgment to the Commission in return for payment of the \$50,000. A warrant for \$50,000 payable to the judgment creditors was issued on October 29, 2009, and receipt of payment was acknowledged on December 2, 2009.

On November 23, 2009, Staff notified Respondent that a complaint had been filed against him and that in order to avoid disciplinary action Respondent must pay the \$50,000 plus accrued interest within 20 days of receipt of the letter. When Staff did not receive a response to its notice, it proceeded to issue a Notice of Alleged Violation on December 22, 2009. Respondent requested a hearing on the issue on January 5, 2010.

Pursuant to TEX. OCC. CODE (Code) § 1101.655, the Commission may revoke a license if it makes a payment from the Real Estate Recovery Trust (now the Real Estate Recovery Account) to satisfy all or part of a judgment against the license holder as provided by Code § 1101.601.

B. Facts in Evidence

Respondent testified regarding the circumstances surrounding his failure to respond to the application. He stated that on July 9, 2009, he appeared for the hearing on the application, but was told that the hearing had been cancelled. On July 10, 2009, he received the July 8, 2009 letter from Staff as well as a letter from the judgment debtors stating that the July 9 hearing had been "dropped." Respondent testified that he contacted the phone number on the letterhead of the July 8 staff letter

and talked to someone who told him that there was no record of a hearing date on the application. As a result of that conversation Respondent did nothing further, and he was not notified of the rescheduled hearing of October 7, 2009, or the Order Directing Payment. Respondent further testified that he did not receive the November 23 letter that was sent to his broker's office and had no knowledge that the \$50,000 payment had been made until he received the December 22 Notice of Alleged Violation.

C. Analysis and Recommendation

Code §§ 1101.601-615 concerns the Real Estate Recovery Account and the procedures by which judgment creditors may receive satisfaction of judgments against licensed real estate salespersons from that account. Those procedures were followed in this case.

Respondent was aware that the application for payment had been made and even appeared for the originally scheduled July 9 hearing. However, when the hearing was cancelled, instead of insuring that he would be notified of any further proceedings, Respondent did not respond to the July 8 Staff letter in a meaningful way, did not monitor the application proceedings in order to participate in the rescheduled hearing, and, basically, assumed that the whole matter had simply gone away. Respondent did not even monitor any of his mail sent to his broker at the address of record that Respondent had given the Commission. These actions or omissions by Respondent do not constitute a reasonable course of action for a person who, as a licensed salesperson, had constructive knowledge that his license could be at risk if payment were made from the Recovery Account.

III. RECOMMENDATION

Based upon the record in this case, the ALJ recommends that Respondent's license be revoked and that he be ineligible to receive a new license until he has repaid in full the amount paid from the Recovery Account.

IV. FINDINGS OF FACT

1. Paul A. Garcia (Respondent) holds a real estate salesperson license issued by the Texas Real Estate Commission (Commission/Staff).
2. On February 3, 2009, the judgment creditor in Cause No. 2007CI05381 styled *Emilio Cruz and Jazmin Cruz vs. Eulalio Pedraza, Sandra Pedraza, and William S. Moore* in the 45th Judicial District Court of Bexar County, Texas, filed with the Court an application for an order directing payment out of the Real Estate Recovery Account of a portion of the judgment rendered against Respondent, a defendant and judgment debtor in that case.
3. On July 8, 2009, Staff notified Respondent that the application for an order directing payment out of the Real Estate Recovery Account of a portion of the judgment rendered against Respondent had been filed. The letter erroneously stated that no hearing was currently scheduled on the application when one had actually been scheduled for July 9, 2009. The letter stated that Respondent was entitled to file a response to the application if he wished to contest the payment and further stated that Respondent's failure to respond to the notice would result in the Commission's taking action on the application without further notice.
4. On October 7, 2009, an Order Directing Payment of \$50,000 from the Real Estate Recovery Act to the judgment creditors was issued by the Court. On October 16, 2009, the judgment creditors issued a Partial Assignment of Judgment to the Commission in return for payment of the \$50,000. A warrant for \$50,000 payable to the judgment creditors was issued on October 29, 2009, and receipt of payment was acknowledged on December 2, 2009.
5. On November 23, 2009, Staff notified Respondent by letter sent to his address of record, 16500 San Pedro, No. 280, San Antonio, Texas, that a complaint had been filed against him and that in order to avoid disciplinary action Respondent must pay the \$50,000 plus accrued interest within 20 days of receipt of the letter. Respondent did not receive the letter.
6. On December 22, 2009, Staff issued a Notice of Alleged Violation to Respondent at both the address of record as well as another address, 727 Cypress Green, San Antonio, Texas. After receiving that Notice, Respondent requested a hearing on January 5, 2010.
7. On February 1, 2010, Staff mailed its notice of administrative hearing to Respondent.
8. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.

9. The hearing on the merits was held on February 16, 2010, before Administrative Law Judge (ALJ) Roy G. Scudday in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. All parties appeared and participated in the hearing.
10. Respondent has not repaid the \$50,000 paid to the judgment creditors from the Real Estate Recovery Account.

V. CONCLUSIONS OF LAW

1. The Texas Real Estate Commission (Commission) has jurisdiction over the licenses of real estate brokers, salespersons, and inspectors, pursuant to the TEX. OCC. CODE ANN. (Code) ch. 1101.
2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a contested case in this matter, including the preparation of a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, under TEX. GOV'T CODE ANN. ch. 2003.
3. Respondent received proper and timely notice of hearing as required by TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
4. Pursuant to Code § 1101.655, the Commission may revoke a license if it makes a payment from the Real Estate Recovery Account to satisfy all or part of a judgment against the license holder.
5. Based on Findings of Fact Nos. 2-5, and Conclusion of Law No. 4, Respondent's real estate salesperson license should be revoked and that he be ineligible to receive a new license until he has repaid in full the amount paid from the Recovery Account.

SIGNED March 24, 2010.



ROY G. SCUDDAY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



Agenda Item 26(c):

Consideration and possible action regarding
Proposals for Decision from State Office of
Administrative Hearings

- c) In the Matter of Marcus M. Norton,
SOAH Docket No. 329-10-4740.REC

SUMMARY

See attached

STAFF

See attached

RECOMMENDATION
MOTION



Standards & Enforcement Services

Direct Line: (512) 465-3960

Facsimile: (512) 465-3962

MEMORANDUM

To: THE COMMISSION MEMBERS

From: KERRI T. GALVIN, DIRECTOR OF STANDARDS & ENFORCEMENT SERVICES

Date: APRIL 30, 2010

**Subject: PROPOSAL FOR DECISION
IN THE MATTER OF
MARCUS M. NORTON**

The enclosed Proposal for Decision has been filed in SOAH Docket No. 329-09-4740.REC. The Proposal for Decision will be considered for Final Order at the meeting of the Commission scheduled for May 17, 2010, at 10:00 a.m. in the Commission Conference Room, Room 235, Texas Real Estate Commission Offices, 1101 Camino La Costa, Austin, Texas.

A handwritten signature in cursive script, reading "Kerri T. Galvin", is written over a horizontal line.

Kerri T. Galvin
Director of Standards & Enforcement Services

KTG:sm
Enclosure

cc: Douglas E. Oldmixon, Administrator

Loretta R. DeHay, General Counsel & Deputy Administrator

Devon V. Bijansky, Deputy General Counsel

Patricia Holder, Administrative Assistant

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

March 10, 2010

Douglas E. Oldmixon
Administrator
Texas Real Estate Commission
1101 Camino La Costa
Austin, Texas 78752

INTER-AGENCY

RE: Docket No. 329-09-4740.REC, Texas Real Estate Commission, v. Marcus M. Norton

Dear Mr. Oldmixon:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Zukauckas".

Bill Zukauckas
Administrative Law Judge

BZ/slc

Enclosure

xc: Virginia S. Fields, 1101 Camino La Costa, Austin TX 78752 – VIA INTER-AGENCY
Marcus M. Norton, 6714 Vickie Springs, Houston, TX 77088 - VIA REGULAR MAIL
Kerri Galvin, Director of Standards & Enforcement Services, TREC, 1101 Camino La Costa, Austin, TX 78752 - VIA INTER-AGENCY

RECEIVED

MAR 12 2010

TEXAS REAL ESTATE
COMMISSION,
Petitioner

v.

MARCUS M. NORTON,
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Real Estate Commission (TREC/Commission) brought action against Marcus M. Norton (Respondent) for three alleged violations of the Real Estate License Act (Act), TEX. OCC. CODE ch. 1101, and the rules of the Commission. Staff asserts that Respondent provided real estate sales services without a license. The Administrative Law Judge (ALJ) finds that Staff met its burden of proof and recommends the assessment of an administrative penalty in the total amount of \$3,000 against Respondent.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

Jurisdiction and notice were not contested and are discussed only in the Findings of Fact and Conclusions of Law. The hearing convened January 7, 2010, before ALJ Bill Zukauckas in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Virginia Fields, Staff Attorney. Respondent appeared *pro se* by telephone. The hearing concluded and the record closed that same day.

II. DISCUSSION

A. Background, Allegations, and Legal Standards

In January 2006, Respondent was involved with three separate individuals in their attempts to purchase homes. Two of the earnest money contracts¹ show Marcus Norton/Lone Star Realty beside “Agent’s Name/Company.” Only one of the three prospective buyers, Sandra Smith, actually closed

¹ Petitioner’s Exhibit No. 10, pages 86-98; and Petitioner’s Exhibit No. 25, page 11-22.

on the purchase of a home; she closed on May 5, 2006. A broker commission for that transaction was paid to Lone Star Realty and Joachim Tien Vu, a licensed real estate broker and a business associate of the Respondent.

On June 13, 2006, Petitioner received a complaint from Amica Van Zandt, one of the two other buyers in the transactions that did not close, alleging Respondent was acting as a real estate agent without a license.

Respondent admits he has never held a Texas real estate agent license. Staff alleges that Respondent violated two provisions of the Act and violated one section of the rules in his unlicensed representation of three clients seeking to buy houses in Harris County, Texas. Under the Act, TREC may seek to have a person cease and desist in their misrepresentations to the public as being a real estate salesperson or broker, file a complaint for the unlicensed activity with the appropriate law enforcement official, and may impose an administrative penalty. The amount of penalty assessed shall be based on the seriousness of the violation, the history of previous violations, the amount necessary to deter future violations, and efforts to correct the violations.²

B. Evidence

Staff submitted eight exhibits consisting of jurisdictional documents, three earnest money contracts³, and correspondence between the parties, all of which were admitted into the record. Staff also offered into evidence Respondent's Admissions that were deemed admitted pursuant to the prehearing conference that convened on August 24, 2009, before Administrative Law Judge Richard Wilfong (Judge Wilfong),⁴ and copies of the applicable statutes and rules. Complainant Amica Van Zandt and Respondent Marcus Norton testified by telephone.

² The maximum amount of this penalty per violation in 2006 was \$1000. TEX. OCC. CODE § 1101.702(a)(2005)(since revised effective September 1, 2007).

³ Petitioner's Exhibit No. 8 (Van Zandt), Exhibit No. 9 Doyle), and Exhibit No. 10 (Smith).

⁴ Petitioner's Exhibit No. 25, C-3, pages 7-10.

1. Testimony of Amica Van Zandt

Ms. Van Zandt testified that she met Respondent through the recommendation of a coworker, Ms. Smith, who used him to help her purchase a home. Ms. Van Zandt and a different coworker, Sharlotte Doyle, had their first meeting with Respondent at a builder's home site and afterward went to a nearby restaurant for lunch to discuss purchasing a home. They discussed the types of homes they were looking to purchase, possible locations, and financing. On April 2, 2006, Ms. Van Zandt testified that she and Ms. Doyle, without Respondent's help, located two homes to purchase with Supreme Builders. During the completion of the paperwork with builder's representative Jennifer Bourgeois of Supreme Builders, Ms. Bourgeois asked Ms. Van Zandt who the agent and broker would be on the sales. Ms. Van Zandt called Respondent and handed the phone to Ms. Bourgeois who spoke with Respondent personally about whom to list as the real estate agent on the earnest money contracts.⁵ Ms. Van Zandt understood Respondent to say he (and Lone Star Real Estate and Mortgage) were the real estate agents for the transaction. Respondent gave Ms. Bourgeois specifics on the commission split to be paid to him and/or Lone Star Real Estate and Mortgage. Ms. Van Zandt testified that she met with Respondent again at the Supreme Builders home she wanted to purchase, to discuss the different aspects of the home and what she wanted, as well as financing options and credit repair tasks Ms. Van Zandt needed to do. Ms. Van Zandt stated she was always under the impression that Respondent was acting as an agent/broker, as well as a loan officer, and would be compensated for these roles.

Immediately prior to the scheduled closing on Ms. Van Zandt's home, Respondent contacted her and advised her that he could not find financing. Ms. Van Zandt was unhappy with this result and after doing some investigation she learned that Respondent was not licensed as an agent or broker. Ms. Van Zandt filed a complaint against Respondent with the Commission. Ms. Van Zandt testified that she was unaware of who Joachin Tein Vu⁶ was until after the house failed to close. She

⁵ Petitioner's Exhibit No. 25, C-3 pages 7-10.

⁶ Vu was the licensee sponsor for Respondent as a loan officer. He is listed on the real estate documents as the agent/broker for Lone Star but denies he had any relationship with Respondent in his capacity as a real estate broker.

stated that when she contacted Mr. Vu she was told by him that Respondent was not a real estate agent or broker, and was associated with him only as a loan officer.

2. Respondent's Testimony

Respondent testified he met with Ms. Van Zandt only in the capacity of a loan officer. Although other things may have been discussed, he at no time told her or implied to her that he was a real estate agent or broker. He testified that he discussed the financial aspects of what would be required to purchase a home and made it clear he was only a loan officer. Respondent noted that there was no evidence provided that shows he received any funds from any of the real estate transactions under his name. Respondent explained his business card furnished to Ms. Van Zandt was the standard card furnished by Loan Star with the standard language.

Respondent testified that he told Ms. Bourgeois of Supreme Builders he was the loan officer, and when he initially saw the paperwork that listed him as the agent he asked Ms. Bourgeois to correct it. Respondent explained that he handled most of the dealings with the three individuals, and that Mr. Vu never met with them. He admits that Mr. Vu received a real estate commission on the Sandra Smith transaction.

C. Analysis and Recommendation

Staff was able to prove that Respondent acted as a real estate agent and or broker in the three real estate transactions, with the expectation of compensation, while unlicensed. Through Ms. Van Zandt's testimony, Staff proved that Respondent provided real estate agent services such as showing of real property, discussions of prices of various real properties, and discussions about qualities of various neighborhoods where real properties were listed. The evidence was also persuasive that Respondent had the expectation that he would be compensated for those services. On the two earnest money contracts with Supreme Builders on the Van Zandt and Doyle transactions, both the testimony of Ms. Van Zandt and the written statement of Supreme Builders representative Jennifer Bourgeois indicate that Respondent caused his name, and the name of Lone Star Realty, to

be on the commission recipient designation line "Agent's Name/Company." On those same contracts Respondent caused the name Lone Star Realty to be listed as the "Broker" entitled to a brokerage fee. Respondent's testimony that he attempted to have his name removed from the builder's contracts was unpersuasive, self-serving, and contrary to the more credible testimony from Ms. Van Zandt testimony and the written statement of Ms. Bourgeois that he caused his name to be included as the agent on the contract.

Respondent's business card was also misleading, in that one might infer that he was an agent from the fact that the card says "Lone Star Realty and Mortgage Group." Also, his email communications with the builder's sales agent, Ms. Bourgeois, on April 20, 2006, are misleading. When Respondent was asked by Ms. Bourgeois who the loan officer and mortgage company were, Respondent replied "the loan officer is me and all the info is the same." In these series of communications, the ALJ finds Ms. Bourgeois obviously believed Respondent was acting as the real estate agent when asking him the question. Respondent did nothing to clarify her obvious misunderstanding other than to say he was the loan officer and lender. Also, in a May 1, 2006, email to the third buyer, Sandra F. Smith, Respondent explained that with his new phone he could connect to his computer so he "can continue to work, while out showing properties." Ex. 10, p 74. "Showing properties" is an admission that Respondent was performing activities requiring a real estate license. This admission is consistent with Ms. Van Zandt's testimony that Respondent showed properties to her and Ms. Doyle. Showing properties is part of what is defined as real estate agent activity. TEX. OCC. CODE § 1101.002(viii).

