

**National Home Service Contract Association  
Minutes of Regular Board of Directors Meeting  
InterContinental Stephen F. Austin  
Austin, Texas  
8:30 AM CST Thursday, June 19, 2014**

**ATTENDEES**

2-10 Home Buyers Warranty	Michael Bartosch ( <i>NHSCA Secretary</i> )
American Home Shield	Tom Courtney
BPG Home Warranty	Revell Fraser
	Stewart Miller ( <i>NHSCA Treasurer</i> )
Fidelity National Home Warranty	Bill Jensen ( <i>CHSCA President</i> )
First American Home Buyers	Jeff Powell ( <i>NHSCA President</i> )
HMS National/Cross County	Doug Stein ( <i>NHSCA Vice-President</i> )
	John Walsh
Home Security of America	Mark Celichowski
Home Warranty of America/Direct Energy	Troy Latuff, Bill Evans (for Sayed Khjoa)
	Chris Smith ( <i>for Alma Jeppson</i> )
Landmark Home Warranty	Gwen Gallagher
Old Republic Home Protection	Scott Smith, Troy Powelson,
OneGuard Home Warranties	Dave Hill
	Benjamin Cohen ( <i>for Beth Kastigar</i> )
The Warranty Group	Aaron Lunt

**Absent:**

Nations Home Warranty	Sharon Harrison
Universal Home Protection	James Imhoff

**Guest:**

Beverly Rabenberg, Texas Real Estate Commission  
Ken Trepeta, National Association of Realtors  
Richard Adams, National Home Guaranteed, (provisional new member)

**Staff:**

Art Chartrand, Chartrand Legal Management, Regulatory Counsel  
Joy Moore, Chartrand Legal Management  
Nancy Besa, Besa Public Relations

**Lobbyists:**

Karl Moeller, Moeller Law Office, THSCA Lobbyist  
Mike Belote, California Advocates, CHSCA Lobbyist (via phone)

### **Call to Order – Stein**

Newly elected President, Doug Stein called the regular board meeting to order at 8:30 AM CST at the conclusion of the annual membership meeting. Roll call was made and the above Board of Directors was present. A quorum was present.

### **Special Recognition**

A crystal glass gavel of appreciation was presented to outgoing president Jeff Powell by the membership. Jeff was duly thanked for his time effort and dedication to the association and for a job well done.

Chartrand noted NHSCA member Bill Jensen will receive a crystal gavel for his years as NHSCA president from 2008-2010 since he never received one.

### **Presentation by Ken Trepeta, National Association of Realtors,**

Trepeta reported the NAR Broker Survey done in 2006 and 2013 will be updated this summer. Trepeta requested members get back to him and let him know which questions are most important to the service contract industry. (See binder) Adding additional questions to the survey may be more difficult to accomplish, however, he indicated members could send their requests to his research division or via Chartrand for consideration. Ken's email is ktrepetar@realtors.org.

### **RESPA**

Trepeta reported the Consumer Financial Protection Bureau is a very green agency. Enforcement regulators are lacking institutional type knowledge and there are no HUD RESPA people in the Bureau. Trepeta suggested our members stick close to the guidance that the Bureau has published. Trepeta suggested members be very careful with their marketing materials and practices. NAR is working with the Bureau to get them to further clarify the guidance that is already in place.

NHSCA website has a link to the NAR site and Chartrand mentioned the NHSCA would like to be linked on NAR as well.

### **Comments by Beverly Rabenberg with the Texas Real Estate Commission.**

Regulation of Texas Home Warranty companies is regulated by TREC. Rabenberg has worked with the service contract side of TREC since 2003. The Commission is primarily a licensing agency. Chartrand keeps in regular contact with TREC anytime there is a service contract provider in question. Members complimented TREC on the job they do. Chartrand offered that the role of a regulator is to help providers to comply and TREC has done so admirably. It is better to have a company in compliance than have them out there giving the industry a bad name. TREC also coordinates with NHSCA lobbyist Karl Moeller to keep NHSCA informed.

### **Adoption of Previous Board Minutes**

The minutes of December 13, 2013 were reviewed and adopted upon motion by Jensen and second by Bartosch.

### **Membership Committee Report**

Stein welcomed Ben Cohen and Aaron Lunt with The Warranty Group as the newest NHSCA member. TWG has received the traditional NHSCA new member plaque.

Richard Adams with National Home Guaranteed made a brief presentation on his company. Staff noted the application was in order. Upon motion by Stein, second by Miller, National Home Guaranteed was voted in as a “local” member doing business in the state of Utah.

