



**TEXAS DEPARTMENT OF INSURANCE/PROPERTY & CASUALTY PROGRAM  
TITLE DIVISION/TITLE EXAMINATIONS**

**SUMMARY OF OPERATIONS FOR 4TH QUARTER, FY 2008  
JUNE, 2008 – AUGUST, 2008  
for presentation to the  
Texas Title Insurance Guaranty Association Board of Directors  
October 20, 2008**

**COMPLIANCE AUDITS AND ESCROW AUDIT REPORTS**

	Qtr	FY 08	FY 07	FY 06	FY 05	FY 04	FY 03	FY 02
Field audits completed	67/3	246/8	255	263	257	264	233	250
Field audit reports processed	63	241	246	262	256	261	234	250
Section 2651.151 audit reports received	59	638	633	619	586	563	564	563
Section 2651.151 audit reports reviewed	37	627	636	598	556	556	558	568

**Analysis of Title Insurance Agencies Licensed as of 8/31/08**

		<b>Breakdown of Comprehensive Audit Status</b>		
		<b>Agencies Audited within last 3 years</b>	<b>Agent's last audit was over 3 years ago</b>	<b># of (New) Agents Never Audited</b>
<b>Region</b>	<b># of agencies</b>			
<b>NTX</b>	224	191	24	9
<b>CTX</b>	128	123	4	1
<b>WTX</b>	108	105	3	0
<b>HOU</b>	148	137	5	6
<b>STX</b>	46	37	8	1
<b>Totals:</b>	<b>654</b>	<b>593</b>	<b>44</b>	<b>17</b>
	% of Total:	90.7%	6.7%	2.6%

Goal: In order to comprehensively audit every agent at least once every three years, we need to conduct 218 comprehensive audits per year, which amounts to 55 audits per quarter.

Last 12 months (9/1/07 – 8/31/08): 246 audits (28 over goal)

Last 3 months (6/1/08 – 8/31/08): 67 audits (12 over goal)

**Results of follow-up audits:**

<b>No. of follow-ups completed</b>	<b>Compliance achieved</b>	<b>Improvement but further action needed</b>	<b>Another on-site audit or stronger action needed</b>
3	2	1	0

**Orders signed by Commissioner Geeslin during quarter:**

DATE	ORDER #	AGENCY/PERSON	REASON	FINE AMT
6/20/08	08-0535	Presidio Title, LLC, San Antonio	Violations of Procedural Rule P-53.	\$2,000
6/20/08	08-0537	Stewart Title of the Coastal Bend., Inc., Victoria	Failed to timely remit guaranty fees.	\$3,500
6/20/08	08-0539	Juliana G. Franklin, Euless	Performed duties of an escrow officer for agent without first being licensed.	\$1,250
6/26/08	08-0553	Mitchell County Abstract Co., Colorado City	Failed to timely remit stat report.	\$7,100
6/26/08	08-0554	Stewart Title of Rockport	Failed to timely remit guaranty fees.	\$4,300
7/22/08	08-0662	Karnes Land Title Co., Karnes City	Failed to timely remit annual audit of trust fund accounts.	\$3,500

**Active cases in Financial, Enforcement & Fraud:**

	Active cases at 6/1/08	Cases referred Qtr. 08-4	Cases cleared Qtr. 08-4	Active cases at 8/31/08
<b>Financial Program</b>				
Confidential Supervision	0	2	0	2
Receivership	1	2	0	3
Insolvency	1	14	0	15
<b>Enforcement</b>				
Miscellaneous violations of the TIC	15	4	1	18
Rebating	1	1	1	1
License revocation (agent and/or escrow officer)	2	1	0	3
Failure to timely submit escrow audit report &/or stat report &/or policy guaranty fees	19	2	4	17
<b>Fraud Unit</b>				
Misappropriation of fiduciary funds	6	3	0	9
Total	45	29	6	68

**STATISTICAL REPORT LIMITED REVIEWS**

Out of 67 comprehensive audits completed during the quarter, 14 (21%) included a limited review of the agent's latest statistical report. The following results were reported.