Finally, with regard to Respondent acting as a real estate agent on a real estate transaction between the buyer Ms. Smith and the seller Perry Homes, Inc., for a property located at 16555 Pentonshire Lane in Spring, Texas, the ALJ finds that as a matter of law Staff's allegation on this transaction is deemed admitted. On July 17, 2009, Staff sent Respondent a set of Request for Admissions. On July 20, 2009, Respondent received those requests in the mail but did not respond to them. As a matter of law those requests were deemed admitted on August 24, 2009. One of the requests asks Respondent to:

Admit or deny [that] in exchange for valuable consideration or with the expectation of receiving other valuable consideration you engaged and performed real estate brokerage activity representing the buyer, Sandra Smith, specifically by submission of an offer to purchase property located at 16555 Pentonshire Lane in Spring Texas, to Dawn Brewer, the representative of the seller, Perry Homes, Inc.

Because the other evidence in the record was incomplete for this transaction, the ALJ relies on this deemed admission for this transaction. Because no response to this admission was filed, much less a response within 20 days as required by 1 TAC § 155.251, this request is accepted as true. Consequently, the deemed admission serves as proof of the fact requested as a matter of law.

In summary, Staff was able to prove that Respondent performed real estate agent activities without a license to do so in three property transactions in 2006 involving the buyers Smith, Van Zandt, and Doyle in Harris County.

D. Penalty

Staff requests a penalty for the Respondent's unlicensed activity of \$1,000 per violation. This is the maximum penalty that could be assessed under the law in effect at the time of the violation, but that maximum is well supported by the factors used to determine penalty amounts.⁷ The factors to be considered when determining the amount of the penalty are the:

- (1) seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited acts;
- (2) history of previous violations;
- (3) amount necessary to deter future violations;
- (4) efforts to correct the violation; and
- (5) any other matter that justice may require.⁸

In this case, Staff has shown the violations were serious. Respondent was not honest with the buyers in these transactions in that he had failed to advise them that he had no authority to act as a real estate agent. At every opportunity to clarify communications, Respondent chose not to do. Respondent's representations were serious because they were intentional and constituted an ongoing

⁷ TEX. OCC. CODE § 1101.702(a).

⁸ TEX. OCC. CODE § 1101.702(b)(since revised effective September 1, 2007).

pattern of conduct, as opposed to a one-time aberration from his normal course of business. Consequently, the maximum penalty of \$1,000 per transaction allowed under the old statute seems legally appropriate for these facts. Therefore, a penalty of \$3,000 for the three real estate transactions is an appropriate administrative penalty.

III. FINDINGS OF FACT

1. During January 2006, Marcus M. Norton (Respondent) was involved in assisting three homebuyers with obtaining financing information related to purchasing a new home.
2. Respondent met with Amica Van Zandt on two separate occasions on which Respondent implied he was a real estate agent, as well as a loan officer.
3. On April 2, 2006, Ms. Van Zandt signed an earnest money contract to purchase a home at 2511 Montana Blue Drive in Spring, Texas, from Supreme Builders. At the time she signed the contract, she telephoned Respondent, who spoke directly with the Builder's representative Jennifer Bourgeois. Respondent informed Ms. Bourgeois to place his name and the name Lone State Realty on the contract as the real estate agent.
4. Ms. Van Zandt thought Respondent would be compensated as her real estate agent.
5. Similarly, on April 2, 2006, Charlotte A. Doyle, signed an earnest money contract to purchase a home at 2446 Montana Blue Drive in Spring, Texas, from Supreme Builders. Respondent, via a phone conversation with builder's representative Jennifer Bourgeois, caused his name and that of Lone Star Realty to be listed as the real estate agent.
6. Ms. Van Zandt's contract to purchase the above described property did not close.
7. When Ms. Van Zandt became aware that Respondent was not a real estate agent or broker she filed a complaint with the Texas Real Estate Commission on June 13, 2006.
8. In 2006, Respondent, in exchange for valuable consideration or with the expectation of receiving other valuable consideration, engaged and performed real estate brokerage activity representing the buyer, Sandra Smith, specifically by submission of an offer to purchase property located at 16555 Pentonshire Lane in Spring Texas, to Dawn Brewer, the representative of the seller, Perry Homes, Inc.
9. On July 17, 2009, Staff sent Respondent a set of Request for Admissions. Respondent received those on July 20, 2009. Despite receiving these, Respondent never filed a response.

10. Staff mailed to Respondent its Notice of Alleged Violation on October 30, 2008 and Respondent signed the postal receipt on November 1, 2008.
11. On November 19, 2008, Respondent timely requested a hearing.
12. On June 24, 2009, Staff mailed the notice of administrative hearing to Respondent.
13. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
14. The hearing on the merits was held January 7, 2010. Petitioner was represented by Virginia Fields, Staff Attorney. Respondent appeared by telephone and *pro se*. The record closed that day at the conclusion of the hearing.
15. Respondent intended his name to be listed as the agent or broker in three real estate transactions listed above and intended to receive compensation as an agent or broker.
16. Respondent is not and has not ever been licensed as a real estate agent or broker in Texas.
17. Respondent's unlicensed activities are serious, because they involve multiple transactions and were reasonably calculated to cause buyers and sellers' representatives to believe he was a licensed real estate agent or broker.

IV. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to the Real Estate License Act (Act), TEX. OCC. CODE ch. 1101.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this matter, including the authority to issue a proposal for decision with findings of fact and conclusions of law, pursuant to TEX. GOV'T. CODE ANN. ch. 2003.
3. Staff's Requests For Admission sent to Respondent on July 17, 2007, and received by Respondent on July 20, 2009, are deemed admitted because more than 20 days have passed since the receipt of those by Respondent and no response was ever filed.
4. Proper and timely notice of the hearing was provided to Respondent pursuant to the Administrative Procedure Act, TEX. GOV'T. CODE ANN. ch. 2001.
5. The Commission had the burden of proof, pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.427.

6. Respondent was engaging and performing real estate brokerage activity, as defined by TEX. OCC. CODE § 1101.002, without the proper license as required by TEX. OCC. CODE § 1101.351.
7. The Commission may impose an administrative penalty on a person who violates the Act or a rule of the Commission, pursuant to TEX. OCC. CODE § 1101.701.
8. The amount of penalty assessed by the Commission may not exceed \$1,000 for each violation of unlicensed activity in the year 2006. The amount of penalty shall be based on the seriousness of the violation, the history of previous violations, the amount necessary to deter future violations, and efforts to correct the violation. TEX. OCC. CODE § 1101.702.
9. A party to a contested hearing may obtain discovery through request for "admissions of facts and the genuineness or identity of documents or things." 1 TAC § 155.251) (SOAH Rule 155.251.
10. Based on Finding of Fact No.9, as a matter of law, Respondent admitted to Staff's requests for admission on the Sandra Smith real estate purchase transaction. SOAH Rule 155.31(d)(2)(A).
11. Based upon the foregoing Findings of Fact and Conclusions of Law, Petitioner met its burden of proof that Respondent was involved in unlicensed real estate activity.
12. Respondent unlicensed activity was serious enough to warrant the maximum penalty at that time because it involved deceptive or misleading trade practices and communications. TEX. OCC. CODE § 1101.702(a).
13. Based upon the foregoing Findings of Face and Conclusions of Law, Respondent should be assessed an administrative penalty of \$3,000 for the proven unlicensed activity.

SIGNED March 10, 2010.



BILL ZUKAUCKAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



Agenda Item 26(d):

Consideration and possible action regarding
Proposals for Decision from State Office of
Administrative Hearings

- d) In the Matter of Wyndee Lynn
Rodriguez, SOAH Docket No. 329-
10-1402.REC

SUMMARY

See attached

STAFF
RECOMMENDATION
MOTION

See attached

TEXAS



REAL ESTATE COMMISSION

DOUGLAS E. OLDMIXON, ADMINISTRATOR

Standards & Enforcement Services
Direct Line: (512) 465-3960
Facsimile: (512) 465-3962

MEMORANDUM

To: THE COMMISSION MEMBERS

From: KERRI T. GALVIN, DIRECTOR OF STANDARDS & ENFORCEMENT SERVICES

Date: APRIL 30, 2010

**Subject: PROPOSAL FOR DECISION
IN THE MATTER OF
WYNDEE LYNN RODRIGUEZ**

The enclosed Proposal for Decision has been filed in SOAH Docket No. 329-10-1402.REC. The Proposal for Decision will be considered for Final Order at the meeting of the Commission scheduled for May 17, 2010, at 10:00 a.m. in the Commission Conference Room, Room 235, Texas Real Estate Commission Offices, 1101 Camino La Costa, Austin, Texas.

A handwritten signature in cursive script, reading "Kerri T. Galvin", is written over a horizontal line.

Kerri T. Galvin
Director of Standards & Enforcement Services

KTG:sm
Enclosure

cc: Douglas E. Oldmixon, Administrator

Loretta R. DeHay, General Counsel & Deputy Administrator

Devon V. Bijansky, Deputy General Counsel

Patricia Holder, Administrative Assistant

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

February 11, 2010

Douglas E. Oldmixon
Administrator
Texas Real Estate Commission
1101 Camino La Costa
Austin, Texas 78752

INTER-AGENCY

RE: Docket No. 329-10-1402.REC; Texas Real Estate Commission v. Wyndee Lynn Rodriguez

Dear Mr. Oldmixon:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy G. Scudday".

Roy G. Scudday
Administrative Law Judge

RGS/ap
Enclosure

xc: Sharon S. Harris, Staff Attorney, Texas Real Estate Commission, 1101 Camino La Costa, Austin TX 78752 – VIA INTER-AGENCY
Wyndee Lynn Rodriguez, 24323 Flint Creek, San Antonio, TX 78255 - VIA REGULAR MAIL
Della Lindquist, Director of Enforcement, TREC, 1101 Camino La Costa, Austin, TX 78752 - (with 1 CD; Certified Evidentiary Record) – VIA INTER-AGENCY

SOAH DOCKET NO. 329-10-1402.REC

TEXAS REAL ESTATE COMMISSION, Petitioner	§	BEFORE THE STATE OFFICE
	§	
V.	§	
	§	OF
WYNDEE LYNN RODRIGUEZ, Respondent	§	
	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Real Estate Commission (Staff/Commission) brought action against Wyndee Lynn Rodriguez (Respondent) seeking to revoke Respondent's real estate broker license. The Administrative Law Judge (ALJ) recommends that Respondent's license be revoked.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The hearing convened on February 9, 2010, before ALJ Roy G. Scudday in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Sharon S. Harris, Staff Attorney, who moved for a default based on Respondent's failure to appear.

Staff offered competent evidence establishing jurisdiction and that appropriate notice of the hearing was provided to Respondent. Those matters are set out in the Findings of Fact and Conclusions of Law.

II. RECOMMENDATION

Based upon the following Findings of Fact and Conclusions of Law and in accordance with 1 TEX. ADMIN. CODE § 155.501, the ALJ granted Staff's motion for default and recommends that Respondent's license be revoked.

III. FINDINGS OF FACT

1. Wyndee Lynn Rodriguez (Respondent) holds a real estate broker's license issued by the Texas Real Estate Commission (Commission).
2. On June 18, 2009, the Commission entered an Agreed Order revoking Respondent's license, but probating that revocation for a period of one year.
3. As a condition for the license revocation probation, Respondent was required to pay an administrative penalty of \$500, payable in five monthly installments beginning June 26, 2009.
4. Respondent had failed to make any of the scheduled payments as required by the Agreed Order.
5. On November 23, 2009, Staff of the Commission (Staff) issued a Motion to Revoke Probation.
6. On December 11, 2009, Staff mailed its notice of administrative hearing to Respondent at 24323 Flint Creek, San Antonio, Texas 78255, Respondent's address of record, by United States Post Office certified mail and regular mail, neither of which were returned.
7. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
8. The notice of hearing contained the following language in capital letters in at least 12-point boldface type: "IF RESPONDENT FAILS TO APPEAR AT THE SCHEDULED HEARING, THE FACTS ON WHICH THE MOTION IS BASED COULD BE DEEMED ADMITTED, AND THE RELIEF SOUGHT IN THE MOTION TO REVOKE PROBATION MIGHT BE GRANTED BY DEFAULT AGAINST THE DEFAULTING PARTY THAT FAILS TO APPEAR AT THE HEARING."
9. Respondent did not appear and was not represented at the hearing.

IV. CONCLUSIONS OF LAW

1. The Texas Real Estate Commission (Staff/Commission) has jurisdiction over the licenses of real estate brokers, salespersons, and inspectors, pursuant to the TEX. OCC. CODE ANN. (Code) ch. 1101.
2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a contested case in this matter, including the preparation of a Proposal for

Decision with proposed Findings of Fact and Conclusions of Law, under TEX GOV'T CODE ANN. ch. 2003.

3. Respondent received proper and timely notice of hearing as required by TEX GOV'T CODE ANN. §§ 2001.051 and 2001.052.
4. The allegations stated in Findings of Fact Nos. 2-5 are deemed admitted pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.501.
5. The Commission has the authority to revoke a real estate brokers license pursuant to Code ch. 1101, subch. N.
6. Based on Findings of Fact Nos. 2-5 and Conclusion of Law No. 4, Respondent's license should be revoked.

SIGNED February 11, 2010.



ROY G. SCUDDAY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



Agenda Item 26(e):

Consideration and possible action regarding
Proposals for Decision from State Office of
Administrative Hearings

- e) In the Matter of Jim S. Hicks, SOAH
Docket No. 329-10-6222.REC

SUMMARY

See attached

STAFF
RECOMMENDATION
MOTION

See attached



Standards & Enforcement Services

Direct Line: (512) 465-3960

Facsimile: (512) 465-3962

MEMORANDUM

To: THE COMMISSION MEMBERS

From: KERRI T. GALVIN, DIRECTOR OF STANDARDS & ENFORCEMENT SERVICES

Date: MAY 6, 2010

**Subject: PROPOSAL FOR DECISION
IN THE MATTER
JIM S. HIX**

The referenced matter, filed under SOAH Docket No. 329-10-6222.REC, will be considered for Final Order at the meeting of the Commission scheduled for May 17, 2009, at 10:00 a.m. in the Commission Conference Room, Room 235, Texas Real Estate Commission Offices, 1101 Camino La Costa, Austin, Texas.

Enclosed for your consideration are copies of the following:

- 1) Proposal for Decision dated April 27, 2010;
- 2) Petitioner's Exceptions to Proposal for Decision; and


Kerri T. Galvin
Director of Enforcement

KTG:sm
Enclosure

cc: Douglas E. Oldmixon, Administrator

Loretta R. DeHay, General Counsel and Deputy Administrator

Devon V. Bijansky, Deputy General Counsel

Patricia Holder, Administrative Assistant

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

RECEIVED

April 27, 2010

APR 28 2010

Texas Real Estate Commission

Douglas E. Oldmixon
Administrator
Texas Real Estate Commission
1101 Camino La Costa
Austin, Texas 78752

INTER-AGENCY

RE: Docket No. 329-09-6222.REC; Texas Real Estate Commission vs. Jim S. Hix

Dear Mr. Oldmixon:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Borkland".

Michael J. Borkland
Administrative Law Judge

MJB/pp
Enclosure

xc: Robert Meisel, Staff Attorney, 1101 Camino La Costa, Austin TX 78752 – VIA INTER-AGENCY
Louis Leichter, Attorney, Law Office of Louis Leichter, 1602 East 7th Street, Austin, TX 78702 - VIA REGULAR MAIL
Kerri Galvin, Director of Standards & Enforcement Services, TREC, 1101 Camino La Costa, Austin, TX 78752 - (with 1 CD(s); Certified Evidentiary Record) – VIA INTER-AGENCY

**SOAH DOCKET NO. 329-09-6222.REC
(TREC NO. 091820)**

**TEXAS REAL ESTATE
COMMISSION,
Petitioner**

v.

**JIM S. HIX,
Applicant**

§
§
§
§
§
§
§

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Real Estate Commission (Staff/TREC) brought action against Jim S. Hix (Applicant) to deny his application for late renewal of a real estate broker license (license) due to having multiple convictions for a crime, driving while intoxicated (DWI), that directly relate to the duties and responsibilities of the licensed occupation.¹ This proposal recommends that the application be granted.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There are no issues of notice or jurisdiction in this proceeding. Therefore, these matters are addressed in the Findings of Fact and Conclusions of Law without further discussion here.