State status listings were distributed to each member for the 2014-2015 legislative year and need to be returned to the staff office by email or fax with any corrections or changes. Members voted two years ago to list each provider by state on the NHSCA website so consumers can locate a provider in their respective state. The state status update list is a resource for staff to assess for legislative efforts and well as to update the website.

Chartrand reminded members the state assessments are key to the NHSCA’s principal mission for legislative protection and regulatory relief. Efforts in California and Texas remain ongoing. California has an annual assessment. Due to the surplus in the Texas state account, none is anticipated for Texas in the near future. All other states are assessed upon need and demand.

#### **Water and Sewer Line Provider Update**

A year ago members decided to solicit the three national water and sewer line providers, USP, AWR and HomeServeUSA. Chartrand continues to recruit them. While their business model is a bit different, he feels their long term plans will fit in the association.

#### **Treasurer’s Report – Miller**

Miller reported the Association continues to be solvent. The treasurer’s report was included in the membership packet. The current balance in the General Account is \$61,366.94 (**Attachment A1**) The State Fund Account is \$82,841.06 (**Attachment A2**), which includes the reserve fund monies and the money market fund.

Account status by state for lobbyist assessments was also included in the booklet. (**Attachment A3**)

For the next annual meeting, staff will provide more of a growth report for members. Stein suggested possibly a report on a year-to-year basis indicating how strong the association is compared to where it was a year ago. Chartrand noted that on **Attachment A3** in the meeting binder, there is a reference to a loan amount of \$30,000 from the State Fund to the General Fund. Since an increase in membership dues was approved last June, the general fund is gaining revenue and plans are for the General Fund to repay the State Fund within the next year.

Upon motion by Bartosch and second by Celichowski, the treasurer’s report passed unanimously.

#### **Official Corporate Business – Chartrand**

The 2013 IRS Form 990 tax return is being prepared by outside accountant, KPMG, and will be filed properly by the deadline. A relationship survey was required this year and several members declined to complete, therefore, delaying the processing of the IRS Form 990 and requiring an extension to file.

The Association Not for Profit (NFP) Organization Liability Insurance policy with State Farm was renewed at the same rate as last year. A copy of the declaration page and explanation of coverage is included in the meeting booklet.

### **National Meeting Committee – Miller**

Members thanked Miller, Mello and staff for the fine work done in presenting the 2014 meeting in Austin. Sites for serious consideration for 2015 meeting are Seattle and Hilton Head. Possible dates (*Thursday/Friday format*) are June 11-12, 18-19 or 25-26 with the later dates being the preference if Seattle is chosen. Chartrand would like to see the association meet in a resort type destination where there could be relationship building time and outing.

### **Old Business**

NHSCA adopted a model clause for standard residential purchase contracts that was distributed to all states and is listed under the resource center on the NHSCA website. We continue to promote it to real estate groups as appropriate.

The original code of ethics was adopted in 2004. In April 2009, we added a policy on comparison chart advertising which is located on the NSHCA website under the resource center button. Such advertising should be accurate and fair. This issue comes up often and members are encouraged to consider the policy and apply it fairly.

We have had limited success in members contributing to various compliance issues such as rates, form and financial statement filings, representative licensing etc. in the various states. He will continue to build a knowledgebase on his own as time permits and survey members for their interpretation.

### **Insurance Deductible Waiver**

Chartrand indicated he would not recommend members pursue such programs. The home service contract industry has fought a long time to get out of the insurance world, so providers need to be very cautious of moving in a backward direction.

### **Chartrand Regulatory Update**

With meetings occurring less often, Chartrand began last year sending out updates to members as a reference resource between meetings. He will continue to do so.

### **New Business**

Stein and Chartrand spoke briefly before the meeting about collaborating on a concise mission, statement, focus and agenda for the upcoming year. Chartrand's meetings and travel support summary is enclosed in the meeting binder. Chartrand traveled to fifteen states since June 2013 meeting with lobbyists, legislators, staff and governor's offices, testifying, etc.

Based upon recent regulator feedback, Chartrand reminded members the importance of putting their "licensed entity" names on their contracts as well as provide customers with a physical contract. States are sensitive to anyone not providing consumers with the required documents.

### **Market Data Collection Committee – Gallagher**

The 2013 full year and 2014 Q1 reports of participating members are included in the meeting binder.