	QTR	FY 08	FY 07	FY 06	FY 05	FY 04
Number of statistical reports reviewed.	14	73	63	56	58	61
1. No material discrepancies noted.	14	72	49	56	53	61
2. Incorrect agency number shown.	0	0	0	0	3	0
3. Total income and/or expense amounts reported didn't agree with agency's financial statements.	0	1	4	0	2	0
4. Mathematically inaccurate.	0	0	0	0	0	0
5. Forms missing or incomplete.	0	0	0	0	0	0
6. Premium division percentages calculated incorrectly.	0	0	0	0	0	0
7. Miscellaneous other discrepancies.	0	0	0	0	0	0
8. Forms missing or incomplete.	0	0	0	0	0	0
9. Premium division percentages calculated incorrectly.	0	0	0	0	0	0

**RESULTS OF COMPLIANCE AUDITS DURING QUARTER**

Listed below are audit findings for June through August of 2008, the 4th quarter of the State's fiscal year 2008. Numbers represent the number of agencies where the infraction occurred, not the number of times it occurred.

VIOLATION OR DISCREPANCY	QTR	YTD
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**INSOLVENCY**

Financial statements or other records indicated agent insolvent.	5	20
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**ABSTRACT PLANT**

Abstract plant not in compliance with Article 9.02(i) and Procedural Rule P-12.	11	29
Agency personnel unable to retrieve instrument information. Unable to verify legal plant.	1	4

**TEXAS INSURANCE CODE**

<b>§ 101.102</b> – Conducted unauthorized business of insurance.	0	3
<b>Section 2502.051 (formerly Art. 9.30)</b> – Gave/received thing of value for referral of title insurance business.	2	8
<b>Section 2704.001 (formerly Art. 9.34)</b> – Provided policies to non-licensed entity and sold title evidence for counties for which agent was not licensed	0	0
<b>Section 2704.001 (formerly Art. 9.34)</b> – Policy not based on evidence from a legal abstract plant and/or no attempt made to contact out-of-county agents for title evidence.	0	3
<b>Section 2704.001 (Art. 9.34)</b> – Issued policies for property in county where not licensed.	1	5
<b>Section 2704.001 (formerly Art. 9.34)</b> – Signed commitments not maintained as part of complete evidence of insurability or countersigned policies not maintained.	5	29
<b>Section 2651.002 (formerly Art. 9.36)</b> – Agent used an unlicensed name or dba name.	4	21
<b>Section 2651.301 (formerly Art. 9.37B)</b> – Misappropriation or conversion to own use of money belonging to another person.	1	3
<b>Section 2651.301 (formerly Art. 9.37B)</b> – Failed to maintain separate escrow account (commingled escrow & operating funds).	4	23
<b>Section 2651.101 and/or 2652.101 (formerly Art. 9.38 and/or 9.45)</b> – No agency/escrow officer bond or insufficient bond.	2	24
<b>Section 2651.151 (formerly Art. 9.39)</b> – Annual escrow audit report prepared incorrectly or contained material inaccuracies or other problems.	2	13
<b>Section 2652.001 (formerly Art. 9.41)</b> – Unlicensed person acting as an escrow officer.	7	32
<b>Section 2602.151 (formerly Art. 9.48) and Administrative Rule G-1</b> – Failure to collect Policy Guaranty Fee or failure to maintain the policy fees in an escrow account.	11	30
<b>Section 2602.103 (Art. 9.48)</b> – Failure to produce requested files or other records.	1	1
<b>Section 2702.053 (formerly Art. 9.53)</b> – Actual receipts and/or disbursements not in agreement with settlement statement or premium split not disclosed.	36	125

**BULLETINS**

<b>Title Bulletin No. 133</b> – Charged an unauthorized fee (cancellation or commitment fee).	1	4
<b>Title Bulletin No. 160</b> – All parties receiving portions of the real estate commission not disclosed on settlement statement.	18	64

**PROCEDURAL RULES**

P-62: Operated in county for which not licensed.	0	1
P-18: Commitment not issued as required in rule or commitment incomplete.	3	5
P-21: Schedule D of commitment not in file or premium split not disclosed on commitment.	26	94
P-22: No T-00's in files or T-00's incorrect or incomplete.	32	108
P-27 ("Good Funds") violations: Unauthorized checks over \$1,500. Receipts not deposited timely or not received and posted before disbursements made.	7	27
P-35: Verbal or written guaranty, affirmation, indemnification, or certification issued or delivered.	4	11
P-61: Failure to issue title policy timely.	2	10