The hearing convened February 8, 2010, before Administrative Law Judge (ALJ) Michael J. Borkland in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff was represented by Robert Meisel, Staff Attorney. Applicant appeared and was represented by Louis Leichter, Attorney. The record closed March 4, 2010, following the filing of written closing briefs by both parties.

II. DISCUSSION

A. Documentary Evidence

Staff submitted twelve exhibits, including the notice of administrative hearing, the

¹ Applicant was first licensed as a real estate salesperson in 1974. He has held a broker's license since 1975, but he allowed it lapse periodically over the years.

application at issue, agency records, court records, and a resume for a testifying witness,² all of which were admitted without objection. Applicant submitted sixteen exhibits, including information on treatment centers attended by Applicant, certificates and progress reports, a letter of approval by TREC for Applicant to sit for examination, page 569 of the 3rd Edition of the Big Book of Alcoholics Anonymous (AA), and letters of recommendation, all of which were admitted without objection.³

Documents submitted by Applicant in support of licensure include the following:

- A letter dated May 19, 2009, from Cotii Huggins, Program Director of the Freeman Center, an accredited Drug and Alcohol Treatment Program, stating that Applicant has successfully completed an out-patient program and that Applicant continues to participate in support groups and aftercare.⁴
- A Progress Report from the Interstate Commission for Adult Offender Supervision dated February 19, 2009, stating that Applicant is current with conditions of probation.⁵
- A certificate from the Freeman Center dated August 27, 2008, showing that Applicant successfully completed the outpatient program.⁶
- A certificate from the Watch Program dated April 3, 2008, showing that Applicant successfully completed the program.⁷
- An undated letter of recommendation from Walther G. Lacy, III of Hillcrest Investment Company. He has been Applicant's friend since they attended Baylor University many years ago. He stated that Applicant had been sober for two years at the time the letter was written.⁸
- A letter of recommendation dated May 19, 2009, from J. David Dickson, an attorney with the firm of Beard, Kultgen, Brophy, Bostwick, Dickson, & Squires in Waco, Texas. He has known Applicant for over 30 years and stated that Applicant has been sober for over two years. Mr. Dickson also stated that Applicant completed treatment and regularly attends AA

² TREC Ex. C-1 - C-12.

³ App. Exs. A-1 - A-15.

⁴ App. Ex. A-3.

⁵ App. Ex. A-4.

⁶ App. Ex. A-5.

⁷ App. Ex. A-6.

⁸ App. Ex. A-7.

meetings.⁹

- A letter of recommendation dated February 5, 2010, from Mary Jane Zeigler of the Coryell County Land and Abstract Company in Gatesville, Texas. She is an attorney who owns a title insurance company. She has known Applicant for many years and has purchased several parcels of commercial real estate through him. Ms. Zeigler stressed in her letter that Applicant has been very cordial and professional, demonstrated honesty and integrity, and never shown any indication of impairment.¹⁰
- A letter of recommendation dated February 5, 2010, from John A. Hastings, Jr. of Bosque Cen-Tex Title, Inc., in Meridian, Texas. He stated that Applicant has always acted in a responsible and professional manner when dealing with Bosque Cen-Tex Title.¹¹
- A letter of recommendation from Jeanie Cospers of Southwest Properties in Clifton, Texas. She is a real estate broker who has known Applicant for approximately 10 years. During that time period, she has been involved in several real estate transactions with him. She stated that he exemplified exceptional professionalism, was a man of his word, and, as a fellow professional, she has complete confidence in Applicant.¹²
- A letter of recommendation dated February 5, 2010, from Debbi Royer, who is president and partner in Kennedy American Mortgage. She stated that she has made at least 10 loans to Applicant, and that he paid each loan as agreed. She has found Applicant to be honest and trustworthy.¹³
- A letter of recommendation dated February 5, 2010, from John J. Vallier of Coastal Commercial Real Estate & Development in Costa Rica. He stated that he has known Applicant for approximately 30 years and he explained that Applicant's drinking accelerated during periods of depression following the death of a newborn child, and then the deaths of his grandmother, mother, father, and two brothers all within a short period of time. Mr. Vallier stated that Applicant is a changed man following treatment and he believes that Applicant's knowledge of real estate and banking will provide something that is needed in the profession.¹⁴

⁹ App. Ex. A-9.

¹⁰ App. Ex. A-10.

¹¹ App. Ex. A-11.

¹² App. Ex. A-13.

¹³ App. Ex. A-14.

¹⁴ App. Ex. A-15.

B. Criminal Offenses

Applicant did not contest the allegations in the notice of hearing that he had multiple convictions for the offense of DWI. He admitted to the following offenses:

- On September 10, 1976, Applicant pled guilty to DWI in Cause No. 58197, in the County Court at Law of McLennan County, Texas. Applicant was placed on probation without a final finding of guilt. Applicant was not convicted of the offense.¹⁵
- On August 21, 1996, Applicant was found guilty of DWI following a trial by jury in Cause No. 44961, in the County Court at Law of Hays County, Texas, and placed on probation. Applicant was released from supervision following successful completion of probation.¹⁶
- On March 24, 1999, Applicant pled guilty to DWI, Subsequent Offense, in Cause No. 98-11-13161, in the 220th District Court of Bosque County, Texas, and was placed on probation. Applicant was discharged from community supervision following successful completion of probation.¹⁷
- On October 1, 2007, Applicant pled guilty to the felony offense of Driving Under the Influence of Liquor,¹⁸ in Cause No. DC-06-175B, in the Gallatin County District Court, Bozeman, Montana, and sentenced to 13 months in the Gallatin County Detention Center.¹⁹

C. Oral Testimony

Testimony was provided by: Applicant; John Goehrs;²⁰ a TREC Enforcement Division

¹⁵ TREC Ex. C-10. In the notice of hearing, Staff inaccurately referred to the resolution of this case as a conviction.

¹⁶ TREC Ex. C-9.

¹⁷ TREC Ex. C-8.

¹⁸ For purposes of this Proposal for Decision, the ALJ will use the term "DWI" to include the offense of driving under the influence.

¹⁹ TREC Ex. C-6.

²⁰ Mr. Goehrs testified that he is an alcoholic because he ran off the road hitting a tree while driving drunk. He stated that due to the accident he quit drinking. Mr. Goehrs is to be commended for his post-accident actions. However, alcoholism is a disease, and, as such, it can only be diagnosed by a physician with proper training. While Mr. Goehrs testified that he participated in an out-patient program following his accident, he did not testify that he has any specialized training in the area of substance abuse. His testimony regarding the diagnosis and treatment of alcoholism is of little value and will not be considered. His testimony pertaining to TREC's policies and concerns with those diagnosed as alcoholics and having multiple convictions for alcohol related offenses is of probative value and will be

attorney; James Ashley and Charles O. Grigson,²¹ Applicant's friends; and Jeffrey L. Butts, D.O.

Applicant was first called to testify by Staff. In response to Staff's questions, Applicant acknowledged that he has been an alcoholic all of his adult life. He stated that he began having increasing difficulties with alcohol beginning in 1993. He currently does not have an automobile but when he did, the vehicle had an interlock device to prevent him from driving while intoxicated. He admitted that alcohol affects judgment and that a broker must exercise skill and judgment in the performance of his duties. He stated that given his record, he understands TREC's doubts and concerns about him. He admitted that he has five DWI convictions.²²

Applicant testified that he has been sober since April 15, 2007, the date his pre-trial probation was revoked in Montana because he had been drinking when he reported to his probation officer. He was remanded to an intensive program of cognitive therapy designed to change his behavior. He attended the in-patient part of that program for six months, during which he attended AA every day. He stressed that the program has a 74% success rate. Applicant has continued treatment on his own with the Freeman Center in Waco, Texas, by attending group therapy sessions.

Applicant explained that alcoholism is a chronic, fatal, and progressive disease that leads to liver failure. He stated that over time sobriety gets better, never worse. He stressed that he has no crimes other than DWI, he is compliant with his probation, and that as an addict he cannot promise that he will never drink again. To assist with his efforts at continued sobriety, Applicant stated that he has a sponsor to monitor his sobriety. He stressed that he has no thoughts of relapse but if he did

considered.

²¹ Mr. Grigson practices law in Austin, Texas. He is very familiar with the subject matter of this case because his practice includes the representation of those charged with DWI.

²² In the Notice of Hearing, Staff pled that Applicant had five convictions for DWI, including a 1994 conviction in Travis County, Texas. The documents submitted did not include a judgment establishing that Applicant had a DWI conviction in Travis County. Staff also included, as an exhibit, a disposition sheet from a Justice of the Peace Court in Gallatin County, Montana, referencing a DUI in 2001. The disposition sheet states that Applicant was found guilty but makes no mention of adjudicating the offense. Without a copy of the judgment, Staff failed to prove that there was a conviction in that case. The term "conviction" has specialized meaning. It appears that both Staff and Applicant do not fully understand the term. For example, the 1976 misdemeanor probation given in the Texas case in 1976 was not a conviction. In its written closing argument, Staff stated that Applicant has been convicted six times of DWI. The ALJ assumes this must be a typographical error because an allegation of six convictions had not been made previously. However, by proving three convictions for DWI, Staff established that Applicant has multiple convictions for the offense.

he would go to an AA meeting and talk to his sponsor. He stated that he does not need a car to drive clients around because it is his practice to meet clients at the properties they want to see. Applicant does not believe that having a real estate broker license will give him an opportunity to drink and drive.

Mr. Ashley was Applicant's neighbor around 20 years ago. He testified that he hired Applicant as the general contractor to build his house, even though he was well-aware of Applicant's alcohol problems. He stressed that Applicant is a great guy who does not lie or cheat. He said the house Applicant built for him came in under budget. Mr. Ashley has kept up with Applicant over the years and is knowledgeable about Applicant's troubles from alcohol abuse. Based on his contact with Applicant, he believes that Applicant has been sober for several years and that he is compliant with the terms of his probation. He stated that he would again use Applicant as a general contractor or seek his assistance from him with listing or purchasing real estate.

Mr. Grigson has known applicant for approximately 40 years. As a close personal friend, he is aware of Applicant's alcoholism. He testified that Applicant did not seriously participate in treatment until the program he completed several years ago in Montana. He believes that Applicant has turned the corner, is working the program, and based on his conversations with Applicant, he has changed. He stressed that Applicant has not been drunk on the phone with him since starting the program in 2007. He said that he has never given up on Applicant because he is a friend, and a good guy who is honest, trustworthy, and has integrity. He acknowledged that Applicant's success depends on his continued commitment to the program.

Dr. Butts is board-certified in both family practice and addiction medicine. His practice is now devoted fulltime to drug and alcohol addiction. The weekend prior to the hearing, Dr. Butts evaluated Applicant. He diagnosed Applicant with alcohol use disorder in remission, bi-polar disorder with depression, and sleep apnea. Dr. Butts explained there are two types of recovery for alcoholics. The first type involves sudden awareness of the problem by some event, such as family or court intervention, that sets off a crisis for the addict. According to Dr. Butts, the more typical form of recovery is an educational process leading to a slow awareness of the problem. In this

process, the addict reaches a point where full recovery is embraced.

Dr. Butts testified that Applicant's chances of staying sober are good because he has an adequate program consisting of AA, a sponsor, and a support system. He stated that Applicant is aware of what he needs to do and he expressed willingness to do it. Dr. Butts believed Applicant was honest based on responses to psychological and dependency tests. It was Dr. Butts' opinion that Applicant has not had a drink since his sobriety date. He stated that probation cannot keep an alcoholic sober. Rather, it is necessary for the alcoholic to have a spiritual experience.²³

Mr. Goehrs is an attorney with TREC's enforcement division. He received a TREC license, which is now inactive, in 1985. He explained that the duties and responsibilities of a broker include listing, showing, and meeting with clients at properties. He stated that a broker cannot work without an automobile.²⁴ He testified that TREC is concerned with Applicant's fitness because alcohol impairs judgment, which is of the utmost importance for a broker, and that Applicant appears to only stay sober while on probation. Mr. Goehrs believes that probation can keep someone sober.²⁵

On cross-examination, Mr. Goehrs admitted that he has no training in the diagnosis and treatment of alcoholism, and that he did not consider Applicant's treatment and sobriety program in making his recommendation not to license Applicant. He acknowledged that Applicant has no record of fiduciary breaches or complaints, and there are no allegations that Applicant has been impaired while on the job. He admitted that his concerns pertaining to Applicant's impairment are based solely on the prior convictions. He agreed with Applicant that a TREC license is not needed for him to have passengers in a motor vehicle, and the license will not provide Applicant an opportunity to commit further DWI offenses.

²³ App. Ex. A-16 is a discussion of the term "spiritual experience" from the Big Book of Alcoholics Anonymous. According to the book, the essence of spiritual experience is an "awareness of a Power greater than ourselves." See p. 569.

²⁴ The ALJ was unable to find this requirement in the eligibility rules.

²⁵ Dr. Butts testified that probation cannot keep an alcoholic sober. Applicant's pre-trial probation was revoked in Montana because he was continuing to drink.

D. Legal Standards

TEX. OCC. CODE (Code) ch. 53 provides a framework for agencies to deal with licensees who have criminal convictions. First, an agency must determine whether a conviction relates to the Applicant's occupation.²⁶ If a conviction relates to the occupation, the agency must then determine whether the conviction affects the Applicant's fitness to perform the duties and discharge the responsibilities of the licensed occupation. A lengthy list of factors is provided for the licensing authority to consider.²⁷ TREC may deny a license of a person who fails to demonstrate honesty, trustworthiness, and integrity.²⁸

Additionally, TREC has adopted criminal conviction guidelines. The guidelines provide that multiple violations of any criminal statute make those offenses directly related to the licensed occupation.²⁹ TREC rules provide that following a hearing, either "the commission or a SOAH administrative law judge [may determine] that issuance of a probationary license is appropriate. . ."³⁰

C. Analysis and Recommendation

This case raised the question of what is to be done with an applicant with a substantial history of substance abuse and related criminal convictions, but who has also made tremendous rehabilitative strides. Licensure is important to Applicant because he can make a better living in the profession he has worked most of his adult life. TREC has a duty to protect the public from unqualified or dangerous individuals.

Applicant's multiple convictions for DWI are directly related to the licensed occupation according to a TREC rule. However, Mr. Goehrs admitted that licensure of Applicant will not provide him a greater opportunity to commit similar crimes and that Applicant does not need a real

²⁶ Code § 53.022.

²⁷ Code § 53.023.

²⁸ 22 TEX. ADMIN. CODE (TAC) 535.52(a).

²⁹ 22.TAC § 541.1(a)(13).

³⁰ 22 TAC § 535.94(b).

estate license to drive with his passengers in his vehicle. Currently, Applicant does not have a car and he stated that he does not need one for his type of real estate practice.

Staff's denial of the application focused solely on the number of Applicant's convictions. Mr. Goehrs acknowledged that he did not take into account Applicant's treatment and sobriety programs, or that Applicant has no record of complaints or fiduciary breeches. While the convictions are certainly important, Chapter 53 of the Occupations Code requires an agency to also consider an applicant's post-conviction rehabilitative efforts.

Applicant's evidence established that he has been sober since 2007, and Dr. Butts opined that Applicant has a good chance of staying sober based on his rehabilitative efforts and support system. In support of his application, Applicant submitted eight letters of recommendation from friends, contacts he made in the real estate business, and a counselor. Two of Applicant's long-time friends testified in support of his application.

No drug addict or alcoholic can ever guarantee future sobriety. However, that does not mean alcoholics can never be trusted to do excellent jobs at their chosen professions. TREC Staff has voiced legitimate concerns with Applicant. On the other hand, Applicant has made a compelling case for licensure. TREC rules provide for the issuance of a probationary license, which will allow Staff to monitor Applicant during his re-entry into the real estate profession. Thus, the ALJ determines that it is appropriate to issue Applicant a probationary license with reasonable terms and conditions, as provided for by TREC Rule 535.94.

III. FINDINGS OF FACT

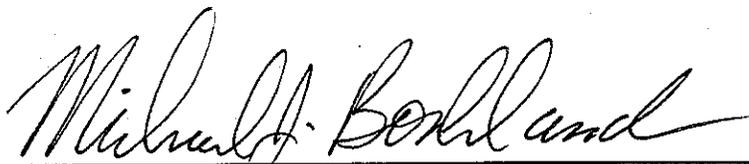
1. Jim S. Hix (Applicant) filed an Application for Late Renewal of a Real Estate Broker License with the Texas Real Estate Commission (TREC).
2. Applicant was first licensed as a real estate salesperson in 1974. He has been licensed as a real estate broker since 1975, but he has allowed that license to lapse periodically over the years.
3. Applicant has multiple convictions for the offense of driving while intoxicated (DWI), which is a serious criminal offense.