Smith discussed collecting additional claims data, especially on frequency by service area. The members appeared receptive to the concept. A call with Bartosch, Fraser and Smith will be held to refine the details and bring back a definitive recommendation to the full membership.

#### **Media Committee – Besa**

Chartrand presented one of the newly produced YouTube videos that are currently posted on the NHSCA website. Seven videos are now posted. Upcoming videos will include instructional tips and more technical information.

Besa reported online presence is up from last year and continues to grow. (Detail report in binder) Google Analytic shows our “sessions” and “users” are up from last year. Bounce rate and exit rate are both down. More consumers are going directly to the website. The “Find a provider in my state” link has been very successful. Angie’s List has provided more sessions to our website than ever before.

The NHSCA twitter account continues to be viable and has increased the number of followers. The Twitter name is @CoverYourHome. Members should be “following” the NHSCA.

The website password will be changed and members will receive notice via email. The password is confidential and may not be shared with outsiders.

#### **Legislative Report – Chartrand**

*The update is contained in the meeting binder. In addition the following was reviewed.*

#### **California (CHSCA) – Mike Belote, Lobbyist (via teleconference)**

Belote continues to work our simplification bill, AB 1130 with various department officials. (See binder summary).

The issue remains that the service contract industry is overregulated by the DOI. Surprisingly, the DOI has agreed to eliminate quarterly reports in favor of one annual report and financial exams will not take place more than once every 5 years. DOI is not presently prepared to make any changes to the Holding Company Act. This is a start only. We will continue to press our simplification agenda.

Bill AB 1130 will include the improvements the DOI has agreed and is set for hearing Wednesday, June 25 in the Senate Insurance Committee. If the Bill gets passed the effective date will be January 1, 2015. Chartrand reiterated that home service contracts are *not* insurance, though the DOI senior staff has failed to recognize the overwhelming law in this area.

#### **Texas (THSCA) – Karl Moeller, Lobbyist**

With regard to actions by the Comptroller's office on their sales tax regulations, there is little staff interest in taking any initiative, largely because of the lame duck status of the senior management of the agency, but also because they are satisfied with their existing regulations. The most viable solution is to draft a regulation that will address the issues of our membership, and initiate a statutory rule making proceeding . Any such proposed regulation should be revenue neutral and preferably based on amendments to existing regulations, and should be drafted in such a way as to not attract attention or concern

from other trade associations.

The alternative is to seek a legislative solution. Getting significant legislation passed in the January session may be difficult. For much of the session, paralysis is expected in the senate. Dan Patrick won the GOP primary for Lt. Governor, defeating the current moderate Lt. Gov., and will most likely be elected by a landslide. Much time will be adsorbed early in the session with procedural rule issues, which may preclude attention to substantive matters. At this point, we have no idea who to deal with at the legislature. Most of the legislative focus is expected to be on property tax reform and water issues, with everything else taking a back seat.

As a result, even with significant upheaval in agency management and a contested general election for Comptroller of Public Accounts, a rule making at the agency level has a better chance of success than legislation.

Moeller commented we should cultivate the friendship of at least a couple of influential members in both the house and the senate.

The TAR Conference is in San Antonio, September 5-8 with the Expo on September 7. Moore indicated more detail to follow via email on the concurrent THSCA meeting set for September 6.

In addition to the binder report, Chartrand offered the following updates:

#### **Florida**

We are pursuing a bill in Florida to get the income tax offset legislation. We spent \$20,000 with Ackerman (Lobbyist, David Roberts) and ended the contract through April. A proposed new contract is set to begin September 1 at \$6,000 a month for a probable period of 6-8 months. Retainer is month to month. No special assessment yet.

#### **Indiana**

In the aftermath of HB 1206, The Indiana DOI issued an interpretive bulletin. The first draft was not accurate or encouraging. Chartrand is working with staff on an updated bulletin to correct the record. Service contracts are regulated by the Attorney General, not the insurance department in Indiana.

#### **Louisiana**

Despite personal assurances to pull the bill, SB 135 was adopted and includes an amendment to require claims and related data to be filed by 2016. We have hired a lobbyist, Duane Cowart to repeal the whole law or work to move registration to another state agency. No procedures have been adopted by the DOI yet. We will monitor closely.

#### **New Jersey**

SB 854 is effective July 17, 2014. Chartrand reminded members there is no registration required but the law is now administered by the Attorney General.

#### **Nevada**

Bulletin 11-010 was revoked on June 12, 2014. The legal effect is unclear. The worst case is all members must meet the new reserve calculation. The new reserve calculation is open to interpretation, one of which is the same as the old reserve calculation.