VIOLATION OR DISCREPANCY	QTR	YTD
<b>RATE RULES</b>		
Incorrect premium charged (violation of one or more rate rules).	14	36
R-1: Unauthorized fee charged for closing (or tax search) in addition to premium.	9	30
R-2: Premium remittances to underwriters not timely or amounts incorrect.	4	15
R-2: Premium collected but issuance of policy withheld.	1	6
R-2: Premium collected in installments or premium not collected at all.	0	0
R-8: Refinance credit not given or not calculated correctly.	6	18
<b>MINIMUM ESCROW ACCOUNTING PROCEDURES &amp; INTERNAL CONTROLS</b>		
#1 - Monthly escrow trial balances not prepared or not prepared timely.	6	20
#1 - Testing proved escrow trial balances unreliable.	1	4
#1 - Escrow trial balances not prepared correctly.	4	27
#2 - Three-way reconciliations not prepared or not prepared timely or portions of records not available.	6	17
#2 - Escrow trial balances and/or book balances and/or reconciled bank balances not in agreement. Differences unreconciled.	1	3
#2 - Bank reconciliations, book balances, or three-way reconciliations prepared incorrectly.	7	34
#3 – Reconciliations not approved by management or reviewed by another employee.	3	10
#4 - Accounting duties not segregated sufficiently and reconciliations not reviewed by manager or owner.	0	2
#5 - Only one signature on escrow checks when agency's size required two signatures.	2	4
#6 - Records did not include copies of all checks, invoices, deposit slips and receipt items.	3	12
#7A - Invested escrow accounts not styled correctly.	1	8
#7B - No written authorization to invest escrow funds.	3	5
#7C - Invested escrow account used agent's tax ID number instead of that of beneficiary.	0	0
#7D – No control ledger for invested escrow accounts. Interest not posted timely.	1	1
#8 - Guaranty files used name identification instead of unique numbers. Same file number used for more than one transaction.	1	5
#9 - Escrow bank accounts not styled as "escrow" or "trust".	12	49
#10 - No management approval for disbursements made on accounts open for more than six months or no review for disposition of funds.	4	28
#12 - No management approval for transfers of funds between guaranty files and/or transfers not documented in the files.	0	4
#13 - Seller not properly notified of NSF checks.	0	0
#14 - Guaranty file number not displayed on all escrow checks, deposit tickets or other documents.	2	8
#15 – Disbursement sheets missing, incomplete or incorrect.	18	79
#16 - Every disbursement not supported by invoice or sufficient other evidence.	31	106
#17 - Escrow receivables not cleared timely.	14	47
#18 – Settlement statement changes not initialed or supported adequately or contained white-out corrections.	0	1
#19 – Signed, pre-numbered receipts not issued for cash.	0	10
#20 – Images of checks did not meet requirements.	13	40
#21 – Escrow bank account not maintained at a financial institution in Texas.	0	1

VIOLATION OR DISCREPANCY	QTR	YTD
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**AGENCY**

Agent breached fiduciary responsibility to buyer and seller by engaging in "self-dealing".	3	10
Failed to disclose affiliated business arrangement as required by RESPA § 3500.15.	5	20

**ESCROW ACCOUNTING**

Material escrow funds irregularity or irregularities [i.e., escrow bank account overdrawn, receipt posted but never actually received or check-clearing date problems].	0	3
Deposits and/or disbursements not booked in appropriate month.	1	20
Receivable(s) created by depositing into one bank account and disbursing from another account.	5	12
Reconciling items not posted timely and/or not cleared timely and/or not supported by adequate documentation.	5	19
Pattern of posting errors.	3	6
Signature on checks not on bank signature card or previous employees still on bank signature card.	4	12
Outstanding checks not cleared timely.	31	115
Deposit-in-transit list and/or outstanding checklist prepared incorrectly.	12	46
Duplicate check numbers in same escrow account; checks written out of numerical sequence or more than one check number used for same disbursement.	1	1

**GUARANTY FILES**

Original legal documents found in guaranty files after title policies issued.	1	2
Legal documents not recorded timely with county clerk or evidence of timely recording not in file.	15	68
Cash or disbursement check found in file.	0	1
Funds not disbursed or escheated to state.	18	58

**SETTLEMENT STATEMENTS**

Required Form T-63 not prepared for POC items.	22	75
Premium split for closing, title examination or title evidence not disclosed on settlement statement. Other information not disclosed on settlement statement.	0	3
Original or amended final settlement statements not signed by any/all parties.	0	8
Settlement statements prepared incorrectly or contained mathematical errors.	1	1
Incorrect issuing agency shown on settlement statement.	0	0