4. Based on the DWI convictions, TREC Staff denied the application for licensure referred to in Finding of Fact No. 1.
5. Applicant has been diagnosed with alcohol use disorder in remission.
6. Applicant has been sober since 2007.
7. Applicant has successfully completed both in-patient and out-patient alcohol treatment programs.
8. Applicant continues to participate in an out-patient program through an aftercare program.
9. Applicant has a good chance at continued sobriety because he follows a program of regularly attending Alcoholic Anonymous and visiting with his sponsor.
10. Applicant has the support of friends and contacts in the real estate profession as shown by letters of recommendation.
11. The evidence did not establish that licensure of Applicant would pose a risk to the public by giving him a greater opportunity to commit a crime.
12. Applicant expressed remorse for his crimes.
13. Applicant currently has the fitness required to perform the duties and discharge the responsibilities of a real estate broker.
14. Staff gave notice to Applicant of its proposed denial of the application referred to in Finding of Fact No. 1.
15. Applicant timely requested a hearing.
16. On August 31, 2009, Staff mailed Notice of Administrative Hearing to Applicant.
17. The Notice of Administrative Hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
18. The hearing on the merits was held February 8, 2010. All parties appeared and participated in the hearing. The record closed March 4, 2010, following the filing of written closing briefs by the parties.

IV. CONCLUSIONS OF LAW

1. The Texas Real Estate Commission (TREC) has jurisdiction over this matter pursuant to TEX. OCC. CODE ch. 1101.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this matter, including the authority to issue a proposal for decision with findings of fact and conclusions of law, pursuant to TEX. GOV'T. CODE ch. 2003.
3. Proper and timely notice was provided to Applicant pursuant to the Administrative Procedure Act, TEX. GOV'T. CODE ch. 2001.
4. According to TREC's Criminal Conviction Guidelines, 22 TEX. ADMIN. CODE § 541.1(a)(13), multiple convictions of a criminal statute make those offenses directly related to the licensed occupation.
5. Applicant is currently fit to perform the duties and discharge the responsibilities of the licensed occupation, pursuant to TEX. OCC. CODE §§ 53.022 and 53.023.
6. Applicant currently has the honesty, trustworthiness, and integrity necessary to hold a license, as contemplated by 22 TEX. ADMIN. CODE § 535.52(a).
7. Either TREC or a SOAH administrative law judge may determine that the issuance of a probationary license is appropriate, pursuant to 22 TEX. ADMIN. CODE § 535.94(b).
8. Based upon the Findings of Fact and Conclusions of Law, the administrative law judge has determined that it is appropriate to issue Applicant a probationary real estate broker license, as contemplated by 22 TEX. ADMIN. CODE § 535.94(b).

SIGNED April 27, 2010.



MICHAEL J. BORKLAND
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS REAL ESTATE COMMISSION

V.

JIM S. HIX

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

EXCEPTIONS TO PROPOSAL FOR DECISION

The Texas Real Estate Commission (hereinafter, "TREC" or "Petitioner") respectfully offers the following Exceptions to the Proposal for Decision (hereinafter "Exceptions") issued in this case as provided in Tex. Govt. Code § 2001.062 and SOAH Rules, 1 TAC § 155.507(c), and in support thereof, Petitioner would show the following:

1. Petitioner received the Proposal for Decision by hand delivery on April 28, 2010.
2. Jim S. Hix (hereinafter, "Applicant" or "Hix") has been notified of the filing of these Exceptions as shown in the attached Certificate of Service.

Exceptions to "II. DISCUSSION"

3. Petitioner respectfully excepts to subsection "B. Criminal Offenses" of section II. DISCUSSION which states that the Applicant admitted to four violations of criminal statutes (page 4) and Petitioner respectfully excepts to subsection "C. Oral Testimony" of section II. DISCUSSION which reads "He admitted that he has five DWI convictions," (page 5).
 - (a) In response to a question from the ALJ, the parties stipulated that the "convictions are not in issue".
 - (b) In response to this stipulation by the parties, the ALJ directed, "we don't need to waste time going into all these convictions."
 - (c) TREC alleged six violations of criminal statutes for driving while intoxicated in its Notice of Administrative Hearing, Exhibit C-1, pg. 000006-000007.
 - (d) The Proposal for Decision should be modified to show that the Applicant admitted to six violations of criminal statutes for driving while intoxicated. Both the statement of Applicant's admissions described above (page 5) and the footnote to that sentence (fn. 22) should be deleted.

4. Petitioner respectfully excepts to subsection "C. Analysis and Recommendation" of section II. DISCUSSION (page 9) which states that "Staff's denial of the application focused solely on the number of Applicant's convictions."
 - (a) TREC considered Applicant's rehabilitative efforts in accordance with Tex. Occ. Code § 53.023 as shown by the allegation, "The applicant has failed to establish that Applicant is fit to be licensed in accordance with Chapter 53, Tex. Occ. Code," Exhibit C-1, pg. 000008.
 - (b) TREC's written closing argument submitted on March 4, 2010, gave a detailed discussion of TREC's evaluation of the Applicant's rehabilitative efforts, including TREC's determination that the Applicant could qualify for a license after showing some period of post-probation sobriety.
 - (c) The testimony of witness John Goehrs reflected only that he personally had not considered Applicant's rehabilitation efforts; the witness was not involved in the evaluation of Hix's application or in the agency's decision to deny that application.
 - (d) The Proposal for Decision should be modified to remove the conclusion that the Staff focused solely on the number of Applicant's convictions in its decision to deny the application.
5. Petitioner respectfully excepts to subsection "C. Oral Testimony" of section II. DISCUSSION (page 6) in which a summary of Dr. Butts' evaluation of the Applicant is made.
 - (a) On cross-examination, Dr. Butts testified that he had no prior contact or relationship with the Applicant and that his evaluation was conducted in a non-medical facility, i.e., an attorney's office, and that the evaluation lasted approximately one hour.
 - (b) The Proposal for Decision should be modified to include these facts as evidence of the scope of Dr. Butts' evaluation.

Exceptions to "IV. Conclusions of Law"

6. Petitioner respectfully excepts to Conclusion of Law No. 4, which states that 22 TAC § 541.1(a)(13) makes "multiple convictions of a criminal statute make those offenses directly related to the licensed occupation."
 - (a) The referenced rule section reads, "multiple violations of any criminal statute."
 - (b) Conclusion of Law No. 4 should be amended to reflect the correct statutory language.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner requests that the foregoing Exceptions be granted and that the Proposal for Decision be revised to recommend the application of Jim S. Hix for a real estate broker license be DENIED. Petitioner requests such other and further relief to which Petitioner may be justly entitled.

Respectfully submitted,



ROBERT MEISEL
STAFF ATTORNEY
STANDARDS & ENFORCEMENT SERVICES
TEXAS REAL ESTATE COMMISSION
State Bar No.13910700
P.O. Box 12188
Austin, Texas 78711-2188
Telephone: (512) 465-3960
Facsimile: (512) 465-3962

CERTIFICATE OF SERVICE

I certify that on this 16th day of May, 2010, a true and correct copy of this **EXCEPTIONS TO PROPOSAL FOR DECISION** has been sent to Respondent, **JIM SEBASTIAN HIX**, by and through his attorney by facsimile as follows and filed by Facsimile - (512) 475-4994, to the Docketing Division, State Office of Administrative Hearings, 300 West 15th Street, Room 504, Austin, TX 78701-1649 in accordance with SOAH Rules 155.101 and .103.

FACSIMILE: (512) 482-0164
Leichter law Firm
Louis Leichter
1602 East 7th St.
Austin, Texas 78702



Texas Real Estate Commission
Enforcement Division Staff



Agenda Item 27(a):

Consideration and possible action regarding
Motion for Rehearing in the Matter of

- a) In the Matter of Stephen Melvin King,
Jr., SOAH Hearing No. 10-108-09784

SUMMARY

See attached

STAFF
RECOMMENDATION
MOTION

See attached



Standards & Enforcement Services

Direct Line: (512) 465-3960

Facsimile: (512) 465-3962

MEMORANDUM

To: THE COMMISSION MEMBERS

From: KERRY T. GALVIN, DIRECTOR OF STANDARDS & ENFORCEMENT SERVICES

Date: APRIL 30, 2010

**Subject: HEARING NUMBER 10-108-090784
MOTION FOR REHEARING
IN THE MATTER OF
STEPHEN MELVIN KING, JR.**

A motion for rehearing in the above subject matter will be considered at the meeting of the Commission scheduled for May 17, 2010, at 10:00 a.m. in the Commission Conference Room, Room 235, Texas Real Estate Commission Offices, 1101 Camino La Costa, Austin, Texas.

Enclosed for your consideration are copies of the following:

1. Final Commission Order dated March 29, 2010;
2. Respondent's Motion for Rehearing;
3. Standards & Enforcement Services' Motion to Extend the Time for the Commission to Act and Order granting extension of the Time for the Commission to Act; and
4. Standards & Enforcement Services' Response to Respondent's Motion for Rehearing.

A handwritten signature in cursive script, reading "Kerry T. Galvin".

Kerry T. Galvin
Director of
Standards & Enforcement Services

KTG:sm
Enclosures

cc: Douglas E. Oldmixon, Administrator

Stephen Melvin King, Jr.
April 30, 2010
Page 2

Loretta DeHay, General Counsel & Deputy Administrator

Devon V. Bijansky, Deputy General Counsel

Patricia Holder, Administrative Assistant

FILED

Texas Real Estate Commission

HEARING NO. 10-108-090784 Date: 3/29/10

TEXAS REAL ESTATE COMMISSION

V.

STEPHEN MELVIN KING, JR.
TEXAS REAL ESTATE SALESPERSON
LICENSE NO. 458435

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BEFORE THE TEXAS
REAL ESTATE COMMISSION

SITTING IN AUSTIN.
TRAVIS COUNTY, TEXAS

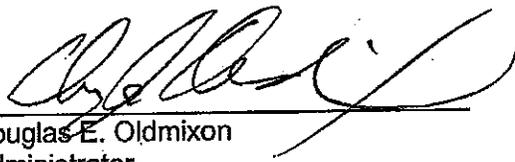
FINAL ORDER

On March 2, 2010, a duly authorized designee of the Administrator, after investigation of possible violations and the facts relating to these violations, issued a Notice of Alleged Violation and Original Petition ("Notice") to Stephen Melvin King, Jr. ("Respondent"), which notified Respondent of the determination that Respondent had violated provisions of Chapter 1101 of the Texas Occupations Code and which recommended the revocation of Respondent's Texas real estate salesperson license and an administrative penalty of \$20,000.00 in the event that Respondent failed to respond to the Notice timely. A true and correct copy of the Notice is attached and incorporated hereto. The Notice was sent by regular mail and certified mail, return receipt requested, to Respondent's last known address as shown by the Commission's records. Respondent failed to timely respond to the Notice.

The Commission hereby approves the determination and imposes the revocation and an administrative penalty of \$20,000.00. Pursuant to §1101.704(b) of the Texas Occupations Code, the real estate salesperson license issued to Respondent is hereby revoked **and in all things held for naught**, effective 5:00 p.m. April 19, 2010.

IF ENFORCEMENT OF THIS ORDER is restrained or enjoined by an order of a court, this order shall then become effective upon a final determination by said court or appellate court in favor of the Texas Real Estate Commission.

DATED: 29 Mar 10



Douglas E. Oldmixon
Administrator
Texas Real Estate Commission

TEXAS



REAL ESTATE COMMISSION

DOUGLAS E. OLDMIXON, ADMINISTRATOR

Standards & Enforcement Services

Direct Line: (512) 465-3960

Facsimile: (512) 465-3962

March 2, 2010

NOTICE OF ALLEGED VIOLATION

**DO NOT IGNORE THIS IMPORTANT MATTER OR AN ORDER
REVOKING YOUR LICENSE WILL BECOME FINAL.**

Stephen Melvin King, Jr.
P.O. Box 700
Red Oak, Texas 75154

Re: Our File No. 090784
In the Matter of
Stephen Melvin King, Jr.

Dear Mr. King:

Based on information contained in our above-referenced file, the Commission has determined that you violated Chapter 1101 of the Texas Occupations Code (The Real Estate License Act) and/or the Rules of the Texas Real Estate Commission. Attached is a copy of an Original Petition which includes a summary of the alleged violations and is incorporated herein by reference.

The legal consequences of a violation could include:

1. an administrative penalty not to exceed \$1,000.00 per violation for violations which occurred prior to September 1, 2007, and \$5,000.00 per violation for violations which occurred on or after September 1, 2007. Each day a violation continues or occurs may be considered a separate violation for purposes of imposing a penalty; and/or
2. reprimand, suspension or revocation of your real estate license.

I am recommending the imposition by final order of the Commission the following administrative penalty and disciplinary sanction to be taken against your real estate license no. 0458435:

\$20,000.00 administrative penalty and revocation of your real estate license.

If you wish to settle the matter and agree to our determination of the alleged violations, recommended administrative penalty and/or disciplinary sanctions, you have 20 days from the date you receive this letter to notify this office in writing of your agreement, and remit to us the recommended administrative penalty in the form of a cashier's check or money order payable to

P.O. Box 12188 Austin, Texas 78711-2188 • 1101 Camino La Costa Austin, Texas 78752
512-459-6544 • 800-250-TREC • www.trec.state.tx.us

Stephen Melvin King, Jr.
March 2, 2010
Page 2

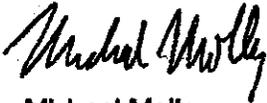
the Texas Real Estate Commission. Upon our receipt of your written notice of agreement and the administrative penalty, a final order by the Commission will be entered reflecting the recommendation. Please use the file number on the previous page in any future correspondence with this agency. Please address any written correspondence to the undersigned at the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or you may fax to (512) 465-3962.

If you do not agree to the determination of the violations or recommended administrative penalty and/or disciplinary sanctions, you have 20 days from the date you receive this letter to submit a written request for a hearing.

If you wholly fail to respond in writing within the 20-day time period, a final order by the Commission will be entered approving the determination of the violation and ordering the administrative penalty and the revocation of your license. Failure to timely file a written request for a hearing will not prevent the Commission from entering a final order and will forfeit your right to an appeal.

The Real Estate License Act and the Rules of the Texas Real Estate Commission may be found on our web site, www.trec.state.tx.us.

Sincerely,



Michael Molloy
Staff Attorney
Standards & Enforcement Division

MM/anh
Enclosure (Original Petition)
CM:RRR No. 91 7108 2133 3937 7517 3004

cc: Stephen Melvin King, Jr.
P.O. Box 700
Red Oak, Texas 75154

TEXAS REAL ESTATE COMMISSION

V.

STEPHEN MELVIN KING, JR.
TEXAS REAL ESTATE SALESPERSON
LICENSE NUMBER 0458435

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

COMES NOW, the Texas Real Estate Commission (hereinafter, "TREC" or "Petitioner"), and brings the following action against Stephen Melvin King, Jr. (hereinafter "Respondent"), wherein Petitioner seeks relief authorized by TEX. OCC. CODE §§1101.652 and 1101.701. In support thereof, Petitioner would show:

JURISDICTION AND AUTHORITY

1. Respondent's address for service is as follows: Stephen Melvin King, Jr., P.O. Box 700, Red Oak, Texas 75154.
2. Respondent was a duly licensed Texas real estate salesperson who expired on November 30, 2009. He was a Texas licensed real estate salesperson at all times relevant to this matter, and performed an act in Texas constituting an act of a broker or salesperson as defined in TEX. OCC. CODE §1101.002.
3. Petitioner is responsible for licensing and regulating real estate brokers and salespeople in Texas. See TEX. OCC. CODE §1101.151. Petitioner is responsible for enforcing TEX. OCC. CODE Ch. 1101, including ensuring that consumers of real estate brokerage services are protected from negligent and dishonest acts or omissions by real estate brokers and salespeople. TEX. OCC. CODE §1101.652(b). Petitioner is authorized to impose administrative penalties, to issue reprimands, and to suspend, probate, or revoke a license. TEX. OCC. CODE §§1101.652 and 1101.701.
4. Contested cases are to be initiated by Petitioner and pursued in accordance with 22 TEX. ADMIN. CODE §533.2. The State Office of Administrative Hearings has

jurisdiction over all matters relating to the conduct of this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law. TEX. GOV'T. CODE Ch. 2003 and TEX. ADMIN. CODE §533.2.