**Oregon**

Under SB 207, effective January 1, 2014, members are required to register with the Oregon Construction Contractors Board. On May 14, 2014, legislative counsel for the DOI began raising the issue of dual regulation. We are monitoring.

**State Sales Update (Update in binder)**

Members asked what the cost would be to pursue DC. Chartrand responded if a bill passes the first year, it could potentially cost \$50,000. A decision by members to pursue was left on the table.

**Meeting Appreciation Gift**

Moore handed out marble memo holders as gifts to all members as appreciation for their attendance.

**Dues & Budget**

After discussion, an updated retainer agreement was approved for Chartrand Legal Management, Inc.

**Next Meeting Date and Location** – To be determined.

**Motion to Adjourn**

No other business was raised. Upon motion by Miller and second by Stein the meeting was adjourned at 12:30 PM CST.

# ATTACHMENT A1

## 2014 Annual NHSCA Meeting

Date Range:	Custom Dates (1/1/2014 - 6/11/2014)
Accounts:	All Accounts
Categories:	All Categories
Tags:	All Tags
Type:	Custom

Show Memo/Notes

**Money In** **\$105,000.00**

Dues Income **\$105,000.00**

**Money Out** **-\$64,689.74**

Accounting **-\$40.00**

Filing Fees **-\$40.00**

Association Mgmt **-\$56,430.66**

Fees **-\$52,500.00**

Travel Meals & Ent **-\$3,930.66**

Insurance **-\$1,403.00**

National Meeting **-\$563.43**

Printing & Copy **-\$59.79**

Public Relations **-\$6,000.00**

Telephone **-\$102.86**

Web Site **-\$90.00**

Money In:	\$105,000.00
Money Out:	-\$64,689.74
<b>Net Total:</b>	<b>\$40,310.26</b>

# ATTACHMENT A2

## 2014 NHSCA MEETING

Date Range: Custom Dates (1/1/2014 - 6/11/2014)

Accounts: FNB Kansas State Funds

Categories: All Categories

Tags: All Tags

Type: Custom

Show Memo/Notes

<b>Money In</b>	<b>\$89,527.65</b>
STATE FEES	\$81,500.00
Uncategorized	\$8,027.65

<b>Money Out</b>	<b>-\$93,490.15</b>
STATE EXP	-\$93,490.15
advertising	-\$875.00
Contract Labor	-\$500.00
Lobbyist Exp	-\$200.00
Lobbyist Fees	-\$91,915.15
CA	-\$22,120.70
FL	-\$24,075.00
IN	-\$20,191.80
LA	-\$5,000.00
NV	-\$8,027.65
OH	-\$5,000.00
TX	-\$7,500.00

Uncategorized \$0.00

Money In: \$89,527.65

Money Out: -\$93,490.15

**Net Total: -\$3,962.50**

## Other Transactions

Neutral (Category total is zero)

TRANSFER TO GEN FUND \$0.00

5/13/2014	FNB Kansas State Funds	Deposit	Dues	\$5,500.00
5/13/2014	FNB Kansas State Funds	Transfer Online	transfer to Gen fund for AHS dues	-\$5,500.00

**NHSCA Treasurer's Report Addendum  
Annual Meeting June 19, 2014  
State Fund Account  
Status by State for Lobbying Assessments**

**Bank balance as of June 11, 2014** **\$82,841.06**

**Details of significant underlying internal accounts:**

<b>State</b>	<b>Balance</b>	<b>Lobbyist</b>
Arkansas	430.51	Mike Pickens
California	(-20,316.73)	Mike Belote
Florida	17,925.00	David Roberts
Indiana	(-4007.80)	David Abel
Louisiana	(-5000.00)	Duane Cowart
Nevada	3,722.35	Neena Laxalt
New Jersey	1,300.00	Chance Lykins
Ohio	0	Tom Pappas
Texas	56,397.86	Karl Moeller
Washington	(-125.00)	Jim Justin
Wisconsin	1,475.00	Brandon Schulz

**Non-Active funds with significant amounts:**

RESPA	12,891.21
PA	1288.35
TN	900.00
MA	334.00
MO	8,377.34

**Reserve account status:**

Reserve fees collected by 11 members	<b>\$ 55,000.00</b>
Loan to general fund	<b>(\$ 30,000.00)</b>
Investment in money market account	<b>(\$ 20,000.00)</b>
Balance	<b>\$5,584.33</b>