FACTS OF CASE

5. At all times relevant to this matter, Respondent was sponsored by a Texas licensed real estate broker, Lone Star Realtors & Mortgage, Inc.; Respondent was further doing business as New World Realty.
6. Respondent was engaged in property management services for property owner, Taylor Equities Group, LLC, (hereinafter referred to as "TEG") and worked with operations manager, Candice Sanders, in the property management and real estate brokerage services for seventeen (17) different properties in the Dallas/Fort Worth area.
7. On July 24, 2008, Respondent issued TEG a negotiable instrument in the amount of \$6,833.67 representing the July monthly rents collected on TEG's behalf.
8. On August 15, 2008, the check issued by Respondent to TEG was returned from the Respondent's financial institution for "insufficient funds".
9. Thereafter Respondent issued TEG two new negotiable instruments in the total amount of \$15,199.00, representing the July monthly rentals in the amount of \$6,833.67, not previously paid when due, and August monthly rentals in the amount of \$8,365.33 collected by Respondent on behalf of their client, TEG.
10. These two negotiable instruments were also returned by Respondent's financial institution for "insufficient funds".
11. As a result of the Respondent's nonpayment for rents collected on behalf of the client, Respondent has paid TEG only a portion of rental amounts collected, but due and owing to the property owner, TEG.
12. One August 26, 2008, Respondent tendered \$2,800.00 to TEG for the July and August, 2008, monthly rental delinquencies.
13. On August 29, 2008, Respondent tendered \$4,033.67 to TEG for the July and August, 2008, monthly rental delinquencies.

14. On September 12, 2008, Respondent tendered \$2,365.33 to TEG for the July and August, 2008, monthly rental delinquencies.
15. As of this date, Respondent has failed to remit to TEG the remaining amount of approximately \$6,000 owed for July and August monthly rentals.
16. Respondent has commingled TEG July and August monthly rentals delinquencies amount for his own personal use, benefit and gain in allocating this client's money for purposes of payment for a commercial real estate transaction appraisal and other expenses associated with another separate real estate transaction.
17. TEG filed a complaint with TREC on November 17, 2008.
18. On June 15, 2009, Respondent was contacted in writing at his last know address via regular and certified return receipt requested mail.
19. On June 30, 2009, attorney Kenneth Harter, contacted TREC and request until August 18, 2009 to provide TREC with a response from Respondent. There has been no formal response to the allegations as of this date.
20. Respondent failed to answer the investigator request and failed to cooperate with this investigation.

ALLEGATIONS

ACCORDINGLY, Petitioner complains that Respondent committed the following violations:

- a) TEX. OCC. CODE §1101.652(a)(5) by failing and refusing to produce on request, for inspection by the commission or a commission representative, a document, book, or record that is in the license holder's possession and relates to a real estate transaction conducted by the license holder.
- b) TEX. OCC. CODE §1101.652(a)(6) failing to provide, within a reasonable time, information requested by the commission that relates to a formal or informal complaint to the commission that would indicate a violation of Tex. Occ. Code Chapter 1101.
- c) TEX. OCC. CODE §1101.652(b)(1) by acting negligently or incompetently by failing to maintain proper escrow/trust accounts when dealing with client's monies,

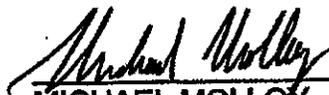
failing to properly account and remit monies to his clients, and commingling of a client's monies for his own use and benefit.

- d) TEX. OCC. CODE §1101.652(b)(2) by engaging in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness by failing to properly abide by the applicable rules and laws in property management real estate brokerage activities.
- e) TEX. OCC. CODE §1101.652(b)(9) by failing with a reasonable time to properly account for or remit money that is received by the license holder and that belongs to another person.
- f) TEX. OCC. CODE §1101.652(b)(10) commingling money that belongs to another person with the license holder's own money.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner requests that Respondent be cited to appear and answer. Petitioner requests that appropriate action be ordered against Respondent's Texas real estate salesperson license, including but not limited to revocation, suspension, reprimand or any other relief in Tex. Occ. Code §1101.652. Petitioner requests such other and further relief to which Petitioner may be justly entitled.

Respectfully submitted,



MICHAEL MOLLOY
STAFF ATTORNEY
STANDARDS & ENFORCEMENT SERVICES
TEXAS REAL ESTATE COMMISSION
State Bar No. 24041507
P.O. Box 12188
Austin, Texas 78711-2188
Telephone: (512) 465-3960
Facsimile: (512) 465-3962

RECEIVED
TEXAS REAL ESTATE COMMISSION

APR 12 2010

CASHIER'S SECTION
OPERATOR 9

LAW OFFICES OF
KENNETH S. HARTER*

*Member - State Bar of California

*Member - State Bar of Texas

1620 E. Beltline Rd. Carrollton, Texas 75006
(972) 242-8887
Fax (972) 446-7976
kenharter@tx.rr.com

April 8, 2010

Mr. Michael Molloy
Staff Attorney, Texas Real Estate Commission
P. O. Box 12188
Austin, Tx. 78711-2188

Re: No. 10-108-090784
Real Estate Commission vs. King

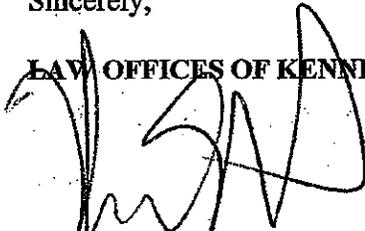
Dear Mr. Molloy:

Enclosed please find the original Motion for Rehearing. Please file this with the papers of the Commission pertaining to this matter, and advise as to whether a hearing will be held on this Motion.

Thank you for your attention to this matter. Please do not hesitate to call if there are any questions.

Sincerely,

LAW OFFICES OF KENNETH S. HARTER


Kenneth S. Harter

KSH/pq
encl

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TREC ENFORCEMENT

LAW OFFICES OF
KENNETH S. HARTER*

*Member - State Bar of California

*Member - State Bar of Texas

1620 E. Beltline Rd. Carrollton, Texas 75006
(972) 242-8887
Fax (972) 446-7976
kenharter@tx.rr.com

April 8, 2010

Mr. Douglas E. Oldmixon
Administrator, Texas Real Estate Commission
P. O. Box 12188
Austin, Tx. 78711-2188

Certified Mail RRR 7008 2810 0001 1686 7454

Re: No. 10-108-090784
Real Estate Commission vs. King

Dear Mr. Oldmixon:

Enclosed please find the original Motion for Rehearing. Please file this with the papers of the Commission pertaining to this matter, and advise as to whether a hearing will be held on this Motion.

Thank you for your attention to this matter. Please do not hesitate to call if there are any questions.

Sincerely,

LAW OFFICES OF KENNETH S. HARTER

Kenneth S. Harter

KSH/pq

Encl

Cc: Michael Molloy

TEXAS REAL ESTATE COMMISSION

vs

STEPHEN MELVIN KING, JR.
TEXAS REAL ESTATE SALESPERSON
LICENSE NO. 458435

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BEFORE THE TEXAS
REAL ESTATE COMMISSION

SITTING IN AUSTIN,

TRAVIS COUNTY, TEXAS

MOTION FOR RE-HEARING

TO: DOUGLAS E. OLDMIXON, Administrator, Texas Real Estate Commission:

COMES NOW STEPHEN MELVIN KING, JR., Respondent, and moves for a re-hearing, and in support hereof would show:

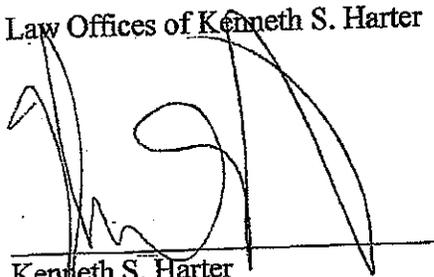
1. This Motion is made pursuant to Government Code §§ 2001.145 and 2001.146, and TREC Rule §533.8(e).
2. On or about March 2, 2010, the Texas Real Estate Commission (Commission) mailed or attempted to mail a "Notice of Alleged Violation" to respondent.
3. On or about March 29, a "Final Order" was signed by the Administrator of the Commission revoking the license of Respondent, and assessing an administrative penalty against him in the sum of \$20,000.
4. Respondent moves the Commission to re-hear this case, affording Respondent the opportunity to be heard as to the allegations made against him.
5. Respondent would show that his failure to respond to the original filing in this case was due, at worst, to excusable neglect. Respondent would show that there were delays in receiving the "Original Petition" and its accompanying letter, that as a result of such delays he was unable to retain counsel in the time allowed by the Commission.
6. Respondent further urges that proceeding to revoke his license and assess a substantial monetary penalty without first assuring that the due process requirements of the United

States and Texas Constitutions renders the order void. See *Jones vs. Flowers*, 547 U.S. 220, 126 S.Ct. 1708 (2006).

WHEREFORE, PREMISES CONSIDERED, Respondent moves that this motion be granted, and that this matter be re-heard.

Respectfully submitted,

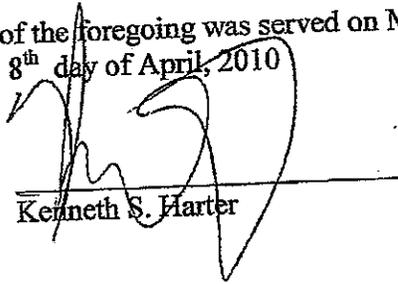
Law Offices of Kenneth S. Harter



Kenneth S. Harter
State Bar ID 09155300
1620 E. Beltline Rd.
Carrollton, Tx. 75006
(972) 242-8887
FAX (972) 446-7976

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served on Michael Molloy, Staff Attorney, by 1st class mail, on this the 8th day of April, 2010



Kenneth S. Harter

HEARING NO. 10-108-090784

IN THE MATTER OF
STEPHEN MELVIN KING, JR.

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BEFORE THE TEXAS REAL
ESTATE COMMISSION
("COMMISSION")

TEXAS REAL ESTATE SALESPERSON
LICENSE NO. 458435

SITTING IN AUSTIN
TRAVIS COUNTY, TEXAS

MOTION TO EXTEND THE TIME FOR COMMISSION TO ACT

TO THE ADMINISTRATOR OF THE COMMISSION:

The Standards & Enforcement Services of the Commission, acting by and through the undersigned attorney, files this Motion to Extend the Time for Commission to Act in the referenced matter.

I.

On March 29, 2010, the Administrator of the Commission entered a final order revoking Stephen Melvin King, Jr.'s real estate salesperson license and assessing a \$20,000.00 administrative penalty effective April 19, 2010. Stephen Melvin King, Jr. filed a Motion for Rehearing on April 12, 2010. The next scheduled meeting at which the motion shall be heard before the Members of the Commission is May 17, 2010.

II.

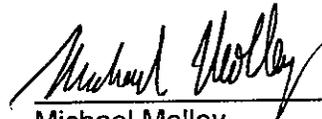
The Enforcement Division respectfully requests that the time for the Commission to act on Stephen Melvin King, Jr.'s motion be extended to May 18, 2010.

Respectfully submitted,

Texas Real Estate Commission
Enforcement Division
P.O. Box 12188
Austin, Texas 78711
(512) 465-3960

Dated: _____

4-20-2010



Michael Molloy
Staff Attorney

In the Matter of
Stephen Melvin King, Jr.
Page Two

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion to Extend the Time for Commission to Act was mailed on April 21st, 2010 as follows:

Stephen Melvin King, Jr.
P.O. Box 700
Red Oak, Texas 75154
And by Regular Mail

CM:RRR No. 91 7108 2133 3937 7636 2704

Kenneth S. Harter
1620 E. Beltline Road
Carrollton, Texas 75006
And by Regular Mail

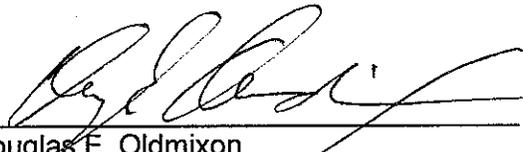
CM:RRR No. 91 7108 2133 3937 7636 2711

DATE 4/21/10


Sharon Martinets, Legal Assistant II
Standards & Enforcement Services
Texas Real Estate Commission

Motion granted to Extend the Time for Commission to Act to on before May 18, 2010.

Dated: 20 Apr 10


Douglas E. Oldmixon
Administrator
Texas Real Estate Commission

HEARING NO. 10-108-090784

IN THE MATTER OF
STEPHEN MELVIN KING, JR.

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BEFORE THE TEXAS REAL
ESTATE COMMISSION
("COMMISSION")

TEXAS REAL ESTATE SALESPERSON
LICENSE NO. 458435

SITTING IN AUSTIN
TRAVIS COUNTY, TEXAS

**RESPONSE IN OBJECTION TO
RESPONDENT'S MOTION FOR REHEARING**

TO THE HONORABLE MEMBERS OF THE COMMISSION:

COMES NOW, the Standards & Enforcement Services of the Texas Real Estate Commission, acting by and through the undersigned attorney, files this response in objection to Respondent's Motion for Rehearing in accordance with 22 Tex. Admin. Code §533.8, Rules of the Texas Real Estate Commission (hereinafter referred to as "Rules") and in support hereof would show as follows:

PROPER NOTICE OF HEARING

On March 2, 2010, a duly authorized designee of the Administrator, after investigation of alleged violations and the facts surrounding the alleged violations, issued a Notice of Alleged Violation and Original Petition ("Notice") to Stephen Melvin King, Jr. ("Respondent"). The Notice of Alleged Violation and Original Petition notified Respondent of the determination that Respondent had violated provisions of Chapter 1101 of the Texas Occupations Code and recommended the revocation of Respondent's Texas real estate salesperson license and an administrative penalty of \$20,000.00. A true and correct copy of the Petitioner's Notice is attached hereto and incorporated herein as Exhibit "A". The Notice was sent by regular U.S. mail and certified mail, return receipt requested, to Respondent's last known mailing address as shown by Commission records. The copy of the Notice of Alleged Violation and Original Petition sent by certified mail was later returned to the Commission unclaimed. A copy of the envelope which was returned to the Commission is attached to this response as Exhibit "B". Respondent's refusal or failure to claim the certified letter does not constitute lack of notice. Furthermore, the copy of the Notice sent by regular mail was never returned. This raises a presumption and provides prima facie evidence that Respondent actually received the copy of the Notice of Alleged Violation and Original Petition sent by regular mail pursuant to §533.8(f) of the Rules. Finally, Respondent has failed to show any other error of law that would support granting a rehearing.

PRAYER

WHEREFORE PREMISES CONSIDERED, Petitioner prays the Commission overrule Respondent's motion for rehearing and affirm the final order of revocation and imposition of the \$20,000.00 administrative penalty dated March 29, 2010.

In the Matter of
Stephen Melvin King, Jr.
Page 2

Respectively Submitted,



Michael Molloy
Staff Attorney
Standards & Enforcement Services
Texas Real Estate Commission
State Bar No. 24041507
P.O. Box 12188
Austin, Texas 78711-2188
Telephone: (512) 465-3960
Facsimile: (512) 465-3962

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Standards & Enforcement Services Response to Stephen Melvin King, Jr. motion for rehearing was mailed on April 21st, 2010 as follows:

Stephen Melvin King, Jr.
700 P.O. Box
Red Oak, Texas 75154

CM:RRR No. 91 7108 2133 3937 7636 2704

Kenneth S. Harter
1620 E. Beltline Rd.
Carrollton, Texas 75006

CM:RRR No. 91 7108 2133 3937 7636 2711



Sharon Martinets, Legal Assistant II
Standards & Enforcement Services
Texas Real Estate Commission



Standards & Enforcement Services

Direct Line: (512) 465-3960

Facsimile: (512) 465-3962

March 2, 2010

NOTICE OF ALLEGED VIOLATION

**DO NOT IGNORE THIS IMPORTANT MATTER OR AN ORDER
REVOKING YOUR LICENSE WILL BECOME FINAL.**

Stephen Melvin King, Jr.
P.O. Box 700
Red Oak, Texas 75154

Re: Our File No. 090784
In the Matter of
Stephen Melvin King, Jr.

Dear Mr. King:

Based on information contained in our above-referenced file, the Commission has determined that you violated Chapter 1101 of the Texas Occupations Code (The Real Estate License Act) and/or the Rules of the Texas Real Estate Commission. Attached is a copy of an Original Petition which includes a summary of the alleged violations and is incorporated herein by reference.

The legal consequences of a violation could include:

1. an administrative penalty not to exceed \$1,000.00 per violation for violations which occurred prior to September 1, 2007, and \$5,000.00 per violation for violations which occurred on or after September 1, 2007. Each day a violation continues or occurs may be considered a separate violation for purposes of imposing a penalty; and/or
2. reprimand, suspension or revocation of your real estate license.

I am recommending the imposition by final order of the Commission the following administrative penalty and disciplinary sanction to be taken against your real estate license no. 0458435:

\$20,000.00 administrative penalty and revocation of your real estate license.

If you wish to settle the matter and agree to our determination of the alleged violations, recommended administrative penalty and/or disciplinary sanctions, you have 20 days from the date you receive this letter to notify this office in writing of your agreement, and remit to us the recommended administrative penalty in the form of a cashier's check or money order payable to

Stephen Melvin King, Jr.
March 2, 2010
Page 2

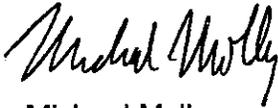
the Texas Real Estate Commission. Upon our receipt of your written notice of agreement and the administrative penalty, a final order by the Commission will be entered reflecting the recommendation. Please use the file number on the previous page in any future correspondence with this agency. Please address any written correspondence to the undersigned at the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or you may fax to (512) 465-3962.

If you do not agree to the determination of the violations or recommended administrative penalty and/or disciplinary sanctions, you have **20 days** from the date you receive this letter to submit a **written request** for a hearing.

If you wholly fail to respond **in writing** within the **20-day** time period, a final order by the Commission will be entered approving the determination of the violation and ordering the administrative penalty and the revocation of your license. Failure to timely file a written request for a hearing will not prevent the Commission from entering a final order and will forfeit your right to an appeal.

The Real Estate License Act and the Rules of the Texas Real Estate Commission may be found on our web site, www.trec.state.tx.us.

Sincerely,



Michael Molloy
Staff Attorney
Standards & Enforcement Division

MM/anh
Enclosure (Original Petition)
CM:RRR No. 91 7108 2133 3937 7517 3004

cc: Stephen Melvin King, Jr.
P.O. Box 700
Red Oak, Texas 75154

TEXAS REAL ESTATE COMMISSION

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BEFORE THE STATE OFFICE

V.

OF

STEPHEN MELVIN KING, JR.
TEXAS REAL ESTATE SALESPERSON
LICENSE NUMBER 0458435

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

COMES NOW, the Texas Real Estate Commission (hereinafter, "TREC" or "Petitioner"), and brings the following action against Stephen Melvin King, Jr. (hereinafter "Respondent"), wherein Petitioner seeks relief authorized by TEX. OCC. CODE §§1101.652 and 1101.701. In support thereof, Petitioner would show:

JURISDICTION AND AUTHORITY

1. Respondent's address for service is as follows: Stephen Melvin King, Jr., P.O. Box 700, Red Oak, Texas 75154.
2. Respondent was a duly licensed Texas real estate salesperson who expired on November 30, 2009. He was a Texas licensed real estate salesperson at all times relevant to this matter, and performed an act in Texas constituting an act of a broker or salesperson as defined in TEX. OCC. CODE §1101.002.
3. Petitioner is responsible for licensing and regulating real estate brokers and salespeople in Texas. See TEX. OCC. CODE §1101.151. Petitioner is responsible for enforcing TEX. OCC. CODE Ch. 1101, including ensuring that consumers of real estate brokerage services are protected from negligent and dishonest acts or omissions by real estate brokers and salespeople. TEX. OCC. CODE §1101.652(b). Petitioner is authorized to impose administrative penalties, to issue reprimands, and to suspend, probate, or revoke a license. TEX. OCC. CODE §§1101.652 and 1101.701.
4. Contested cases are to be initiated by Petitioner and pursued in accordance with 22 TEX. ADMIN. CODE §533.2. The State Office of Administrative Hearings has

jurisdiction over all matters relating to the conduct of this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law. TEX. GOV'T. CODE Ch. 2003 and TEX. ADMIN. CODE §533.2.

FACTS OF CASE

5. At all times relevant to this matter, Respondent was sponsored by a Texas licensed real estate broker, Lone Star Realtors & Mortgage, Inc.; Respondent was further doing business as New World Realty.
6. Respondent was engaged in property management services for property owner, Taylor Equities Group, LLC, (hereinafter referred to as "TEG") and worked with operations manager, Candice Sanders, in the property management and real estate brokerage services for seventeen (17) different properties in the Dallas/Fort Worth area.
7. On July 24, 2008, Respondent issued TEG a negotiable instrument in the amount of \$6,833.67 representing the July monthly rents collected on TEG's behalf.
8. On August 15, 2008, the check issued by Respondent to TEG was returned from the Respondent's financial institution for "insufficient funds".
9. Thereafter Respondent issued TEG two new negotiable instruments in the total amount of \$15,199.00, representing the July monthly rentals in the amount of \$6,833.67, not previously paid when due, and August monthly rentals in the amount of \$8,365.33 collected by Respondent on behalf of their client, TEG.
10. These two negotiable instruments were also returned by Respondent's financial institution for "insufficient funds".
11. As a result of the Respondent's nonpayment for rents collected on behalf of the client, Respondent has paid TEG only a portion of rental amounts collected, but due and owing to the property owner, TEG.
12. On August 26, 2008, Respondent tendered \$2,800.00 to TEG for the July and August, 2008, monthly rental delinquencies.
13. On August 29, 2008, Respondent tendered \$4,033.67 to TEG for the July and August, 2008, monthly rental delinquencies.

14. On September 12, 2008, Respondent tendered \$2,365.33 to TEG for the July and August, 2008, monthly rental delinquencies.
15. As of this date, Respondent has failed to remit to TEG the remaining amount of approximately \$6,000 owed for July and August monthly rentals.
16. Respondent has commingled TEG July and August monthly rentals delinquencies amount for his own personal use, benefit and gain in allocating this client's money for purposes of payment for a commercial real estate transaction appraisal and other expenses associated with another separate real estate transaction.
17. TEG filed a complaint with TREC on November 17, 2008.
18. On June 15, 2009, Respondent was contacted in writing at his last know address via regular and certified return receipt requested mail.
19. On June 30, 2009, attorney Kenneth Harter, contacted TREC and request until August 18, 2009 to provide TREC with a response from Respondent. There has been no formal response to the allegations as of this date.
20. Respondent failed to answer the investigator request and failed to cooperate with this investigation.

ALLEGATIONS

ACCORDINGLY, Petitioner complains that Respondent committed the following violations:

- a) TEX. OCC. CODE §1101.652(a)(5) by failing and refusing to produce on request, for inspection by the commission or a commission representative, a document, book, or record that is in the license holder's possession and relates to a real estate transaction conducted by the license holder.
- b) TEX. OCC. CODE §1101.652(a)(6) failing to provide, within a reasonable time, information requested by the commission that relates to a formal or informal complaint to the commission that would indicate a violation of Tex. Occ. Code Chapter 1101.
- c) TEX. OCC. CODE §1101.652(b)(1) by acting negligently or incompetently by failing to maintain proper escrow/trust accounts when dealing with client's monies,

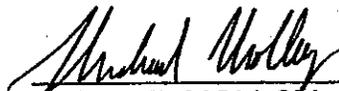
failing to properly account and remit monies to his clients, and commingling of a client's monies for his own use and benefit.

- d) TEX. OCC. CODE §1101.652(b)(2) by engaging in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness by failing to properly abide by the applicable rules and laws in property management real estate brokerage activities.
- e) TEX. OCC. CODE §1101.652(b)(9) by failing with a reasonable time to properly account for or remit money that is received by the license holder and that belongs to another person.
- f) TEX. OCC. CODE §1101.652(b)(10) commingling money that belongs to another person with the license holder's own money.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner requests that Respondent be cited to appear and answer. Petitioner requests that appropriate action be ordered against Respondent's Texas real estate salesperson license, including but not limited to revocation, suspension, reprimand or any other relief in Tex. Occ. Code §1101.652. Petitioner requests such other and further relief to which Petitioner may be justly entitled.

Respectfully submitted,



MICHAEL MOLLOY
STAFF ATTORNEY
STANDARDS & ENFORCEMENT SERVICES
TEXAS REAL ESTATE COMMISSION
State Bar No. 24041507
P.O. Box 12188
Austin, Texas 78711-2188
Telephone: (512) 465-3960
Facsimile: (512) 465-3962



TEXAS REAL ESTATE
P.O. BOX 12188 • AUSTIN, TEXAS 78711

RETURN SERVICE REQUESTED

CERTIFIED MAIL



91 7108 2133 3937 7587 5801

UNITED STATES POSTAGE
AIR MAIL PERMIT NO. 1000
\$ 04.51⁰⁰
IR 0006556561 MAR 02 2010
MAILED FROM ZIP CODE 78701

RECEIVED

TEXAS REAL ESTATE COMMISSION

MAR 25 2010

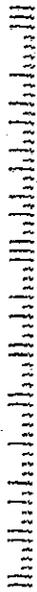
CASHIER'S SECTION
OPERATOR 9

1st NOTICE 3-4
2nd NOTICE 3-3
RETURNED 3-3

STEPHEN MELVIN KING JR
PO BOX 700
RED OAK TX 75154

NIXIE 750 SE 1 70 03/22/10
RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

BC: 7971121888 *0810-04626-02-49



Printed on recycled paper





Agenda Item 27(b):

Consideration and possible action regarding
Motion for Rehearing in the Matter of

- b) In the Matter of John Christopher Crawford, SOAH Hearing No. 10-114-093171

SUMMARY

See attached

STAFF

See attached

RECOMMENDATION

MOTION



Standards & Enforcement Services
Direct Line: (512) 465-3960
Facsimile: (512) 465-3962

MEMORANDUM

To: THE COMMISSION MEMBERS

From: KERRI T. GALVIN, DIRECTOR OF STANDARDS & ENFORCEMENT SERVICES

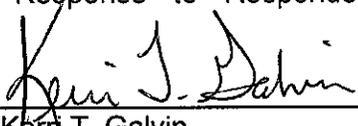
Date: MAY 3, 2010

**Subject: HEARING NUMBER 10-114-093171
MOTION FOR REHEARING
IN THE MATTER OF
JOHN CHRISTOPHER CRAWFORD**

A motion for rehearing in the above subject matter will be considered at the meeting of the Commission scheduled for May 17, 2010, at 10:00 a.m. in the Commission Conference Room, Room 235, Texas Real Estate Commission Offices, 1101 Camino La Costa, Austin, Texas.

Enclosed for your consideration are copies of the following:

1. Final Commission Order dated April 12, 2010;
2. Respondent's Motion for Rehearing; and
3. Standards & Enforcement Services' Response to Respondent's Motion for Rehearing.


Kerri T. Galvin
Director of
Standards & Enforcement Services

KTG:sm
Enclosures

cc: Douglas E. Oldmixon, Administrator

Loretta DeHay, General Counsel & Deputy Administrator

Devon V. Bijansky, Deputy General Counsel

Patricia Holder, Administrative Assistant

FILED

Texas Real Estate Commission

Date: 4/12/10

HEARING NO. 10-114-093171

TEXAS REAL ESTATE COMMISSION

V.

JOHN CHRISTOPHER CRAWFORD
TEXAS REAL ESTATE SALESPERSON
LICENSE NO. 455489

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BEFORE THE TEXAS
REAL ESTATE COMMISSION
("COMMISSION")

SITTING IN AUSTIN,
TRAVIS COUNTY, TEXAS

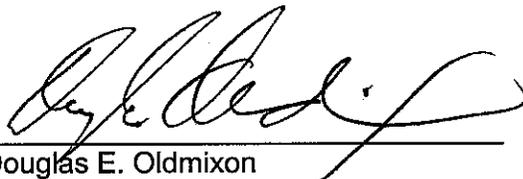
FINAL ORDER

On March 19, 2010, a duly authorized designee of the Administrator, after investigation of possible violations and the facts relating to those violations, issued a Notice of Alleged Violation and Original Petition ("Notice") to John Christopher Crawford ("Respondent"), which notified Respondent of the determination that Respondent had violated provisions of Chapter 1101 of the Texas Occupations Code and which recommended the revocation of Respondent's Texas real estate salesperson license and the imposition of an administrative penalty in the amount of \$20,000.00 in the event that Respondent failed to respond to the Notice timely. A true and correct copy of the Notice is attached and incorporated hereto. The Notice was sent by regular mail and certified mail, return receipt requested to Respondent's last known address as shown by the Commission's records. Respondent failed to timely respond to the Notice.

The Commission hereby approves the determination and imposes the revocation and recommended penalty. Pursuant to §1101.704(b) of the Texas Occupations Code, the real estate salesperson license issued to Respondent is hereby assessed a \$20,000.00 administrative penalty and that Respondent's real estate salesperson license be revoked **and in all things held for naught**, effective 5:00 p.m. May 3, 2010.

IF ENFORCEMENT OF THIS ORDER is restrained or enjoined by an order of a court, this order shall then become effective upon a final determination by said court or appellate court in favor of the Texas Real Estate Commission.

DATED: 12 April 10



Douglas E. Oldmixon
Administrator
Texas Real Estate Commission



Standards & Enforcement Services

Direct Line: (512) 465-3960

Facsimile: (512) 465-3962

March 19, 2010

NOTICE OF ALLEGED VIOLATION

**DO NOT IGNORE THIS IMPORTANT MATTER OR AN ORDER
REVOKING YOUR LICENSE WILL BECOME FINAL.**

John Christopher Crawford
5819 Hwy. 6 South, Suite 140
Missouri City, Texas 77459

Re: Our File No. 093171; In the Matter of John Christopher Crawford

Dear Mr. Crawford:

Based on information contained in the above-referenced file, the Commission has determined that you violated Chapter 1101 of the Texas Occupations Code (The Real Estate License Act) and/or Title 22 of the Texas Administrative Code (Rules of the Texas Real Estate Commission). Attached is a copy of an Original Petition which includes a summary of the alleged violations and is incorporated herein by reference.

The legal consequences of a violation could include:

1. an administrative penalty not to exceed \$1,000.00 per violation for violations which occurred prior to September 1, 2007, and \$5,000.00 per violation for violations which occurred on or after September 1, 2007. Each day a violation continues or occurs may be considered a separate violation for purposes of imposing a penalty; and/or
2. reprimand, suspension or revocation of your real estate license.

I am recommending the imposition by final order of the Commission the following administrative penalty and disciplinary sanction to be taken against your real estate license no. 0455489:

1. \$20,000.00 administrative penalty and a two-year suspension of your real estate salesperson license; or

2. \$20,000.00 administrative penalty and revocation of your real estate license, if you fail to timely respond in writing to this notice.

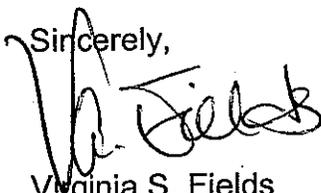
If you wish to settle the matter and agree to our determination of the alleged violations, recommended administrative penalty and/or disciplinary sanctions, you have 20 days from the date you receive this letter to notify this office in writing of your agreement, and remit to us the recommended administrative penalty in the form of a cashier's check or money order payable to the Texas Real Estate Commission. Upon our receipt of your written notice of agreement and the administrative penalty, a final order by the Commission will be entered reflecting the recommendation. Please use the file number on the previous page in any future correspondence with this agency. Please address any written correspondence to the undersigned at the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or you may fax to (512) 465-3962.

If you do not agree to the determination of the violations or recommended administrative penalty and/or disciplinary sanctions, you have **20 days** from the date you receive this letter to submit a written request for a hearing.

If you wholly fail to respond in writing within the 20-day time period, a final order by the Commission will be entered approving the determination of the violation and ordering the revocation of your license and imposition of the administrative penalty. Failure to timely file a written request for a hearing will not prevent the Commission from entering a final order and will forfeit your right to an appeal.

The Real Estate License Act and the Rules of the Texas Real Estate Commission may be found on our web site, www.trec.state.tx.us.

Sincerely,



Virginia S. Fields
Staff Attorney
Standards & Enforcement Services

VSF:anh
Enclosure (Original Petition)
CM:RRR No. 91 7108 2133 3937 7517 2533

cc: John Christopher Crawford
5819 Hwy. 6 South, Suite 140
Missouri City, Texas 77459

Gary William Steuernagel
5819 Hwy. 6 South, Suite 140
Missouri City, Texas 77459

Deshon Hilton Knoflicek
7603 Hunters Point Drive
Sugar Land, Texas 77479

Talbert Davis
7603 Hunters Point Drive
Sugar Land, Texas 77479

TEXAS REAL ESTATE COMMISSION

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BEFORE THE STATE OFFICE

V.

OF

JOHN CHRISTOPHER CRAWFORD
TEXAS REAL ESTATE SALESPERSON
LICENSE NUMBER 0455489

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

COMES NOW, the Texas Real Estate Commission (hereinafter, "TREC" or "Petitioner"), and brings the following action against John Christopher Crawford (hereinafter "Respondent"), wherein Petitioner seeks relief authorized by TEX. OCC. CODE §§1101.652 and 1101.701. In support thereof, Petitioner would show:

JURISDICTION AND AUTHORITY

1. Respondent's address for service is as follows: 5819 Hwy. 6 South, Suite 140, Missouri City, Texas 77459.
2. Respondent is a duly licensed Texas real estate salesperson, was a Texas licensed real estate salesperson at all times relevant to this matter, and performed an act in Texas constituting an act of a broker or salesperson as defined in TEX. OCC. CODE §1101.002.
3. Petitioner is responsible for licensing and regulating real estate brokers and salespersons in Texas. See TEX. OCC. CODE §1101.151. Petitioner is responsible for enforcing TEX. OCC. CODE Ch. 1101, including ensuring that consumers of real estate brokerage services are protected from negligent and dishonest acts or omissions by real estate brokers and salespersons. TEX. OCC. CODE §1101.652. Petitioner is authorized to impose administrative penalties, to issue reprimands, and to suspend, probate, or revoke a license. TEX. OCC. CODE §§1101.652 and 1101.701.
4. Contested cases are to be initiated by Petitioner and pursued in accordance with 22 TEX. ADMIN. CODE §533.2. The State Office of Administrative Hearings has jurisdiction over all matters relating to the conduct of this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law. TEX. GOV'T. CODE Ch. 2003 and 22 TEX. ADMIN. CODE §533.2.

FACTS OF CASE

1. At all times relevant to this matter, Respondent was a duly licensed Texas real estate salesperson and performed an act constituting an act of a broker or licensed real estate salesperson as defined in Tex. Occ. Code §1101.002 (Texas Real Estate License Act).
2. On or about May 11, 2009, Texas licensed real estate salesperson, Talbert Davis, procured a prospective buyer, Opral Wisham, (hereinafter referred to as the "Buyer"), to invest with a property investment club established by Respondent allegedly in to invest in condominium units, including but not limited to Respondent's own real property located at 4902 Fernwood Court in Houston, Texas.
3. Respondent never presented the Information About Brokerage Services to the Buyer.
4. On or about May 11, 2009, the Buyer wired the initial investment of \$20,000.00 from her credit union account to the bank account of Texas licensed real estate salesperson, Talbert Davis, who then transferred the funds that same day into the Respondent's bank account with the understanding that the funds would be deposited in escrow with a title company.
5. Respondent represented that the Buyer's initial investment of \$20,000.00 would be held at a title company until the date of closing.
6. On May 11, 2009, Respondent received \$20,000.00 belonging to the Buyer into his own personal bank account.
7. On May 12, 2009, Respondent withdrew cash in the amount of \$103.00.
8. On May 13, 2009, Respondent wired \$14,015.00 of the Buyer's money out of his personal bank account.
9. On May 13, 2009, Respondent made two separate cash withdrawals of the Buyer's money from his personal bank account in the amounts of \$2,765.00 and \$750.00, respectively.
10. On May 14, 2009, Respondent made two separate cash withdrawals of the Buyer's money from his personal bank account in the amounts of \$750.00 and \$501.50, respectively.
11. On May 15, 2009, Respondent took a cash withdrawal of the Buyer's money from his personal bank account in the amount of \$400.00.

12. On May 18, 2009, Respondent paid a phone bill owed to Cricket Communications in the amount of \$119.42 from his personal bank account with the Buyer's money.
13. On May 18, 2009, Respondent paid a phone bill owed to Verizon Wireless in the amount of \$100.00 from his personal bank account with the Buyer's money.
14. On May 18, 2009, Respondent paid a utility bill owed to Gexa Energy in the amount of \$196.00 from his personal bank account with the Buyer's money.
15. On May 20, 2009, Respondent took a cash withdrawal of the Buyer's money from his personal bank account in the amount of \$500.00.
16. On or about June 3, 2009, the Buyer and Texas licensed real estate salesperson, Talbert Davis, sought assurances from Respondent that the Buyer's initial investment into the condominium units was properly deposited in escrow as represented by Respondent.
17. Thereafter, the Buyer sought remittance and return of her initial investment from the Respondent based upon his failure to timely respond to her request for refund.
18. On or about July 13, 2009, Respondent informed the Buyer that funds were be returned to the buyer within eight (8) to ten (10) business days.
19. Yet, on or about August 3, 2009, after repeated requests by the Buyer, Respondent presented a contract to purchase property located at 4902 Fernwood Court in Houston, Texas, (hereinafter referred to as the "Property").
20. The Respondent's contract did not include material terms according to the Buyer's requirements.
21. The contract only listed the Respondent, as the seller and Eric Jackson, as the buyer, with no mention of the investment club or the prospective buyer/investor, Opral Wisham.
22. The contract failed to be for a condominium or include the terms for repayment of her initial \$20,000.00 investment or profit, if any.
23. No real estate transaction was ever negotiated as represented by the Respondent on behalf of the Buyer.
24. Respondent commingled the monies of another with his own personal funds and thereafter used the Buyer's \$20,000.00 initial investment for his own personal use and for payment of his personal expenses.

ALLEGATIONS

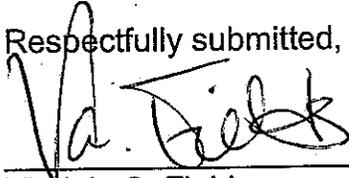
ACCORDINGLY, Petitioner complains that Respondent committed the following violations:

- a) TEX. OCC. CODE §1101.652(b)(1), by acting negligently or incompetently.
- b) TEX. OCC. CODE §1101.652(b)(2), by engaging in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness.
- c) TEX. OCC. CODE §1101.652(b)(5), by making a false promise that is likely to influence a person to enter into an agreement when the license holder is unable or does not intend to keep the promise.
- d) TEX. OCC. CODE §1101.652(b)(6), by pursuing a continued and flagrant course of misrepresentation or making false promises through an agent or salesperson, through advertising, or otherwise.
- e) TEX. OCC. CODE §1101.652(b)(7), by failing to make clear to all parties to a real estate transaction the party for whom the license holder is acting.
- f) TEX. OCC. CODE §1101.652(b)(9), by failing within a reasonable time to properly account for or remit money that is received by the license holder and that belongs to another person.
- g) TEX. OCC. CODE §1101.652(b)(10), by commingling money that belongs to another person with the license holder's own money.
- h) TEX. OCC. CODE §1101.656, by violating 22 TEX. ADMIN. CODE §535.145.
- i) 22 TEX. ADMIN. CODE §535.146(h), by paying operating expenses or making withdrawals for any purpose other than proper disbursement of money held in trust is prima facie evidence of commingling money held in trust with the broker's own funds, in violation of TEX. OCC. CODE §1101.656.
- j) TEX. OCC. CODE §1101.656, by violating 22 TEX. ADMIN. CODE §535.156.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner requests that Respondent be cited to appear and answer. Petitioner respectfully requests that appropriate action be ordered against Respondent's Texas real estate salesperson license including, but not limited to, reprimand, suspension, revocation, and that Respondent be ordered to pay administrative penalties in the amount of \$5,000 per violation. Petitioner respectfully requests any and all further relief to which Petitioner may be justly entitled.

Respectfully submitted,



Virginia S. Fields
Staff Attorney
Texas Real Estate Commission
Standards & Enforcement Services
State Bar No. 00792501
P.O. Box 12188
Austin, Texas 78711-2188
Telephone: (512) 465-3960
Facsimile: (512) 465-3962

Package Details

Welcome, Amber Hinton

Events

Requested	Shipped	Carrier Delivered	Carrier Delivered	Carrier Delivered
				
Friday 3/19/2010 9:26 AM	Friday 3/19/2010 2:49 PM	Monday 3/22/2010 1:55 PM	Monday 3/22/2010 1:55 PM	Monday 3/22/2010 1:55 PM

Details

Site TPASS
DEMS ID Z900000004598
Ship To 1 JOHN CHRISTOPHER CRAWFORD
Ship To 2
Address 1 5819 HWY 6 S STE 140
Address 2
Address 3
Service 2PM
Sender First Name Amber
Remark1 Z900000004598
Remark3
Delivery Date 3/22/2010

City MISSOURI CITY
State TX
ZIP 77459
Country US
Weight 0.500
Manifest Date 3/19/2010
Carrier POST
Tracking No. 9171082133393775172533
Sender Last Name Hinton
Remark2 093171.CRAWFORD.NOV
Reference 093171.CRAWFORD.NOV

Signature

91 7108 2133 3937 7517 2533

Events	Contents	Status	Date	Time	Clerk	Location	Site	Notes/Reference	Signature
		REQUESTED	3/19/2010 12:00:00 AM	9:26 AM	AMBHIN		TPASS		
		SHIPPED	3/19/2010 12:00:00 AM	2:49 PM			TPASS		
		CARR DELIV	3/22/2010 12:00:00 AM	1:55 PM			TPASS		
		CARR DELIV	3/22/2010 12:00:00 AM	1:55 PM			TPASS		
		CARR DELIV	3/22/2010 12:00:00 AM	1:55 PM			TPASS		

Back

[Quick Ref + Training Lesson](#)
[USPS Track and Confirm](#)



Date Produced: 03/23/2010

STATE OF TEXAS

The following is the delivery information for Certified Mail™ item number 7108 2133 3937 7517 2533. Our records indicate that this item was delivered on 03/22/2010 at 01:55 p.m. in MISSOURI CITY, TX, 77459. The scanned image of the recipient information is provided below:

Signature of Recipient:

Handwritten signature: Day W. [unclear]

Address of Recipient:

Handwritten address: 3519 Hwy 6 #148

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,

United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 003171 CRAWFORD NOW

PATITION TO REHEAR
NO. 10-1114-093171

Date 04/30/2010

TEXAS REAL ESTATE COMMISSION

V

JOHN CHRISTOPHER CRAWFORD
TEXAS REAL ESTATE SALESPERSON
LICENSE NO. 455489

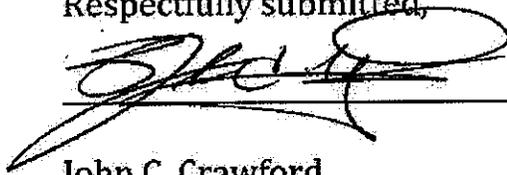
Attn: Douglas E. Oldmixon
Virginia S. Fields

REQUEST TO REHEAR CASE

Please be advised of my written request to rehearing before the board on the occurrence of the violation and the amount of the penalty. Regarding TREC file NO. 093171 in the Matter of John Christopher Crawford.

Please provide me with written notice of such rehearing via US Postal. In addition I may be contacted via email or by phone, my contact information as been provided below:

Respectfully submitted,



Date:

5/3/2010

John C. Crawford
5819 Highway 6 South, 140
Missouri City, Texas 77459
Realtor91@gmail.com
713-443-7822

HEARING NO. 10-114-093171

IN THE MATTER OF
JOHN CHRISTOPHER CRAWFORD

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BEFORE THE TEXAS REAL
ESTATE COMMISSION
("COMMISSION")

TEXAS REAL ESTATE SALESPERSON
LICENSE NO. 455489

SITTING IN AUSTIN
TRAVIS COUNTY, TEXAS

**RESPONSE IN OBJECTION TO
RESPONDENT'S MOTION FOR REHEARING**

TO THE HONORABLE MEMBERS OF THE COMMISSION:

COMES NOW, the Standards & Enforcement Services of the Texas Real Estate Commission, acting by and through the undersigned attorney, and files this response in objection to Respondent's Motion for Rehearing in accordance with 22 Tex. Admin. Code §533.8, Rules of the Texas Real Estate Commission (hereinafter referred to as "Rules"), and in support hereof would show as follows:

PROPER NOTICE OF HEARING

On March 19, 2010, a duly authorized designee of the Administrator, after investigation of alleged violations and the facts surrounding the alleged violations, issued a Notice of Alleged Violation and Original Petition ("Notice") to John Christopher Crawford ("Respondent"). The Notice of Alleged Violation and Original Petition notified Respondent of the determination that Respondent had violated provisions of Chapter 1101 of the Texas Occupations Code and recommended the revocation of Respondent's Texas real estate salesperson license and an administrative penalty of \$20,000.00. A Final Order dated April 12, 2010 was entered against Respondent to be effective May 3, 2010. A true and correct copy of the Final Order, Petitioner's Notice, Petition and proof of service is attached hereto and incorporated herein as Exhibit "A". The Notice was sent by regular U.S. mail and certified mail, return receipt requested, to Respondent's last known mailing address as shown by Commission records.

The copy of the Notice of Alleged Violation and Original Petition sent by certified mail was received by Respondent's sponsoring broker on March 22, 2010. Furthermore, the copy of the Notice sent by regular mail was never returned. This raises a presumption in favor of Petitioner and is prima facie evidence that Respondent received the copy of the Notice of Alleged Violation and Original Petition sent by regular mail pursuant to §533.8(f) of the Rules. The Notice of Alleged Violation states, "If you wholly fail to respond in writing within the 20-day time period, a final order by the Commission will be entered approving the determination of the violation and order the revocation of your license and the imposition of the administrative penalty." Finally, Respondent has failed to show any other error of law in support of

In the matter of
John Christopher Crawford

Respondent's Motion for Rehearing.

PRAYER

WHEREFORE PREMISES CONSIDERED, Petitioner prays the Commission overrule Respondent's Motion for Rehearing and affirm the final order of revocation and imposition of the \$20,000.00 administrative penalty dated April 12, 2010.

Respectively Submitted,



Virginia S. Fields
Staff Attorney
Standards & Enforcement Services
Texas Real Estate Commission
State Bar No. 00792501
P.O. Box 12188
Austin, Texas 78711-2188
Telephone: (512) 465-3960
Facsimile: (512) 465-3962

CERTIFICATE OF SERVICE

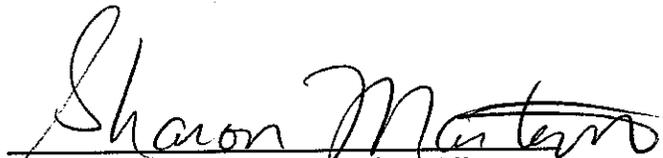
I hereby certify that a true and correct copy of the above and foregoing Standards & Enforcement Services Response to John Christopher Crawford's Motion for Rehearing was mailed on May 4, 2010 as follows:

John Christopher Crawford
5819 Hwy. 6 South, Suite 140
Missouri City, Texas 77459
And by Regular Mail

CM:RRR No. 91 7108 2133 3937 7636 2827

Gary William Steuernagel
5819 Hwy. 6 South, Suite 140
Missouri City, Texas 77459
And by Regular Mail

CM:RRR No. 91 7108 2133 3937 7636 2834



Sharon Martinets, Legal Assistant II
Standards & Enforcement Services
Texas Real Estate Commission

In the matter of
John Christopher Crawford
Page 2 of 2

FILED

Texas Real Estate Commission

Date: 4/12/10

HEARING NO. 10-114-093171

TEXAS REAL ESTATE COMMISSION

V.

JOHN CHRISTOPHER CRAWFORD
TEXAS REAL ESTATE SALESPERSON
LICENSE NO. 455489

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BEFORE THE TEXAS
REAL ESTATE COMMISSION
("COMMISSION")

SITTING IN AUSTIN,
TRAVIS COUNTY, TEXAS

FINAL ORDER

On March 19, 2010, a duly authorized designee of the Administrator, after investigation of possible violations and the facts relating to those violations, issued a Notice of Alleged Violation and Original Petition ("Notice") to John Christopher Crawford ("Respondent"), which notified Respondent of the determination that Respondent had violated provisions of Chapter 1101 of the Texas Occupations Code and which recommended the revocation of Respondent's Texas real estate salesperson license and the imposition of an administrative penalty in the amount of \$20,000.00 in the event that Respondent failed to respond to the Notice timely. A true and correct copy of the Notice is attached and incorporated hereto. The Notice was sent by regular mail and certified mail, return receipt requested to Respondent's last known address as shown by the Commission's records. Respondent failed to timely respond to the Notice.

The Commission hereby approves the determination and imposes the revocation and recommended penalty. Pursuant to §1101.704(b) of the Texas Occupations Code, the real estate salesperson license issued to Respondent is hereby assessed a \$20,000.00 administrative penalty and that Respondent's real estate salesperson license be revoked and in all things held for naught, effective 5:00 p.m. May 3, 2010.

IF ENFORCEMENT OF THIS ORDER is restrained or enjoined by an order of a court, this order shall then become effective upon a final determination by said court or appellate court in favor of the Texas Real-Estate Commission.

DATED: _____

12 April 10



Douglas E. Oldmixon
Administrator
Texas Real Estate Commission

EXHIBIT

"A"

TEXAS



REAL ESTATE COMMISSION

DOUGLAS E. OLDMIXON, ADMINISTRATOR

Standards & Enforcement Services

Direct Line: (512) 465-3960

Facsimile: (512) 465-3962

March 19, 2010

NOTICE OF ALLEGED VIOLATION

**DO NOT IGNORE THIS IMPORTANT MATTER OR AN ORDER
REVOKING YOUR LICENSE WILL BECOME FINAL.**

John Christopher Crawford
5819 Hwy. 6 South, Suite 140
Missouri City, Texas 77459

Re: Our File No. 093171; In the Matter of John Christopher Crawford

Dear Mr. Crawford:

Based on information contained in the above-referenced file, the Commission has determined that you violated Chapter 1101 of the Texas Occupations Code (The Real Estate License Act) and/or Title 22 of the Texas Administrative Code (Rules of the Texas Real Estate Commission). Attached is a copy of an Original Petition which includes a summary of the alleged violations and is incorporated herein by reference.

The legal consequences of a violation could include:

1. an administrative penalty not to exceed \$1,000.00 per violation for violations which occurred prior to September 1, 2007, and \$5,000.00 per violation for violations which occurred on or after September 1, 2007. Each day a violation continues or occurs may be considered a separate violation for purposes of imposing a penalty; and/or
2. reprimand, suspension or revocation of your real estate license.

I am recommending the imposition by final order of the Commission the following administrative penalty and disciplinary sanction to be taken against your real estate license no. 0455489:

1. \$20,000.00 administrative penalty and a two-year suspension of your real estate salesperson license; or

2. \$20,000.00 administrative penalty and revocation of your real estate license, if you fail to timely respond in writing to this notice.

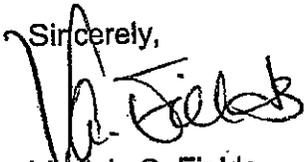
If you wish to settle the matter and agree to our determination of the alleged violations, recommended administrative penalty and/or disciplinary sanctions, you have 20 days from the date you receive this letter to notify this office in writing of your agreement, and remit to us the recommended administrative penalty in the form of a cashier's check or money order payable to the Texas Real Estate Commission. Upon our receipt of your written notice of agreement and the administrative penalty, a final order by the Commission will be entered reflecting the recommendation. Please use the file number on the previous page in any future correspondence with this agency. Please address any written correspondence to the undersigned at the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or you may fax to (512) 465-3962.

If you do not agree to the determination of the violations or recommended administrative penalty and/or disciplinary sanctions, you have 20 days from the date you receive this letter to submit a written request for a hearing.

If you wholly fail to respond in writing within the 20-day time period, a final order by the Commission will be entered approving the determination of the violation and ordering the revocation of your license and imposition of the administrative penalty. Failure to timely file a written request for a hearing will not prevent the Commission from entering a final order and will forfeit your right to an appeal.

The Real Estate License Act and the Rules of the Texas Real Estate Commission may be found on our web site, www.trec.state.tx.us.

Sincerely,



Virginia S. Fields
Staff Attorney
Standards & Enforcement Services

VSF:anh
Enclosure (Original Petition)
CM:RRR No. 91 7108 2133 3937 7517 2533

cc: John Christopher Crawford
5819 Hwy. 6 South, Suite 140
Missouri City, Texas 77459

John Christopher Crawford
March 19, 2010
Page 3

Gary William Steuernagel
5819 Hwy. 6 South, Suite 140
Missouri City, Texas 77459

Deshon Hilton Knoflicek
7603 Hunters Point Drive
Sugar Land, Texas 77479

Talbert Davis
7603 Hunters Point Drive
Sugar Land, Texas 77479

SOAH DOCKET No. _____

TEXAS REAL ESTATE COMMISSION

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BEFORE THE STATE OFFICE

V.

OF

JOHN CHRISTOPHER CRAWFORD
TEXAS REAL ESTATE SALESPERSON
LICENSE NUMBER 0455489

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

COMES NOW, the Texas Real Estate Commission (hereinafter, "TREC" or "Petitioner"), and brings the following action against John Christopher Crawford (hereinafter "Respondent"), wherein Petitioner seeks relief authorized by TEX. OCC. CODE §§1101.652 and 1101.701. In support thereof, Petitioner would show:

JURISDICTION AND AUTHORITY

1. Respondent's address for service is as follows: 5819 Hwy. 6 South, Suite 140, Missouri City, Texas 77459.
2. Respondent is a duly licensed Texas real estate salesperson, was a Texas licensed real estate salesperson at all times relevant to this matter, and performed an act in Texas constituting an act of a broker or salesperson as defined in TEX. OCC. CODE §1101.002.
3. Petitioner is responsible for licensing and regulating real estate brokers and salespersons in Texas. See TEX. OCC. CODE §1101.151. Petitioner is responsible for enforcing TEX. OCC. CODE Ch. 1101, including ensuring that consumers of real estate brokerage services are protected from negligent and dishonest acts or omissions by real estate brokers and salespersons. TEX. OCC. CODE §1101.652. Petitioner is authorized to impose administrative penalties, to issue reprimands, and to suspend, probate, or revoke a license. TEX. OCC. CODE §§1101.652 and 1101.701.
4. Contested cases are to be initiated by Petitioner and pursued in accordance with 22 TEX. ADMIN. CODE §533.2. The State Office of Administrative Hearings has jurisdiction over all matters relating to the conduct of this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law. TEX. GOV'T. CODE Ch. 2003 and 22 TEX. ADMIN. CODE §533.2.

FACTS OF CASE

1. At all times relevant to this matter, Respondent was a duly licensed Texas real estate salesperson and performed an act constituting an act of a broker or licensed real estate salesperson as defined in Tex. Occ. Code §1101.002 (Texas Real Estate License Act).
2. On or about May 11, 2009, Texas licensed real estate salesperson, Talbert Davis, procured a prospective buyer, Opral Wisham, (hereinafter referred to as the "Buyer"), to invest with a property investment club established by Respondent allegedly in to invest in condominium units, including but not limited to Respondent's own real property located at 4902 Fernwood Court in Houston, Texas.
3. Respondent never presented the Information About Brokerage Services to the Buyer.
4. On or about May 11, 2009, the Buyer wired the initial investment of \$20,000.00 from her credit union account to the bank account of Texas licensed real estate salesperson, Talbert Davis, who then transferred the funds that same day into the Respondent's bank account with the understanding that the funds would be deposited in escrow with a title company.
5. Respondent represented that the Buyer's initial investment of \$20,000.00 would be held at a title company until the date of closing.
6. On May 11, 2009, Respondent received \$20,000.00 belonging to the Buyer into his own personal bank account.
7. On May 12, 2009, Respondent withdrew cash in the amount of \$103.00.
8. On May 13, 2009, Respondent wired \$14,015.00 of the Buyer's money out of his personal bank account.
9. On May 13, 2009, Respondent made two separate cash withdrawals of the Buyer's money from his personal bank account in the amounts of \$2,765.00 and \$750.00, respectively.
10. On May 14, 2009, Respondent made two separate cash withdrawals of the Buyer's money from his personal bank account in the amounts of \$750.00 and \$501.50, respectively.
11. On May 15, 2009, Respondent took a cash withdrawal of the Buyer's money from his personal bank account in the amount of \$400.00.

12. On May 18, 2009, Respondent paid a phone bill owed to Cricket Communications in the amount of \$119.42 from his personal bank account with the Buyer's money.
13. On May 18, 2009, Respondent paid a phone bill owed to Verizon Wireless in the amount of \$100.00 from his personal bank account with the Buyer's money.
14. On May 18, 2009, Respondent paid a utility bill owed to Gexa Energy in the amount of \$196.00 from his personal bank account with the Buyer's money.
15. On May 20, 2009, Respondent took a cash withdrawal of the Buyer's money from his personal bank account in the amount of \$500.00.
16. On or about June 3, 2009, the Buyer and Texas licensed real estate salesperson, Talbert Davis, sought assurances from Respondent that the Buyer's initial investment into the condominium units was properly deposited in escrow as represented by Respondent.
17. Thereafter, the Buyer sought remittance and return of her initial investment from the Respondent based upon his failure to timely respond to her request for refund.
18. On or about July 13, 2009, Respondent informed the Buyer that funds were be returned to the buyer within eight (8) to ten (10) business days.
19. Yet, on or about August 3, 2009, after repeated requests by the Buyer, Respondent presented a contract to purchase property located at 4902 Fernwood Court in Houston, Texas, (hereinafter referred to as the "Property").
20. The Respondent's contract did not include material terms according to the Buyer's requirements.
21. The contract only listed the Respondent, as the seller and Eric Jackson, as the buyer, with no mention of the investment club or the prospective buyer/investor, Opral Wisham.
22. The contract failed to be for a condominium or include the terms for repayment of her initial \$20,000.00 investment or profit, if any.
23. No real estate transaction was ever negotiated as represented by the Respondent on behalf of the Buyer.
24. Respondent commingled the monies of another with his own personal funds and thereafter used the Buyer's \$20,000.00 initial investment for his own personal use and for payment of his personal expenses.

ALLEGATIONS

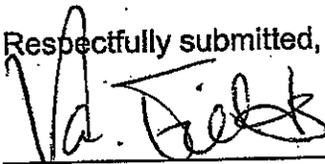
ACCORDINGLY, Petitioner complains that Respondent committed the following violations:

- a) TEX. OCC. CODE §1101.652(b)(1), by acting negligently or incompetently.
- b) TEX. OCC. CODE §1101.652(b)(2), by engaging in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness.
- c) TEX. OCC. CODE §1101.652(b)(5), by making a false promise that is likely to influence a person to enter into an agreement when the license holder is unable or does not intend to keep the promise.
- d) TEX. OCC. CODE §1101.652(b)(6), by pursuing a continued and flagrant course of misrepresentation or making false promises through an agent or salesperson, through advertising, or otherwise.
- e) TEX. OCC. CODE §1101.652(b)(7), by failing to make clear to all parties to a real estate transaction the party for whom the license holder is acting.
- f) TEX. OCC. CODE §1101.652(b)(9), by failing within a reasonable time to properly account for or remit money that is received by the license holder and that belongs to another person.
- g) TEX. OCC. CODE §1101.652(b)(10), by commingling money that belongs to another person with the license holder's own money.
- h) TEX. OCC. CODE §1101.656, by violating 22 TEX. ADMIN. CODE §535.145.
- i) 22 TEX. ADMIN. CODE §535.146(h), by paying operating expenses or making withdrawals for any purpose other than proper disbursement of money held in trust is prima facie evidence of commingling money held in trust with the broker's own funds, in violation of TEX. OCC. CODE §1101.656.
- j) TEX. OCC. CODE §1101.656, by violating 22 TEX. ADMIN. CODE §535.156.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner requests that Respondent be cited to appear and answer. Petitioner respectfully requests that appropriate action be ordered against Respondent's Texas real estate salesperson license including, but not limited to, reprimand, suspension, revocation, and that Respondent be ordered to pay administrative penalties in the amount of \$5,000 per violation. Petitioner respectfully requests any and all further relief to which Petitioner may be justly entitled.

Respectfully submitted,



Virginia S. Fields
Staff Attorney
Texas Real Estate Commission
Standards & Enforcement Services
State Bar No. 00792501
P.O. Box 12188
Austin, Texas 78711-2188
Telephone: (512) 465-3960
Facsimile: (512) 465-3962

Package Details

Welcome, Amber Hinton

Events

Requested	Shipped	Carrier Delivered	Carrier Delivered	Carrier Delivered
				
Friday 3/19/2010 9:26 AM	Friday 3/19/2010 2:49 PM	Monday 3/22/2010 1:55 PM	Monday 3/22/2010 1:55 PM	Monday 3/22/2010 1:55 PM

Details

Site	TPASS	City	MISSOURI CITY
DEMS ID	Z900000004598	State	TX
Ship To 1	JOHN CHRISTOPHER CRAWFORD	ZIP	77459
Ship To 2		Country	US
Address 1	5819 HWY 6 S STE 140	Weight	0.500
Address 2		Manifest Date	3/19/2010
Address 3		Carrier	POST
Service	2PM	Tracking No.	9171082133393775172533
Sender First Name	Amber	Sender Last Name	Hinton
Remark1	Z900000004598	Remark2	093171.CRAWFORD.NOV
Remark3		Reference	093171.CRAWFORD.NOV
Delivery Date	3/22/2010		



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Events	Contents						
Status	Date	Time	Clerk	Location	Site	Notes/Reference	Signature
REQUESTED	3/19/2010 12:00:00 AM	9:26 AM	AMBHIN		TPASS		
SHIPPED	3/19/2010 12:00:00 AM	2:49 PM			TPASS		
CARR DELIV	3/22/2010 12:00:00 AM	1:55 PM			TPASS		
CARR DELIV	3/22/2010 12:00:00 AM	1:55 PM			TPASS		
CARR DELIV	3/22/2010 12:00:00 AM	1:55 PM			TPASS		



[Quick Ref + Training Lesson](#)
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Date Produced: 03/23/2010

STATE OF TEXAS

The following is the delivery information for Certified Mail™ item number 7108 2133 3937 7517 2533. Our records indicate that this item was delivered on 03/22/2010 at 01:55 p.m. in MISSOURI CITY, TX, 77459. The scanned image of the recipient information is provided below.

Signature of Recipient:

Address of Recipient:

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,

United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 003174 02AWEC01A.NRW



Agenda Item 28: Discussion and possible action to schedule future meetings

Agenda Item 29: Discussion and possible action regarding distribution of meeting materials to commissioners

Agenda Item 30: Adjourn

SUMMARY Will be presented at meeting.

STAFF
RECOMMENDATION

MOTION

Texas Real Estate Commission

May 17, 2010

June 10

S	M	T	W	T	F	S
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- June**
- 3** Corpus Christi
 - 14** Flag Day
 - 20** Father's Day

- February**
- 2** Groundhog Day
 - 12** Lincoln's Birthday
 - 14** Valentine's Day

December 10

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- July**
- 4** Independence Day

- 21** President's Day
- 22** Washington's Birthday

July 10

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- August**
- 9** *Commission Meeting*

- March**
- 9** Ash Wednesday

January 11

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- September**
- 6** Labor Day

- 17** St. Patrick's Day

August 10

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- 9** Rosh Hashanah
- 18** Yom Kippur

- April**
- 1** April Fools Day
 - 3** Daylight Savings--set ahead 1 hour

February 11

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27	28					

- October**
- 11** Columbus Day (Observed)
 - 31** Daylight Savings--set back 1 hour
 - Halloween

- 17** Palm Sunday
- 19** Passover
- 22** Good Friday

September 10

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- November**
- 2** Election Day
 - 11** Veterans Day
 - 15** *Commission Meeting*
 - 25** Thanksgiving

- 24** Easter
- May**
- 1** May Day
- 5** Cinco de Mayo
- 8** Mother's Day

March 11

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October 10

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31						

- December**
- 2** Hanukkah
 - 25** Christmas Holidays
 - 31** New Year's Eve

- 21** Armed Forces Day
- 30** Memorial Day (Observed)

April 11

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November 10

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- January**
- 1** New Year's Day
 - 17** Martin Luther King, Jr.

May 11

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15	16	17	18	19	20	21
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